

**As Reported by the Senate Finance and Financial Institutions
Committee**

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

Sub. H. B. No. 95

**Representative Calvert
Senators Carnes, Jacobson, Blessing, Goodman**

A B I L L

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General Assembly; to amend Sections 18.03, 18.04,	220
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124th General Assembly; to amend Section 3 of Am.	225
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subsequently amended; to repeal Section 129 of Am.	243
Sub. H.B. 283 of the 123rd General Assembly, as	244
subsequently amended; to repeal Section 3 of Am.	245
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subsequently amended; to repeal Section 72 of Am.	247
Sub. H.B. 850 of the 122nd General Assembly; and	248
to repeal Section 11 of Am. Sub. S.B. 50 of the	249
121st General Assembly, as subsequently amended;	250
to repeal Section 3 of Am. Sub. S.B. 238 of the	251
123rd General Assembly; to levy taxes and provide	252
for implementation of those levies, to make	253
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beginning July 1, 2003, and ending June 30, 2005, 255
and to provide authorization and conditions for 256
the operation of state programs; to amend the 257
version of section 921.22 of the Revised Code that 258
is scheduled to take effect July 1, 2004, to 259
continue the provisions of this act on and after 260
that effective date; to amend the version of 261
section 2305.234 of the Revised Code that is 262
scheduled to take effect January 1, 2004, to 263
continue the provisions of this act on and after 264
that effective date; to amend the version of 265
section 3332.04 of the Revised Code that is 266
scheduled to take effect July 1, 2003; to amend 267
the version of section 3734.44 of the Revised Code 268
that is scheduled to take effect January 1, 2004, 269
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the version of section 5101.28 of the Revised Code 276
that is scheduled to take effect January 1, 2004, 277
to continue the provisions of this act on and 278
after that effective date; to amend the version of 279
section 5743.45 of the Revised Code that is 280
scheduled to take effect January 1, 2004, to 281
continue the provisions of this act on and after 282
that effective date; to amend the version of 283
section 5739.033 of the Revised Code as it results 284
from Am. Sub. S.B. 143 of the 124th General 285
Assembly, as amended by H.B. 675 of the 124th 286
General Assembly; to terminate certain provisions 287

of this act on December 31, 2013, by repealing 288
section 4723.063 of the Revised Code on that date; 289
and to terminate certain provisions of this act on 290
October 1, 2005, by repealing section 5111.161 of 291
the Revised Code on that date. 292

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, 293
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6103.02, 6109.21, 6111.06, 6115.09, 6117.02, 6119.06, 6119.10, 402
6301.05, and 6301.07 be amended; that sections 3301.33 (3301.40), 403
3701.145 (3701.0210), 4104.46 (4104.48), 5101.211 (5101.214), 404
5101.212 (5101.215), 5108.06 (5108.04), 5108.07 (5108.05), 5111.08 405
(5111.071), 5111.16 (5111.08), 5111.252 (5123.199), 5115.02 406
(5115.04), 5115.04 (5115.02), 5115.07 (5115.06), 5115.13 407
(5115.07), and 5115.15 (5115.23) be amended for the purpose of 408
adopting new section numbers as indicated in parentheses; and that 409
new sections 718.03, 3301.31, 3301.33, 3317.11, 3318.052, 4104.42, 410
4104.43, 4104.46, 5101.211, 5101.212, 5101.213, 5108.06, 5108.07, 411
5111.16, 5111.173, 5115.13, 5709.211, 5709.23, 5709.24, and 412
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5703.80, 5709.201, 5709.212, 5717.011, 5733.0511, 5733.55, 434
5733.56, 5733.57, 5735.053, 5741.25, 5743.051, and 5747.026 of the 435
Revised Code be enacted to read as follows: 436

437
Sec. 9.01. When any officer, office, court, commission, 438
board, institution, department, agent, or employee of the state, 439
~~or~~ of a county, or of any other political subdivision, who is 440
charged with the duty or authorized or required by law to record, 441
preserve, keep, maintain, or file any record, document, plat, 442
court file, paper, or instrument in writing, or to make or furnish 443
copies of any ~~thereof~~ of them, deems it necessary or advisable, 444
when recording ~~any such document, plat, court file, paper, or~~ 445
~~instrument in writing,~~ or when making a copy or reproduction of 446
any ~~thereof~~ of them or of any such record, for the purpose of 447

recording or copying, preserving, and protecting ~~the same~~ them, 448
reducing space required for storage, or any similar purpose, to do 449
so by means of any photostatic, photographic, miniature 450
photographic, film, microfilm, or microphotographic process, or 451
perforated tape, magnetic tape, other magnetic means, electronic 452
data processing, machine readable means, or graphic or video 453
display, or any combination ~~thereof~~ of those processes, means, or 454
displays, which correctly and accurately copies, records, or 455
reproduces, or provides a medium of copying, recording, or 456
reproducing, the original record, document, plat, court file, 457
paper, or instrument in writing, such use of any ~~such photographic~~ 458
~~or electromagnetic~~ of those processes, means, or displays for any 459
such purpose, is hereby authorized. Any such records, copies, or 460
reproductions may be made in duplicate, and ~~such~~ the duplicates 461
shall be stored in different buildings. The film or paper used for 462
~~this~~ a process shall comply with the minimum standards of quality 463
approved for permanent photographic records by the national bureau 464
of standards. All such records, copies, or reproductions shall 465
carry a certificate of authenticity and completeness, on a form 466
specified by the director of administrative services through the 467
state records ~~administrator~~ program. 468

Any such officer, office, court, commission, board, 469
institution, department, agent, or employee of the state, of a 470
county, or of any other political subdivision may purchase or rent 471
required equipment for any such photographic process and may enter 472
into contracts with private concerns or other governmental 473
agencies for the development of film and the making of 474
reproductions ~~thereof~~ of film as a part of any such photographic 475
process. When so recorded, or copied or reproduced to reduce space 476
required for storage or filing of such records, ~~said~~ such 477
photographs, microphotographs, microfilms, perforated tape, 478
magnetic tape, other magnetic means, electronic data processing, 479
machine readable means, graphic or video display, or ~~any~~ 480

combination ~~thereof~~ of these processes, means, or displays, or 481
films, or prints made therefrom, when properly identified by the 482
officer by whom or under whose supervision ~~the same~~ they were 483
made, or who has ~~the~~ their custody ~~thereof~~, have the same effect 484
at law as the original record or of a record made by any other 485
legally authorized means, and may be offered in like manner and 486
shall be received in evidence in any court where ~~such~~ the original 487
record, or record made by other legally authorized means, could 488
have been so introduced and received. Certified or authenticated 489
copies or prints of such photographs, microphotographs, films, 490
microfilms, perforated tape, magnetic tape, other magnetic means, 491
electronic data processing, machine readable means, graphic or 492
video display, or ~~any~~ combination ~~thereof~~ of these processes, 493
means, or displays, shall be admitted in evidence equally with the 494
original ~~photographs, microphotographs, films, or microfilms.~~ 495

Such photographs, microphotographs, microfilms, or films 496
shall be placed and kept in conveniently accessible, fireproof, 497
and insulated files, cabinets, or containers, and provisions shall 498
be made for preserving, safekeeping, using, examining, exhibiting, 499
projecting, and enlarging ~~the same~~ them whenever requested, during 500
office hours. 501

All persons utilizing the methods described in this section 502
for keeping records and information shall keep and make readily 503
available to the public the machines and equipment necessary to 504
reproduce the records and information in a readable form. 505

Sec. 9.24. (A) No state agency and no political subdivision 506
shall award a contract for goods, services, or construction, paid 507
for in whole or in part with state funds, to a person against whom 508
a finding for recovery has been issued by the auditor of state, if 509
the finding for recovery is unresolved. 510

(B) For purposes of this section, a finding for recovery is 511

<u>unresolved unless one of the following criteria applies:</u>	512
<u>(1) The money identified in the finding for recovery is paid</u>	513
<u>in full to the state agency or political subdivision to whom the</u>	514
<u>money was owed;</u>	515
<u>(2) The debtor has entered into a repayment plan that is</u>	516
<u>approved by the attorney general and the state agency or political</u>	517
<u>subdivision to whom the money identified in the finding for</u>	518
<u>recovery is owed. A repayment plan may include a provision</u>	519
<u>permitting a state agency or political subdivision to withhold</u>	520
<u>payment to a debtor for goods, services, or construction provided</u>	521
<u>to or for the state agency or political subdivision pursuant to a</u>	522
<u>contract that is entered into with the debtor after the date the</u>	523
<u>finding for recovery was issued.</u>	524
<u>(3) The attorney general waives a repayment plan described in</u>	525
<u>division (B)(2) of this section for good cause;</u>	526
<u>(4) The debtor and state agency or political subdivision to</u>	527
<u>whom the money identified in the finding for recovery is owed have</u>	528
<u>agreed to a payment plan established through an enforceable</u>	529
<u>settlement agreement.</u>	530
<u>(5) The state agency or political subdivision desiring to</u>	531
<u>enter into a contract with a debtor certifies, and the attorney</u>	532
<u>general concurs, that all of the following are true:</u>	533
<u>(a) Essential services the state agency or political</u>	534
<u>subdivision is seeking to obtain from the debtor cannot be</u>	535
<u>provided by any other person besides the debtor;</u>	536
<u>(b) Awarding a contract to the debtor for the essential</u>	537
<u>services described in division (B)(5)(a) is in the best interest</u>	538
<u>of the state;</u>	539
<u>(c) Good faith efforts have been made to collect the money</u>	540
<u>identified in the finding of recovery.</u>	541

(C) The attorney general shall submit an initial report to the auditor of state, not later than December 1, 2003, indicating the status of collection for all findings for recovery issued by the auditor of state for calendar years 2001, 2002, and 2003. Beginning on January 1, 2004, the attorney general shall submit to the auditor of state, on the first day of the month, a list of all findings for recovery that have been resolved in accordance with division (B) of this section during the month preceding the submission of the list and a description of the means of resolution.

(D) The auditor of state shall maintain a database, accessible to the public, listing persons against whom an unresolved finding for recovery has been issued, and the amount of the money identified in the unresolved finding for recovery. The auditor of state shall have this database operational on or before January 1, 2004. The initial database shall contain the information required under this division for calendar years 2001, 2002, and 2003.

Beginning January 15, 2004, the auditor of state shall update the database by the fifteenth day of each month to reflect resolved findings for recovery that are reported to the auditor of state by the attorney general on the first day of that same month pursuant to division (C) of this section.

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

(F) As used in this section:

(1) "State agency" has the same meaning as in section 9.66 of

the Revised Code. 573

(2) "Finding for recovery" means a determination issued by 574
the auditor of state, contained in a report the auditor of state 575
gives to the attorney general pursuant to section 117.28 of the 576
Revised Code, that public money has been illegally expended, 577
public money has been collected but not been accounted for, public 578
money is due but has not been collected, or public property has 579
been converted or misappropriated. 580

(3) "Debtor" means a person against whom a finding for 581
recovery has been issued. 582

Sec. 9.83. (A) The state and any political subdivision may 583
procure a policy or policies of insurance insuring its officers 584
and employees against liability for injury, death, or loss to 585
person or property that arises out of the operation of an 586
automobile, truck, motor vehicle with auxiliary equipment, 587
self-propelling equipment or trailer, aircraft, or watercraft by 588
the officers or employees while engaged in the course of their 589
employment or official responsibilities for the state or the 590
political subdivision. The state is authorized to expend funds to 591
pay judgments that are rendered in any court against its officers 592
or employees and that result from such operation, and is 593
authorized to expend funds to compromise claims for liability 594
against its officers or employees that result from such operation. 595
No insurer shall deny coverage under such a policy, and the state 596
shall not refuse to pay judgments or compromise claims, on the 597
ground that an automobile, truck, motor vehicle with auxiliary 598
equipment, self-propelling equipment or trailer, aircraft, or 599
watercraft was not being used in the course of an officer's or 600
employee's employment or official responsibilities for the state 601
or a political subdivision unless the officer or employee who was 602
operating an automobile, truck, motor vehicle with auxiliary 603

equipment, or self-propelling equipment or trailer is convicted of 604
a violation of section 124.71 of the Revised Code as a result of 605
the same events. 606

(B) ~~Such funds~~ Funds shall be reserved as ~~are~~ necessary, in 607
the exercise of sound and prudent actuarial judgment, to cover 608
potential expense, fees, damage, loss, or other liability. The 609
superintendent of insurance may recommend or, if the state 610
requests of the superintendent, shall recommend, a specific amount 611
for any period of time that, in the superintendent's opinion, 612
represents such a judgment. 613

(C) Nothing in this section shall be construed to require the 614
department of administrative services to purchase liability 615
insurance for all state vehicles in a single policy of insurance 616
or to cover all state vehicles under a single plan of 617
self-insurance. 618

(D) Insurance procured by the state pursuant to this section 619
shall be procured as provided in section 125.03 of the Revised 620
Code. 621

(E) For purposes of liability insurance procured under this 622
section to cover the operation of a motor vehicle by a prisoner 623
for whom the insurance is procured, "employee" includes a prisoner 624
in the custody of the department of rehabilitation and correction 625
who is enrolled in a work program that is established by the 626
department pursuant to section 5145.16 of the Revised Code and in 627
which the prisoner is required to operate a motor vehicle, as 628
defined in section 4509.01 of the Revised Code, and who is engaged 629
in the operation of a motor vehicle in the course of the work 630
program. 631

(F) There is hereby created in the state treasury the vehicle 632
liability fund. All contributions collected by the director of 633
administrative services under division (I) of this section shall 634

be deposited into the fund. The fund shall be used to provide 635
insurance and self-insurance for the state under this section. All 636
investment earnings of the fund shall be credited to it. 637

(G) The director of administrative services, through the 638
office of risk management, shall operate the vehicle liability 639
fund on an actuarially sound basis. 640

(H) Reserves shall be maintained in the vehicle liability 641
fund in any amount that is necessary and adequate, in the exercise 642
of sound and prudent actuarial judgment, to cover potential 643
liability claims, expenses, fees, or damages. Money in the fund 644
may be applied to the payment of liability claims that are filed 645
against the state in the court of claims and determined in the 646
manner provided in Chapter 2743. of the Revised Code. The director 647
of administrative services may procure the services of a qualified 648
actuarial firm for the purpose of recommending the specific amount 649
of money that is required to maintain adequate reserves for a 650
specified period of time. 651

(I) The director of administrative services shall collect 652
from each state agency or any participating state body its 653
contribution to the vehicle liability fund for the purpose of 654
purchasing insurance or administering self-insurance programs for 655
coverage authorized under this section. The amount of the 656
contribution shall be determined by the director, with the 657
approval of the director of budget and management. It shall be 658
based upon actuarial assumptions and the relative risk and loss 659
experience of each state agency or participating state body. The 660
amount of the contribution also shall include a reasonable sum to 661
cover administrative costs of the department of administrative 662
services. 663

Sec. 101.34. (A) There is hereby created a joint legislative 664
ethics committee to serve the general assembly. The committee 665

shall be composed of twelve members, six each from the two major 666
political parties, and each member shall serve on the committee 667
during the member's term as a member of that general assembly. Six 668
members of the committee shall be members of the house of 669
representatives appointed by the speaker of the house of 670
representatives, not more than three from the same political 671
party, and six members of the committee shall be members of the 672
senate appointed by the president of the senate, not more than 673
three from the same political party. A vacancy in the committee 674
shall be filled for the unexpired term in the same manner as an 675
original appointment. The members of the committee shall be 676
appointed within fifteen days after the first day of the first 677
regular session of each general assembly and the committee shall 678
meet and proceed to recommend an ethics code not later than thirty 679
days after the first day of the first regular session of each 680
general assembly. 681

In the first regular session of each general assembly, the 682
speaker of the house of representatives shall appoint the 683
chairperson of the committee from among the house members of the 684
committee and the president of the senate shall appoint the 685
vice-chairperson of the committee from among the senate members of 686
the committee. In the second regular session of each general 687
assembly, the president of the senate shall appoint the 688
chairperson of the committee from among the senate members of the 689
committee and the speaker of the house of representatives shall 690
appoint the vice-chairperson of the committee from among the house 691
members of the committee. The chairperson, vice-chairperson, and 692
members of the committee shall serve until their respective 693
successors are appointed or until they are no longer members of 694
the general assembly. 695

The committee shall meet at the call of the chairperson or 696
upon the written request of seven members of the committee. 697

(B) The joint legislative ethics committee:	698
(1) Shall recommend a code of ethics which is consistent with law to govern all members and employees of each house of the general assembly and all candidates for the office of member of each house;	699 700 701 702
(2) May receive and hear any complaint which alleges a breach of any privilege of either house, or misconduct of any member, employee, or candidate, or any violation of the appropriate code of ethics;	703 704 705 706
(3) May obtain information with respect to any complaint filed pursuant to this section and to that end may enforce the attendance and testimony of witnesses, and the production of books and papers;	707 708 709 710
(4) May recommend whatever sanction is appropriate with respect to a particular member, employee, or candidate as will best maintain in the minds of the public a good opinion of the conduct and character of members and employees of the general assembly;	711 712 713 714 715
(5) May recommend legislation to the general assembly relating to the conduct and ethics of members and employees of and candidates for the general assembly;	716 717 718
(6) Shall employ an executive director for the committee and may employ such other staff as the committee determines necessary to assist it in exercising its powers and duties. The executive director and staff of the committee shall be known as the office of legislative inspector general. At least one member of the staff of the committee shall be an attorney at law licensed to practice law in this state. The appointment and removal of the executive director shall require the approval of at least eight members of the committee.	719 720 721 722 723 724 725 726 727

(7) May employ a special counsel to assist the committee in 728
exercising its powers and duties. The appointment and removal of a 729
special counsel shall require the approval of at least eight 730
members of the committee. 731

(8) Shall act as an advisory body to the general assembly and 732
to individual members, candidates, and employees on questions 733
relating to ethics, possible conflicts of interest, and financial 734
disclosure; 735

(9) Shall provide for the proper forms on which the statement 736
required pursuant to section 102.02 of the Revised Code shall be 737
filed and instructions as to the filing of the statement; 738

(10) Exercise the powers and duties prescribed under sections 739
101.70 to 101.79 and 121.60 to 121.69 of the Revised Code; 740

(11) Adopt in accordance with section 111.15 of the Revised 741
Code any rules that are necessary to implement and clarify Chapter 742
102. and sections 2921.42 and 2921.43 of the Revised Code. 743

(C) There is hereby created in the state treasury the joint 744
legislative ethics committee fund. ~~All money collected from~~ 745
~~registration fees and late filing fees prescribed under sections~~ 746
~~101.72 and 121.62 of the Revised Code shall be deposited into the~~ 747
~~state treasury to the credit of the fund.~~ Money credited to the 748
fund and any interest and earnings from the fund shall be used 749
solely for the operation of the joint legislative ethics committee 750
and the office of legislative inspector general and for the 751
purchase of data storage and computerization facilities for the 752
statements filed with the joint committee under sections 101.73, 753
101.74, 121.63, and 121.64 of the Revised Code. 754

(D) The chairperson of the joint committee shall issue a 755
written report, not later than the thirty-first day of January of 756
each year, to the speaker and minority leader of the house of 757
representatives and to the president and minority leader of the 758

senate that lists the number of committee meetings and 759
investigations the committee conducted during the immediately 760
preceding calendar year and the number of advisory opinions it 761
issued during the immediately preceding calendar year. 762

(E) Any investigative report that contains facts and findings 763
regarding a complaint filed with the committee and that is 764
prepared by the staff of the committee or a special counsel to the 765
committee shall become a public record upon its acceptance by a 766
vote of the majority of the members of the committee, except for 767
any names of specific individuals and entities contained in the 768
report. If the committee recommends disciplinary action or reports 769
its findings to the appropriate prosecuting authority for 770
proceedings in prosecution of the violations alleged in the 771
complaint, the investigatory report regarding the complaint shall 772
become a public record in its entirety. 773

(F)(1) Any file obtained by or in the possession of the 774
former house ethics committee or former senate ethics committee 775
shall become the property of the joint legislative ethics 776
committee. Any such file is confidential if either of the 777
following applies: 778

(a) It is confidential under section 102.06 of the Revised 779
Code or the legislative code of ethics. 780

(b) If the file was obtained from the former house ethics 781
committee or from the former senate ethics committee, it was 782
confidential under any statute or any provision of a code of 783
ethics that governed the file. 784

(2) As used in this division, "file" includes, but is not 785
limited to, evidence, documentation, or any other tangible thing. 786

Sec. 101.72. (A) Each legislative agent and employer, within 787
ten days following an engagement of a legislative agent, shall 788

file with the joint legislative ethics committee an initial 789
registration statement showing all of the following: 790

(1) The name, business address, and occupation of the 791
legislative agent; 792

(2) The name and business address of the employer and the 793
real party in interest on whose behalf the legislative agent is 794
actively advocating, if it is different from the employer. For the 795
purposes of division (A) of this section, where a trade 796
association or other charitable or fraternal organization that is 797
exempt from federal income taxation under subsection 501(c) of the 798
federal Internal Revenue Code is the employer, the statement need 799
not list the names and addresses of each member of the association 800
or organization, so long as the association or organization itself 801
is listed. 802

(3) A brief description of the type of legislation to which 803
the engagement relates. 804

(B) In addition to the initial registration statement 805
required by division (A) of this section, each legislative agent 806
and employer shall file with the joint committee, not later than 807
the last day of January, May, and September of each year, an 808
updated registration statement that confirms the continuing 809
existence of each engagement described in an initial registration 810
statement and that lists the specific bills or resolutions on 811
which the agent actively advocated under that engagement during 812
the period covered by the updated statement, and with it any 813
statement of expenditures required to be filed by section 101.73 814
of the Revised Code and any details of financial transactions 815
required to be filed by section 101.74 of the Revised Code. 816

(C) If a legislative agent is engaged by more than one 817
employer, the agent shall file a separate initial and updated 818
registration statement for each engagement. If an employer engages 819

more than one legislative agent, the employer need file only one 820
updated registration statement under division (B) of this section, 821
which shall contain the information required by division (B) of 822
this section regarding all of the legislative agents engaged by 823
the employer. 824

(D)(1) A change in any information required by division 825
(A)(1), (2), or (B) of this section shall be reflected in the next 826
updated registration statement filed under division (B) of this 827
section. 828

(2) Within thirty days after the termination of an 829
engagement, the legislative agent who was employed under the 830
engagement shall send written notification of the termination to 831
the joint committee. 832

(E) Except as otherwise provided in this division, a 833
registration fee of ~~ten~~ twenty-five dollars shall be charged for 834
filing an initial registration statement. All money collected from 835
registration fees under this division and late filing fees under 836
division (G) of this section shall be deposited ~~to the credit of~~ 837
~~the joint legislative ethics committee fund created under section~~ 838
~~101.34 of the Revised Code~~ into the general revenue fund of the 839
state. 840

An officer or employee of a state agency who actively 841
advocates in a fiduciary capacity as a representative of that 842
state agency need not pay the registration fee prescribed by this 843
division or file expenditure statements under section 101.73 of 844
the Revised Code. As used in this division, "state agency" does 845
not include a state institution of higher education as defined in 846
section 3345.011 of the Revised Code. 847

(F) Upon registration pursuant to division (A) of this 848
section, the legislative agent shall be issued a card by the joint 849
committee showing that the legislative agent is registered. The 850

registration card and the legislative agent's registration shall 851
be valid from the date of their issuance until the next 852
thirty-first day of December of an even-numbered year. 853

(G) The executive director of the joint committee shall be 854
responsible for reviewing each registration statement filed with 855
the joint committee under this section and for determining whether 856
the statement contains all of the information required by this 857
section. If the joint committee determines that the registration 858
statement does not contain all of the required information or that 859
a legislative agent or employer has failed to file a registration 860
statement, the joint committee shall send written notification by 861
certified mail to the person who filed the registration statement 862
regarding the deficiency in the statement or to the person who 863
failed to file the registration statement regarding the failure. 864
Any person so notified by the joint committee shall, not later 865
than fifteen days after receiving the notice, file a registration 866
statement or an amended registration statement that does contain 867
all of the information required by this section. If any person who 868
receives a notice under this division fails to file a registration 869
statement or such an amended registration statement within this 870
fifteen-day period, the joint committee shall assess a late filing 871
fee equal to twelve dollars and fifty cents per day, up to a 872
maximum of one hundred dollars, upon that person. The joint 873
committee may waive the late filing fee for good cause shown. 874

(H) On or before the fifteenth day of March of each year, the 875
joint committee shall, in the manner and form that it determines, 876
publish a report containing statistical information on the 877
registration statements filed with it under this section during 878
the preceding year. 879

Sec. 101.82. As used in sections 101.82 to 101.87 of the 880
Revised Code: 881

(A) "Agency" means any board, commission, committee, or 882
council, or any other similar state public body required to be 883
established pursuant to state statutes for the exercise of any 884
function of state government and to which members are appointed or 885
elected. "Agency" does not include the following: 886

(1) The general assembly, or any commission, committee, or 887
other body composed entirely of members ~~thereof~~ of the general 888
assembly; 889

(2) Any court; 890

(3) Any public body created by or directly pursuant to the 891
constitution of this state; 892

(4) The board of trustees of any institution of higher 893
education financially supported in whole or in part by the state; 894

(5) Any public body that has the authority to issue bonds or 895
notes or that has issued bonds or notes that have not been fully 896
repaid; 897

(6) The public utilities commission of Ohio; 898

(7) The consumers' council governing board; 899

(8) The Ohio board of regents; 900

(9) Any state board or commission that has the authority to 901
issue any final adjudicatory order that may be appealed to the 902
court of common pleas under Chapter 119. of the Revised Code; 903

(10) Any board of elections; 904

(11) The board of directors of the Ohio insurance guaranty 905
association and the board of governors of the Ohio fair plan 906
underwriting association; 907

(12) The Ohio public employees deferred compensation board; 908

(13) The Ohio retirement study council; 909

(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; 910
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(15) The industrial commission. 914

(B) "Abolish" means to repeal the statutes creating and empowering an agency, remove its personnel, and transfer its records to the department of administrative services pursuant to division ~~(H)~~(E) of section 149.331 of the Revised Code. 915
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(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. 919
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(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. 923
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(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. 926
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Sec. 102.02. (A) Except as otherwise provided in division (H) of this section, every person who is elected to or is a candidate for a state, county, or city office, or the office of member of the United States congress, and every person who is appointed to fill a vacancy for an unexpired term in such an elective office; all members of the state board of education; the director, assistant directors, deputy directors, division chiefs, or persons of equivalent rank of any administrative department of the state; the president or other chief administrative officer of every state institution of higher education as defined in section 3345.011 of the Revised Code; the chief executive officer of each state 929
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retirement system; all members of the board of commissioners on 940
grievances and discipline of the supreme court and the ethics 941
commission created under section 102.05 of the Revised Code; every 942
business manager, treasurer, or superintendent of a city, local, 943
exempted village, joint vocational, or cooperative education 944
school district or an educational service center; every person who 945
is elected to or is a candidate for the office of member of a 946
board of education of a city, local, exempted village, joint 947
vocational, or cooperative education school district or of a 948
governing board of an educational service center that has a total 949
student count of twelve thousand or more as most recently 950
determined by the department of education pursuant to section 951
3317.03 of the Revised Code; every person who is appointed to the 952
board of education of a municipal school district pursuant to 953
division (B) or (F) of section 3311.71 of the Revised Code; all 954
members of the board of directors of a sanitary district 955
established under Chapter 6115. of the Revised Code and organized 956
wholly for the purpose of providing a water supply for domestic, 957
municipal, and public use that includes two municipal corporations 958
in two counties; every public official or employee who is paid a 959
salary or wage in accordance with schedule C of section 124.15 or 960
schedule E-2 of section 124.152 of the Revised Code; members of 961
the board of trustees and the executive director of the tobacco 962
use prevention and control foundation; members of the board of 963
trustees and the executive director of the southern Ohio 964
agricultural and community development foundation; and every other 965
public official or employee who is designated by the appropriate 966
ethics commission pursuant to division (B) of this section shall 967
file with the appropriate ethics commission on a form prescribed 968
by the commission, a statement disclosing all of the following: 969

(1) The name of the person filing the statement and each 970
member of the person's immediate family and all names under which 971
the person or members of the person's immediate family do 972

business; 973

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section 974
and except as otherwise provided in section 102.022 of the Revised 975
Code, identification of every source of income, other than income 976
from a legislative agent identified in division (A)(2)(b) of this 977
section, received during the preceding calendar year, in the 978
person's own name or by any other person for the person's use or 979
benefit, by the person filing the statement, and a brief 980
description of the nature of the services for which the income was 981
received. If the person filing the statement is a member of the 982
general assembly, the statement shall identify the amount of every 983
source of income received in accordance with the following ranges 984
of amounts: zero or more, but less than one thousand dollars; one 985
thousand dollars or more, but less than ten thousand dollars; ten 986
thousand dollars or more, but less than twenty-five thousand 987
dollars; twenty-five thousand dollars or more, but less than fifty 988
thousand dollars; fifty thousand dollars or more, but less than 989
one hundred thousand dollars; and one hundred thousand dollars or 990
more. Division (A)(2)(a) of this section shall not be construed to 991
require a person filing the statement who derives income from a 992
business or profession to disclose the individual items of income 993
that constitute the gross income of that business or profession, 994
except for those individual items of income that are attributable 995
to the person's or, if the income is shared with the person, the 996
partner's, solicitation of services or goods or performance, 997
arrangement, or facilitation of services or provision of goods on 998
behalf of the business or profession of clients, including 999
corporate clients, who are legislative agents as defined in 1000
section 101.70 of the Revised Code. A person who files the 1001
statement under this section shall disclose the identity of and 1002
the amount of income received from a person who the public 1003
official or employee knows or has reason to know is doing or 1004
seeking to do business of any kind with the public official's or 1005

employee's agency. 1006

(b) If the person filing the statement is a member of the 1007
general assembly, the statement shall identify every source of 1008
income and the amount of that income that was received from a 1009
legislative agent, as defined in section 101.70 of the Revised 1010
Code, during the preceding calendar year, in the person's own name 1011
or by any other person for the person's use or benefit, by the 1012
person filing the statement, and a brief description of the nature 1013
of the services for which the income was received. Division 1014
(A)(2)(b) of this section requires the disclosure of clients of 1015
attorneys or persons licensed under section 4732.12 of the Revised 1016
Code, or patients of persons certified under section 4731.14 of 1017
the Revised Code, if those clients or patients are legislative 1018
agents. Division (A)(2)(b) of this section requires a person 1019
filing the statement who derives income from a business or 1020
profession to disclose those individual items of income that 1021
constitute the gross income of that business or profession that 1022
are received from legislative agents. 1023

(c) Except as otherwise provided in division (A)(2)(c) of 1024
this section, division (A)(2)(a) of this section applies to 1025
attorneys, physicians, and other persons who engage in the 1026
practice of a profession and who, pursuant to a section of the 1027
Revised Code, the common law of this state, a code of ethics 1028
applicable to the profession, or otherwise, generally are required 1029
not to reveal, disclose, or use confidences of clients, patients, 1030
or other recipients of professional services except under 1031
specified circumstances or generally are required to maintain 1032
those types of confidences as privileged communications except 1033
under specified circumstances. Division (A)(2)(a) of this section 1034
does not require an attorney, physician, or other professional 1035
subject to a confidentiality requirement as described in division 1036
(A)(2)(c) of this section to disclose the name, other identity, or 1037

address of a client, patient, or other recipient of professional 1038
services if the disclosure would threaten the client, patient, or 1039
other recipient of professional services, would reveal details of 1040
the subject matter for which legal, medical, or professional 1041
advice or other services were sought, or would reveal an otherwise 1042
privileged communication involving the client, patient, or other 1043
recipient of professional services. Division (A)(2)(a) of this 1044
section does not require an attorney, physician, or other 1045
professional subject to a confidentiality requirement as described 1046
in division (A)(2)(c) of this section to disclose in the brief 1047
description of the nature of services required by division 1048
(A)(2)(a) of this section any information pertaining to specific 1049
professional services rendered for a client, patient, or other 1050
recipient of professional services that would reveal details of 1051
the subject matter for which legal, medical, or professional 1052
advice was sought or would reveal an otherwise privileged 1053
communication involving the client, patient, or other recipient of 1054
professional services. 1055

(3) The name of every corporation on file with the secretary 1056
of state that is incorporated in this state or holds a certificate 1057
of compliance authorizing it to do business in this state, trust, 1058
business trust, partnership, or association that transacts 1059
business in this state in which the person filing the statement or 1060
any other person for the person's use and benefit had during the 1061
preceding calendar year an investment of over one thousand dollars 1062
at fair market value as of the thirty-first day of December of the 1063
preceding calendar year, or the date of disposition, whichever is 1064
earlier, or in which the person holds any office or has a 1065
fiduciary relationship, and a description of the nature of the 1066
investment, office, or relationship. Division (A)(3) of this 1067
section does not require disclosure of the name of any bank, 1068
savings and loan association, credit union, or building and loan 1069
association with which the person filing the statement has a 1070

deposit or a withdrawable share account. 1071

(4) All fee simple and leasehold interests to which the 1072
person filing the statement holds legal title to or a beneficial 1073
interest in real property located within the state, excluding the 1074
person's residence and property used primarily for personal 1075
recreation; 1076

(5) The names of all persons residing or transacting business 1077
in the state to whom the person filing the statement owes, in the 1078
person's own name or in the name of any other person, more than 1079
one thousand dollars. Division (A)(5) of this section shall not be 1080
construed to require the disclosure of debts owed by the person 1081
resulting from the ordinary conduct of a business or profession or 1082
debts on the person's residence or real property used primarily 1083
for personal recreation, except that the superintendent of 1084
financial institutions shall disclose the names of all 1085
state-chartered savings and loan associations and of all service 1086
corporations subject to regulation under division (E)(2) of 1087
section 1151.34 of the Revised Code to whom the superintendent in 1088
the superintendent's own name or in the name of any other person 1089
owes any money, and that the superintendent and any deputy 1090
superintendent of banks shall disclose the names of all 1091
state-chartered banks and all bank subsidiary corporations subject 1092
to regulation under section 1109.44 of the Revised Code to whom 1093
the superintendent or deputy superintendent owes any money. 1094

(6) The names of all persons residing or transacting business 1095
in the state, other than a depository excluded under division 1096
(A)(3) of this section, who owe more than one thousand dollars to 1097
the person filing the statement, either in the person's own name 1098
or to any person for the person's use or benefit. Division (A)(6) 1099
of this section shall not be construed to require the disclosure 1100
of clients of attorneys or persons licensed under section 4732.12 1101
or 4732.15 of the Revised Code, or patients of persons certified 1102

under section 4731.14 of the Revised Code, nor the disclosure of 1103
debts owed to the person resulting from the ordinary conduct of a 1104
business or profession. 1105

(7) Except as otherwise provided in section 102.022 of the 1106
Revised Code, the source of each gift of over seventy-five 1107
dollars, or of each gift of over twenty-five dollars received by a 1108
member of the general assembly from a legislative agent, received 1109
by the person in the person's own name or by any other person for 1110
the person's use or benefit during the preceding calendar year, 1111
except gifts received by will or by virtue of section 2105.06 of 1112
the Revised Code, or received from spouses, parents, grandparents, 1113
children, grandchildren, siblings, nephews, nieces, uncles, aunts, 1114
brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, 1115
fathers-in-law, mothers-in-law, or any person to whom the person 1116
filing the statement stands in loco parentis, or received by way 1117
of distribution from any inter vivos or testamentary trust 1118
established by a spouse or by an ancestor; 1119

(8) Except as otherwise provided in section 102.022 of the 1120
Revised Code, identification of the source and amount of every 1121
payment of expenses incurred for travel to destinations inside or 1122
outside this state that is received by the person in the person's 1123
own name or by any other person for the person's use or benefit 1124
and that is incurred in connection with the person's official 1125
duties, except for expenses for travel to meetings or conventions 1126
of a national or state organization to which any state agency, 1127
including, but not limited to, any legislative agency or state 1128
institution of higher education as defined in section 3345.011 of 1129
the Revised Code, pays membership dues, or any political 1130
subdivision or any office or agency of a political subdivision 1131
pays membership dues; 1132

(9) Except as otherwise provided in section 102.022 of the 1133
Revised Code, identification of the source of payment of expenses 1134

for meals and other food and beverages, other than for meals and 1135
other food and beverages provided at a meeting at which the person 1136
participated in a panel, seminar, or speaking engagement or at a 1137
meeting or convention of a national or state organization to which 1138
any state agency, including, but not limited to, any legislative 1139
agency or state institution of higher education as defined in 1140
section 3345.011 of the Revised Code, pays membership dues, or any 1141
political subdivision or any office or agency of a political 1142
subdivision pays membership dues, that are incurred in connection 1143
with the person's official duties and that exceed one hundred 1144
dollars aggregated per calendar year; 1145

(10) If the financial disclosure statement is filed by a 1146
public official or employee described in division (B)(2) of 1147
section 101.73 of the Revised Code or division (B)(2) of section 1148
121.63 of the Revised Code who receives a statement from a 1149
legislative agent, executive agency lobbyist, or employer that 1150
contains the information described in division (F)(2) of section 1151
101.73 of the Revised Code or division (G)(2) of section 121.63 of 1152
the Revised Code, all of the nondisputed information contained in 1153
the statement delivered to that public official or employee by the 1154
legislative agent, executive agency lobbyist, or employer under 1155
division (F)(2) of section 101.73 or (G)(2) of section 121.63 of 1156
the Revised Code. As used in division (A)(10) of this section, 1157
"legislative agent," "executive agency lobbyist," and "employer" 1158
have the same meanings as in sections 101.70 and 121.60 of the 1159
Revised Code. 1160

A person may file a statement required by this section in 1161
person or by mail. A person who is a candidate for elective office 1162
shall file the statement no later than the thirtieth day before 1163
the primary, special, or general election at which the candidacy 1164
is to be voted on, whichever election occurs soonest, except that 1165
a person who is a write-in candidate shall file the statement no 1166

later than the twentieth day before the earliest election at which 1167
the person's candidacy is to be voted on. A person who holds 1168
elective office shall file the statement on or before the 1169
fifteenth day of April of each year unless the person is a 1170
candidate for office. A person who is appointed to fill a vacancy 1171
for an unexpired term in an elective office shall file the 1172
statement within fifteen days after the person qualifies for 1173
office. Other persons shall file an annual statement on or before 1174
the fifteenth day of April or, if appointed or employed after that 1175
date, within ninety days after appointment or employment. No 1176
person shall be required to file with the appropriate ethics 1177
commission more than one statement or pay more than one filing fee 1178
for any one calendar year. 1179

The appropriate ethics commission, for good cause, may extend 1180
for a reasonable time the deadline for filing a statement under 1181
this section. 1182

A statement filed under this section is subject to public 1183
inspection at locations designated by the appropriate ethics 1184
commission except as otherwise provided in this section. 1185

(B) The Ohio ethics commission, the joint legislative ethics 1186
committee, and the board of commissioners on grievances and 1187
discipline of the supreme court, using the rule-making procedures 1188
of Chapter 119. of the Revised Code, may require any class of 1189
public officials or employees under its jurisdiction and not 1190
specifically excluded by this section whose positions involve a 1191
substantial and material exercise of administrative discretion in 1192
the formulation of public policy, expenditure of public funds, 1193
enforcement of laws and rules of the state or a county or city, or 1194
the execution of other public trusts, to file an annual statement 1195
on or before the fifteenth day of April under division (A) of this 1196
section. The appropriate ethics commission shall send the public 1197
officials or employees written notice of the requirement by the 1198

fifteenth day of February of each year the filing is required 1199
unless the public official or employee is appointed after that 1200
date, in which case the notice shall be sent within thirty days 1201
after appointment, and the filing shall be made not later than 1202
ninety days after appointment. 1203

Except for disclosure statements filed by members of the 1204
board of trustees and the executive director of the tobacco use 1205
prevention and control foundation and members of the board of 1206
trustees and the executive director of the southern Ohio 1207
agricultural and community development foundation, disclosure 1208
statements filed under this division with the Ohio ethics 1209
commission by members of boards, commissions, or bureaus of the 1210
state for which no compensation is received other than reasonable 1211
and necessary expenses shall be kept confidential. Disclosure 1212
statements filed with the Ohio ethics commission under division 1213
(A) of this section by business managers, treasurers, and 1214
superintendents of city, local, exempted village, joint 1215
vocational, or cooperative education school districts or 1216
educational service centers shall be kept confidential, except 1217
that any person conducting an audit of any such school district or 1218
educational service center pursuant to section 115.56 or Chapter 1219
117. of the Revised Code may examine the disclosure statement of 1220
any business manager, treasurer, or superintendent of that school 1221
district or educational service center. The Ohio ethics commission 1222
shall examine each disclosure statement required to be kept 1223
confidential to determine whether a potential conflict of interest 1224
exists for the person who filed the disclosure statement. A 1225
potential conflict of interest exists if the private interests of 1226
the person, as indicated by the person's disclosure statement, 1227
might interfere with the public interests the person is required 1228
to serve in the exercise of the person's authority and duties in 1229
the person's office or position of employment. If the commission 1230
determines that a potential conflict of interest exists, it shall 1231

notify the person who filed the disclosure statement and shall 1232
make the portions of the disclosure statement that indicate a 1233
potential conflict of interest subject to public inspection in the 1234
same manner as is provided for other disclosure statements. Any 1235
portion of the disclosure statement that the commission determines 1236
does not indicate a potential conflict of interest shall be kept 1237
confidential by the commission and shall not be made subject to 1238
public inspection, except as is necessary for the enforcement of 1239
Chapters 102. and 2921. of the Revised Code and except as 1240
otherwise provided in this division. 1241

(C) No person shall knowingly fail to file, on or before the 1242
applicable filing deadline established under this section, a 1243
statement that is required by this section. 1244

(D) No person shall knowingly file a false statement that is 1245
required to be filed under this section. 1246

(E)(1) Except as provided in divisions (E)(2) and (3) of this 1247
section, the statement required by division (A) or (B) of this 1248
section shall be accompanied by a filing fee of ~~twenty-five~~ forty 1249
dollars. 1250

(2) The statement required by division (A) of this section 1251
shall be accompanied by a the following filing fee to be paid by 1252
the person who is elected or appointed to, or is a candidate for, 1253
any of the following offices: 1254

For state office, except member of <u>the</u>		1255
state board of education	\$ 50 <u>65</u>	1256
For office of member of United States		1257
congress or member of general assembly	\$ 25 <u>40</u>	1258
For county office	\$ 25 <u>40</u>	1259
For city office	\$ 10 <u>25</u>	1260
For office of member of <u>the</u> state board		1261
of education	\$ 20 <u>25</u>	1262
For office of member of <u>a</u> city, local,		1263

exempted village, or cooperative	1264
education board of	1265
education or educational service	1266
center governing board	\$ 5 <u>20</u> 1267
For position of business manager,	1268
treasurer, or superintendent of a	1269
city, local, exempted village, joint	1270
vocational, or cooperative education	1271
school district or	1272
educational service center	\$ 5 <u>20</u> 1273

(3) No judge of a court of record or candidate for judge of a court of record, and no referee or magistrate serving a court of record, shall be required to pay the fee required under division (E)(1) or (2) or (F) of this section. 1274
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(4) For any public official who is appointed to a nonelective office of the state and for any employee who holds a nonelective position in a public agency of the state, the state agency that is the primary employer of the state official or employee shall pay the fee required under division (E)(1) or (F) of this section. 1278
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(F) If a statement required to be filed under this section is not filed by the date on which it is required to be filed, the appropriate ethics commission shall assess the person required to file the statement a late filing fee ~~equal to one-half of the applicable filing fee~~ ten dollars for each day the statement is not filed, except that the total amount of the late filing fee shall not exceed ~~one~~ two hundred fifty dollars. 1283
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(G)(1) The appropriate ethics commission other than the Ohio ethics commission shall deposit all fees it receives under divisions (E) and (F) of this section into the general revenue fund of the state. 1290
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1293

(2) The Ohio ethics commission shall deposit all receipts, 1294

including, but not limited to, fees it receives under divisions 1295
(E) and (F) of this section and all moneys it receives from 1296
settlements under division (G) of section 102.06 of the Revised 1297
Code, into the Ohio ethics commission fund, which is hereby 1298
created in the state treasury. All moneys credited to the fund 1299
shall be used solely for expenses related to the operation and 1300
statutory functions of the commission. 1301

(H) Division (A) of this section does not apply to a person 1302
elected or appointed to the office of precinct, ward, or district 1303
committee member under Chapter 3517. of the Revised Code; a 1304
presidential elector; a delegate to a national convention; village 1305
or township officials and employees; any physician or psychiatrist 1306
who is paid a salary or wage in accordance with schedule C of 1307
section 124.15 or schedule E-2 of section 124.152 of the Revised 1308
Code and whose primary duties do not require the exercise of 1309
administrative discretion; or any member of a board, commission, 1310
or bureau of any county or city who receives less than one 1311
thousand dollars per year for serving in that position. 1312

Sec. 107.12. (A) As used in this section, "organization" 1313
means a faith-based or other organization that is exempt from 1314
federal income taxation under section 501(c)(3) of the Internal 1315
Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended, and 1316
provides charitable services to needy residents of this state. 1317

(B) There is hereby established within the office of the 1318
governor the governor's office for faith-based nonprofit and other 1319
nonprofit organizations. The office shall: 1320

(1) Serve as a clearinghouse of information on federal, 1321
state, and local funding for charitable services performed by 1322
organizations; 1323

(2) Encourage organizations to seek public funding for their 1324
charitable services; 1325

<u>(3) Act as a liaison between state agencies and organizations;</u>	1326
	1327
<u>(4) Advise the governor, general assembly, and the advisory board of the governor's office for faith-based nonprofit or other nonprofit organizations on the barriers that exist to collaboration between organizations and governmental entities and on ways to remove the barriers.</u>	1328
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<u>(C) The governor shall appoint an executive assistant to manage the office and perform or oversee the performance of the duties of the office.</u>	1333
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	1335
<u>(D)(1) There is hereby created the advisory board of the governor's office for faith-based nonprofit and other nonprofit organizations. The board shall consist of members appointed as follows:</u>	1336
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<u>(a) The directors of aging, alcohol and drug addiction services, rehabilitation and correction, health, job and family services, mental health, and youth services shall each appoint to the board one employee of that director's department.</u>	1340
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	1343
<u>(b) The speaker of the house of representatives shall appoint to the board two members of the house of representatives, not more than one of whom shall be from the same political party and at least one of whom shall be from the legislative black caucus. The speaker of the house of representatives shall consult with the president of the legislative black caucus in making the legislative black caucus member appointment. The president of the senate shall appoint to the board two members of the senate, not more than one of whom shall be from the same political party.</u>	1344
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<u>(c) The governor, speaker of the house of representatives, and president of the senate shall each appoint to the board three representatives of the nonprofit, faith-based and other nonprofit community.</u>	1353
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	1356

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

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

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

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

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

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

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

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

(B) Prior to the closing of a state institutional facility, the target state agency shall conduct a survey and analysis of the needs of each client at that facility for the purpose of ensuring that each client's identified needs during the transition and in

the client's new setting are met. A copy of the analysis, devoid 1387
of any client identifying information, as well as the target state 1388
agency's proposal for meeting the needs of the clients, shall be 1389
submitted to the general assembly in accordance with section 1390
101.68 of the Revised Code at least two months prior to the 1391
closing. 1392

Sec. 107.32. (A) As used in this section and section 107.33 1393
of the Revised Code: 1394

(1) "State institutional facility" means any institution or 1395
other facility for the housing of any person that is under the 1396
control of the department of rehabilitation and correction, the 1397
department of youth services, the department of mental retardation 1398
and developmental disabilities, the department of mental health, 1399
or any other agency or department of state government. 1400

(2) "Target state agency" means the agency of state 1401
government that the governor identifies in a notice provided under 1402
division (C)(1) of this section and that operates an institutional 1403
facility or facilities the governor believes should be closed. 1404

(B) Notwithstanding any other provision of law, the governor 1405
shall not order the closure of any state institutional facility, 1406
for the purpose of expenditure reductions or budget cuts, other 1407
than in accordance with this section. 1408

(C) If the governor determines that necessary expenditure 1409
reductions and budget cuts cannot be made without closing one or 1410
more state institutional facilities, all of the following apply: 1411

(1) The governor shall determine which state agency's 1412
institutional facility or facilities the governor believes should 1413
be closed, shall notify the general assembly and that agency of 1414
that determination, and shall specify in the notice the number of 1415
facilities of that agency that the governor believes should be 1416

closed and the anticipated savings to be obtained through that 1417
closure or those closures. 1418

(2) Upon the governor's provision of the notice described in 1419
division (C)(1) of this section, a state facilities closure 1420
commission shall be created as described in division (D) of this 1421
section regarding the target state agency. Not later than seven 1422
days after the governor provides that notice, the officials with 1423
the duties to appoint members of the commission for the target 1424
state agency, as described in division (D) of this section, shall 1425
appoint the specified members of the commission, and, as soon as 1426
possible after the appointments, the commission shall meet for the 1427
purposes described in that division. Not later than thirty days 1428
after the governor provides the notice described in division 1429
(C)(1) of this section, the state facilities closure commission 1430
shall provide to the general assembly, the governor, and the 1431
target state agency a report that contains the commission's 1432
recommendation as to the state institutional facility or 1433
facilities of the target state agency that the governor may close. 1434
The anticipated savings to be obtained by the commission's 1435
recommendation shall be approximately the same as the anticipated 1436
savings the governor specified in the governor's notice provided 1437
under division (C)(1) of this section, and, if the recommendation 1438
identifies more than one facility, it shall list them in order of 1439
the commission's preference for closure. A state facilities 1440
closure commission created for a particular target state agency 1441
shall make a report only regarding that target state agency and 1442
shall include no recommendations regarding any other state agency 1443
or department in its report. 1444

(3) Upon receipt of the report of the state facilities 1445
closure commission under division (C)(2) of this section for a 1446
target state agency, if the governor still believes that necessary 1447
expenditure reductions and budget cuts cannot be made without 1448

closing one or more state institutional facilities, the governor 1449
may close state institutional facilities of the target state 1450
agency that are identified in the commission's recommendation 1451
contained in the report. Except as otherwise provided in this 1452
division, the governor shall not close any state institutional 1453
facility of the target state agency that is not listed in the 1454
commission's recommendation, and shall not close multiple 1455
institutions in any order other than the order of the commission's 1456
preference as specified in the recommendation. The governor is not 1457
required to follow the recommendation of the commission in closing 1458
an institutional facility if the governor determines that a 1459
significant change in circumstances makes the recommendation 1460
unworkable. 1461

(D) A state facilities closure commission shall be created at 1462
the time and in the manner specified in division (C)(2) of this 1463
section. If more than one state agency or department is a target 1464
state agency, a separate state facilities closure commission shall 1465
be created for each such target state agency. Each commission 1466
consists of eleven members. Three members shall be members of the 1467
house of representatives appointed by the speaker of the house of 1468
representatives, none of the members so appointed may have a state 1469
institutional facility of the target state agency in the member's 1470
district, two of the members so appointed shall be members of the 1471
majority political party in the house of representatives, and one 1472
of the members so appointed shall not be a member of the majority 1473
political party in the house of representatives. Three members 1474
shall be members of the senate appointed by the president of the 1475
senate, none of the members so appointed may have a state 1476
institutional facility of the target state agency in the member's 1477
district, two of the members so appointed shall be members of the 1478
majority political party in the senate, and one of the members so 1479
appointed shall not be a member of the majority political party in 1480
the senate. One member shall be the director of budget and 1481

management. One member shall be the director, or other agency 1482
head, of the target state agency. Two members shall be private 1483
executives with expertise in facility utilization, with one of 1484
these members appointed by the speaker of the house of 1485
representatives and the other appointed by the president of the 1486
senate, and neither of the members so appointed may have a state 1487
institutional facility of the target state agency in the county in 1488
which the member resides. One member shall be a representative of 1489
the Ohio civil service employees' association or other 1490
representative association of the employees of the target state 1491
agency, appointed by the speaker of the house of representatives. 1492
The officials with the duties to appoint members of the commission 1493
shall make the appointments, and the commission shall meet, within 1494
the time periods specified in division (C)(2) of this section. The 1495
members of the commission shall serve without compensation. At the 1496
commission's first meeting, the members shall organize, and 1497
appoint a chairperson and vice-chairperson. 1498

The commission shall determine which state institutional 1499
facility or facilities under the control of the target state 1500
agency for which the commission was created should be closed. In 1501
making this determination, the commission shall, at a minimum, 1502
consider the following factors: 1503

(1) Whether there is a need to reduce the number of 1504
facilities; 1505

(2) The availability of alternate facilities; 1506

(3) The cost effectiveness of the facilities; 1507

(4) The geographic factors associated with each facility and 1508
its proximity to other similar facilities; 1509

(5) The impact of collective bargaining on facility 1510
operations; 1511

(6) The utilization and maximization of resources; 1512

(7) Continuity of the staff and ability to serve the facility 1513
population; 1514

(8) Continuing costs following closure of a facility; 1515

(9) The impact of the closure on the local economy; 1516

(10) Alternatives and opportunities for consolidation with 1517
other facilities. 1518

The commission shall meet as often as necessary to make its 1519
determination, may take testimony and consider all relevant 1520
information, and shall prepare and provide in accordance with 1521
division (C)(2) of this section a report containing its 1522
recommendations. Upon providing the report regarding the target 1523
state agency, the commission shall cease to exist, provided that 1524
another commission shall be created for the same state agency if 1525
the agency is made a target state agency in another report 1526
provided under division (C)(1) of this section and provided that 1527
another commission shall be created for a different state agency 1528
if that other agency is made a target state agency in a report 1529
provided under that division. 1530

Sec. 107.33. Notwithstanding any other provision of law, if 1531
the closure of the particular facility is authorized under section 1532
107.32 of the Revised Code, the governor may terminate any 1533
contract entered into under section 9.06 of the Revised Code for 1534
the private operation and management of any correctional facility 1535
under the control of the department of rehabilitation and 1536
correction, including, but not limited to the initial intensive 1537
program prison established pursuant to section 5120.033 of the 1538
Revised Code as it existed prior to the effective date of this 1539
section, and terminate the operation of, and close that facility. 1540
If the governor terminates a contract for the private operation 1541
and management of a facility, and terminates the operation of, and 1542

closes, the facility as described in this section, inmates in the 1543
facility shall be transferred to another correctional facility 1544
under the control of the department. If the initial intensive 1545
program prison is closed, divisions (G)(2)(a) and (b) of section 1546
2929.13 of the Revised Code have no effect while the facility is 1547
closed. 1548

Sec. 109.57. (A)(1) The superintendent of the bureau of 1549
criminal identification and investigation shall procure from 1550
wherever procurable and file for record photographs, pictures, 1551
descriptions, fingerprints, measurements, and other information 1552
that may be pertinent of all persons who have been convicted of 1553
committing within this state a felony, any crime constituting a 1554
misdemeanor on the first offense and a felony on subsequent 1555
offenses, or any misdemeanor described in division (A)(1)(a) of 1556
section 109.572 of the Revised Code, of all children under 1557
eighteen years of age who have been adjudicated delinquent 1558
children for committing within this state an act that would be a 1559
felony or an offense of violence if committed by an adult or who 1560
have been convicted of or pleaded guilty to committing within this 1561
state a felony or an offense of violence, and of all well-known 1562
and habitual criminals. The person in charge of any county, 1563
multicounty, municipal, municipal-county, or multicounty-municipal 1564
jail or workhouse, community-based correctional facility, halfway 1565
house, alternative residential facility, or state correctional 1566
institution and the person in charge of any state institution 1567
having custody of a person suspected of having committed a felony, 1568
any crime constituting a misdemeanor on the first offense and a 1569
felony on subsequent offenses, or any misdemeanor described in 1570
division (A)(1)(a) of section 109.572 of the Revised Code or 1571
having custody of a child under eighteen years of age with respect 1572
to whom there is probable cause to believe that the child may have 1573
committed an act that would be a felony or an offense of violence 1574

if committed by an adult shall furnish such material to the 1575
superintendent of the bureau. Fingerprints, photographs, or other 1576
descriptive information of a child who is under eighteen years of 1577
age, has not been arrested or otherwise taken into custody for 1578
committing an act that would be a felony or an offense of violence 1579
if committed by an adult, has not been adjudicated a delinquent 1580
child for committing an act that would be a felony or an offense 1581
of violence if committed by an adult, has not been convicted of or 1582
pleaded guilty to committing a felony or an offense of violence, 1583
and is not a child with respect to whom there is probable cause to 1584
believe that the child may have committed an act that would be a 1585
felony or an offense of violence if committed by an adult shall 1586
not be procured by the superintendent or furnished by any person 1587
in charge of any county, multicounty, municipal, municipal-county, 1588
or multicounty-municipal jail or workhouse, community-based 1589
correctional facility, halfway house, alternative residential 1590
facility, or state correctional institution, except as authorized 1591
in section 2151.313 of the Revised Code. 1592

(2) Every clerk of a court of record in this state, other 1593
than the supreme court or a court of appeals, shall send to the 1594
superintendent of the bureau a weekly report containing a summary 1595
of each case involving a felony, involving any crime constituting 1596
a misdemeanor on the first offense and a felony on subsequent 1597
offenses, involving a misdemeanor described in division (A)(1)(a) 1598
of section 109.572 of the Revised Code, or involving an 1599
adjudication in a case in which a child under eighteen years of 1600
age was alleged to be a delinquent child for committing an act 1601
that would be a felony or an offense of violence if committed by 1602
an adult. The clerk of the court of common pleas shall include in 1603
the report and summary the clerk sends under this division all 1604
information described in divisions (A)(2)(a) to (f) of this 1605
section regarding a case before the court of appeals that is 1606
served by that clerk. The summary shall be written on the standard 1607

forms furnished by the superintendent pursuant to division (B) of 1608
this section and shall include the following information: 1609

(a) The incident tracking number contained on the standard 1610
forms furnished by the superintendent pursuant to division (B) of 1611
this section; 1612

(b) The style and number of the case; 1613

(c) The date of arrest; 1614

(d) The date that the person was convicted of or pleaded 1615
guilty to the offense, adjudicated a delinquent child for 1616
committing the act that would be a felony or an offense of 1617
violence if committed by an adult, found not guilty of the 1618
offense, or found not to be a delinquent child for committing an 1619
act that would be a felony or an offense of violence if committed 1620
by an adult, the date of an entry dismissing the charge, an entry 1621
declaring a mistrial of the offense in which the person is 1622
discharged, an entry finding that the person or child is not 1623
competent to stand trial, or an entry of a nolle prosequi, or the 1624
date of any other determination that constitutes final resolution 1625
of the case; 1626

(e) A statement of the original charge with the section of 1627
the Revised Code that was alleged to be violated; 1628

(f) If the person or child was convicted, pleaded guilty, or 1629
was adjudicated a delinquent child, the sentence or terms of 1630
probation imposed or any other disposition of the offender or the 1631
delinquent child. 1632

If the offense involved the disarming of a law enforcement 1633
officer or an attempt to disarm a law enforcement officer, the 1634
clerk shall clearly state that fact in the summary, and the 1635
superintendent shall ensure that a clear statement of that fact is 1636
placed in the bureau's records. 1637

(3) The superintendent shall cooperate with and assist 1638
sheriffs, chiefs of police, and other law enforcement officers in 1639
the establishment of a complete system of criminal identification 1640
and in obtaining fingerprints and other means of identification of 1641
all persons arrested on a charge of a felony, any crime 1642
constituting a misdemeanor on the first offense and a felony on 1643
subsequent offenses, or a misdemeanor described in division 1644
(A)(1)(a) of section 109.572 of the Revised Code and of all 1645
children under eighteen years of age arrested or otherwise taken 1646
into custody for committing an act that would be a felony or an 1647
offense of violence if committed by an adult. The superintendent 1648
also shall file for record the fingerprint impressions of all 1649
persons confined in a county, multicounty, municipal, 1650
municipal-county, or multicounty-municipal jail or workhouse, 1651
community-based correctional facility, halfway house, alternative 1652
residential facility, or state correctional institution for the 1653
violation of state laws and of all children under eighteen years 1654
of age who are confined in a county, multicounty, municipal, 1655
municipal-county, or multicounty-municipal jail or workhouse, 1656
community-based correctional facility, halfway house, alternative 1657
residential facility, or state correctional institution or in any 1658
facility for delinquent children for committing an act that would 1659
be a felony or an offense of violence if committed by an adult, 1660
and any other information that the superintendent may receive from 1661
law enforcement officials of the state and its political 1662
subdivisions. 1663

(4) The superintendent shall carry out Chapter 2950. of the 1664
Revised Code with respect to the registration of persons who are 1665
convicted of or plead guilty to a sexually oriented offense and 1666
with respect to all other duties imposed on the bureau under that 1667
chapter. 1668

(B) The superintendent shall prepare and furnish to every 1669

county, multicounty, municipal, municipal-county, or 1670
multicounty-municipal jail or workhouse, community-based 1671
correctional facility, halfway house, alternative residential 1672
facility, or state correctional institution and to every clerk of 1673
a court in this state specified in division (A)(2) of this section 1674
standard forms for reporting the information required under 1675
division (A) of this section. The standard forms that the 1676
superintendent prepares pursuant to this division may be in a 1677
tangible format, in an electronic format, or in both tangible 1678
formats and electronic formats. 1679

(C) The superintendent may operate a center for electronic, 1680
automated, or other data processing for the storage and retrieval 1681
of information, data, and statistics pertaining to criminals and 1682
to children under eighteen years of age who are adjudicated 1683
delinquent children for committing an act that would be a felony 1684
or an offense of violence if committed by an adult, criminal 1685
activity, crime prevention, law enforcement, and criminal justice, 1686
and may establish and operate a statewide communications network 1687
to gather and disseminate information, data, and statistics for 1688
the use of law enforcement agencies. The superintendent may 1689
gather, store, retrieve, and disseminate information, data, and 1690
statistics that pertain to children who are under eighteen years 1691
of age and that are gathered pursuant to sections 109.57 to 109.61 1692
of the Revised Code together with information, data, and 1693
statistics that pertain to adults and that are gathered pursuant 1694
to those sections. 1695

(D) The information and materials furnished to the 1696
superintendent pursuant to division (A) of this section and 1697
information and materials furnished to any board or person under 1698
division (F) or (G) of this section are not public records under 1699
section 149.43 of the Revised Code. 1700

(E) The attorney general shall adopt rules, in accordance 1701

with Chapter 119. of the Revised Code, setting forth the procedure 1702
by which a person may receive or release information gathered by 1703
the superintendent pursuant to division (A) of this section. A 1704
reasonable fee may be charged for this service. If a temporary 1705
employment service submits a request for a determination of 1706
whether a person the service plans to refer to an employment 1707
position has been convicted of or pleaded guilty to an offense 1708
listed in division (A)(1), (3), (4), ~~or (5)~~, or (6) of section 1709
109.572 of the Revised Code, the request shall be treated as a 1710
single request and only one fee shall be charged. 1711

(F)(1) As used in division (F)(2) of this section, "head 1712
start agency" means an entity in this state that has been approved 1713
to be an agency for purposes of subchapter II of the "Community 1714
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 1715
as amended. 1716

(2)(a) In addition to or in conjunction with any request that 1717
is required to be made under section 109.572, 2151.86, 3301.32, 1718
3301.541, 3319.39, 3701.881, 5104.012, 5104.013, 5123.081, 1719
5126.28, 5126.281, or 5153.111 of the Revised Code, the board of 1720
education of any school district; the director of mental 1721
retardation and developmental disabilities; any county board of 1722
mental retardation and developmental disabilities; any entity 1723
under contract with a county board of mental retardation and 1724
developmental disabilities; the chief administrator of any 1725
chartered nonpublic school; the chief administrator of any home 1726
health agency; the chief administrator of or person operating any 1727
child day-care center, type A family day-care home, or type B 1728
family day-care home licensed or certified under Chapter 5104. of 1729
the Revised Code; the administrator of any type C family day-care 1730
home certified pursuant to Section 1 of Sub. H.B. 62 of the 121st 1731
general assembly or Section 5 of Am. Sub. S.B. 160 of the 121st 1732
general assembly; the chief administrator of any head start 1733

agency; or the executive director of a public children services 1734
agency may request that the superintendent of the bureau 1735
investigate and determine, with respect to any individual who has 1736
applied for employment in any position after October 2, 1989, or 1737
any individual wishing to apply for employment with a board of 1738
education may request, with regard to the individual, whether the 1739
bureau has any information gathered under division (A) of this 1740
section that pertains to that individual. On receipt of the 1741
request, the superintendent shall determine whether that 1742
information exists and, upon request of the person, board, or 1743
entity requesting information, also shall request from the federal 1744
bureau of investigation any criminal records it has pertaining to 1745
that individual. Within thirty days of the date that the 1746
superintendent receives a request, the superintendent shall send 1747
to the board, entity, or person a report of any information that 1748
the superintendent determines exists, including information 1749
contained in records that have been sealed under section 2953.32 1750
of the Revised Code, and, within thirty days of its receipt, shall 1751
send the board, entity, or person a report of any information 1752
received from the federal bureau of investigation, other than 1753
information the dissemination of which is prohibited by federal 1754
law. 1755

(b) When a board of education is required to receive 1756
information under this section as a prerequisite to employment of 1757
an individual pursuant to section 3319.39 of the Revised Code, it 1758
may accept a certified copy of records that were issued by the 1759
bureau of criminal identification and investigation and that are 1760
presented by an individual applying for employment with the 1761
district in lieu of requesting that information itself. In such a 1762
case, the board shall accept the certified copy issued by the 1763
bureau in order to make a photocopy of it for that individual's 1764
employment application documents and shall return the certified 1765
copy to the individual. In a case of that nature, a district only 1766

shall accept a certified copy of records of that nature within one 1767
year after the date of their issuance by the bureau. 1768

(3) The state board of education may request, with respect to 1769
any individual who has applied for employment after October 2, 1770
1989, in any position with the state board or the department of 1771
education, any information that a school district board of 1772
education is authorized to request under division (F)(2) of this 1773
section, and the superintendent of the bureau shall proceed as if 1774
the request has been received from a school district board of 1775
education under division (F)(2) of this section. 1776

(4) When the superintendent of the bureau receives a request 1777
for information that is authorized under section 3319.291 of the 1778
Revised Code, the superintendent shall proceed as if the request 1779
has been received from a school district board of education under 1780
division (F)(2) of this section. 1781

(5) When a recipient of an OhioReads classroom or community 1782
reading grant paid under section 3301.86 or 3301.87 of the Revised 1783
Code or an entity approved by the OhioReads council requests, with 1784
respect to any individual who applies to participate in providing 1785
any program or service through an entity approved by the OhioReads 1786
council or funded in whole or in part by the grant, the 1787
information that a school district board of education is 1788
authorized to request under division (F)(2)(a) of this section, 1789
the superintendent of the bureau shall proceed as if the request 1790
has been received from a school district board of education under 1791
division (F)(2)(a) of this section. 1792

(G) In addition to or in conjunction with any request that is 1793
required to be made under section 173.41, 3701.881, 3712.09, 1794
3721.121, or 3722.151 of the Revised Code with respect to an 1795
individual who has applied for employment in a position that 1796
involves providing direct care to an older adult, the chief 1797
administrator of a PASSPORT agency that provides services through 1798

the PASSPORT program created under section 173.40 of the Revised Code, home health agency, hospice care program, home licensed under Chapter 3721. of the Revised Code, adult day-care program operated pursuant to rules adopted under section 3721.04 of the Revised Code, or adult care facility may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied after January 27, 1997, for employment in a position that does not involve providing direct care to an older adult, whether the bureau has any information gathered under division (A) of this section that pertains to that individual. On receipt of the request, the superintendent shall determine whether that information exists and, on request of the administrator requesting information, shall also request from the federal bureau of investigation any criminal records it has pertaining to that individual. Within thirty days of the date a request is received, the superintendent shall send to the administrator a report of any information determined to exist, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, shall send the administrator a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

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

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

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to section 2151.86, 3301.32, 3301.541, 3319.39, 5104.012, 5104.013,

or 5153.111 of the Revised Code, a completed form prescribed 1830
pursuant to division (C)(1) of this section, and a set of 1831
fingerprint impressions obtained in the manner described in 1832
division (C)(2) of this section, the superintendent of the bureau 1833
of criminal identification and investigation shall conduct a 1834
criminal records check in the manner described in division (B) of 1835
this section to determine whether any information exists that 1836
indicates that the person who is the subject of the request 1837
previously has been convicted of or pleaded guilty to any of the 1838
following: 1839

(a) A violation of section 2903.01, 2903.02, 2903.03, 1840
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1841
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 1842
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 1843
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 1844
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 1845
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 1846
2925.06, or 3716.11 of the Revised Code, felonious sexual 1847
penetration in violation of former section 2907.12 of the Revised 1848
Code, a violation of section 2905.04 of the Revised Code as it 1849
existed prior to July 1, 1996, a violation of section 2919.23 of 1850
the Revised Code that would have been a violation of section 1851
2905.04 of the Revised Code as it existed prior to July 1, 1996, 1852
had the violation been committed prior to that date, or a 1853
violation of section 2925.11 of the Revised Code that is not a 1854
minor drug possession offense; 1855

(b) A violation of an existing or former law of this state, 1856
any other state, or the United States that is substantially 1857
equivalent to any of the offenses listed in division (A)(1)(a) of 1858
this section. 1859

(2) On receipt of a request pursuant to section 5123.081 of 1860
the Revised Code with respect to an applicant for employment in 1861

any position with the department of mental retardation and 1862
developmental disabilities, pursuant to section 5126.28 of the 1863
Revised Code with respect to an applicant for employment in any 1864
position with a county board of mental retardation and 1865
developmental disabilities, or pursuant to section 5126.281 of the 1866
Revised Code with respect to an applicant for employment in a 1867
direct services position with an entity contracting with a county 1868
board for employment, a completed form prescribed pursuant to 1869
division (C)(1) of this section, and a set of fingerprint 1870
impressions obtained in the manner described in division (C)(2) of 1871
this section, the superintendent of the bureau of criminal 1872
identification and investigation shall conduct a criminal records 1873
check. The superintendent shall conduct the criminal records check 1874
in the manner described in division (B) of this section to 1875
determine whether any information exists that indicates that the 1876
person who is the subject of the request has been convicted of or 1877
pleaded guilty to any of the following: 1878

(a) A violation of section 2903.01, 2903.02, 2903.03, 1879
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1880
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 1881
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 1882
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 1883
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 1884
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, or 1885
3716.11 of the Revised Code; 1886

(b) An existing or former municipal ordinance or law of this 1887
state, any other state, or the United States that is substantially 1888
equivalent to any of the offenses listed in division (A)(2)(a) of 1889
this section. 1890

(3) On receipt of a request pursuant to section 173.41, 1891
3712.09, 3721.121, or 3722.151 of the Revised Code, a completed 1892
form prescribed pursuant to division (C)(1) of this section, and a 1893

set of fingerprint impressions obtained in the manner described in 1894
division (C)(2) of this section, the superintendent of the bureau 1895
of criminal identification and investigation shall conduct a 1896
criminal records check with respect to any person who has applied 1897
for employment in a position that involves providing direct care 1898
to an older adult. The superintendent shall conduct the criminal 1899
records check in the manner described in division (B) of this 1900
section to determine whether any information exists that indicates 1901
that the person who is the subject of the request previously has 1902
been convicted of or pleaded guilty to any of the following: 1903

(a) A violation of section 2903.01, 2903.02, 2903.03, 1904
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1905
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 1906
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 1907
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 1908
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 1909
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 1910
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 1911
2925.22, 2925.23, or 3716.11 of the Revised Code; 1912

(b) An existing or former law of this state, any other state, 1913
or the United States that is substantially equivalent to any of 1914
the offenses listed in division (A)(3)(a) of this section. 1915

(4) On receipt of a request pursuant to section 3701.881 of 1916
the Revised Code with respect to an applicant for employment with 1917
a home health agency as a person responsible for the care, 1918
custody, or control of a child, a completed form prescribed 1919
pursuant to division (C)(1) of this section, and a set of 1920
fingerprint impressions obtained in the manner described in 1921
division (C)(2) of this section, the superintendent of the bureau 1922
of criminal identification and investigation shall conduct a 1923
criminal records check. The superintendent shall conduct the 1924
criminal records check in the manner described in division (B) of 1925

this section to determine whether any information exists that 1926
indicates that the person who is the subject of the request 1927
previously has been convicted of or pleaded guilty to any of the 1928
following: 1929

(a) A violation of section 2903.01, 2903.02, 2903.03, 1930
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1931
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 1932
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 1933
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 1934
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 1935
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 1936
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a 1937
violation of section 2925.11 of the Revised Code that is not a 1938
minor drug possession offense; 1939

(b) An existing or former law of this state, any other state, 1940
or the United States that is substantially equivalent to any of 1941
the offenses listed in division (A)(4)(a) of this section. 1942

(5) On receipt of a request pursuant to section 5111.95 or 1943
5111.96 of the Revised Code with respect to an applicant for 1944
employment with a waiver agency participating in a department of 1945
job and family services administered home and community-based 1946
waiver program or an independent provider participating in a 1947
department administered home and community-based waiver program in 1948
a position that involves providing home and community-based waiver 1949
services to consumers with disabilities, a completed form 1950
prescribed pursuant to division (C)(1) of this section, and a set 1951
of fingerprint impressions obtained in the manner described in 1952
division (C)(2) of this section, the superintendent of the bureau 1953
of criminal identification and investigation shall conduct a 1954
criminal records check. The superintendent shall conduct the 1955
criminal records check in the manner described in division (B) of 1956
this section to determine whether any information exists that 1957

indicates that the person who is the subject of the request 1958
previously has been convicted of or pleaded guilty to any of the 1959
following: 1960

(a) A violation of section 2903.01, 2903.02, 2903.03, 1961
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 1962
2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 1963
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 1964
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 1965
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 1966
2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 1967
2913.43, 2913.47, 2913.51, 2919.12, 2919.24, 2919.25, 2921.36, 1968
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 1969
2925.06, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the 1970
Revised Code, felonious sexual penetration in violation of former 1971
section 2907.12 of the Revised Code, a violation of section 1972
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 1973
violation of section 2919.23 of the Revised Code that would have 1974
been a violation of section 2905.04 of the Revised Code as it 1975
existed prior to July 1, 1996, had the violation been committed 1976
prior to that date; 1977

(b) An existing or former law of this state, any other state, 1978
or the United States that is substantially equivalent to any of 1979
the offenses listed in division (A)(5)(a) of this section. 1980

(6) On receipt of a request pursuant to section 3701.881 of 1981
the Revised Code with respect to an applicant for employment with 1982
a home health agency in a position that involves providing direct 1983
care to an older adult, a completed form prescribed pursuant to 1984
division (C)(1) of this section, and a set of fingerprint 1985
impressions obtained in the manner described in division (C)(2) of 1986
this section, the superintendent of the bureau of criminal 1987
identification and investigation shall conduct a criminal records 1988
check. The superintendent shall conduct the criminal records check 1989

in the manner described in division (B) of this section to 1990
determine whether any information exists that indicates that the 1991
person who is the subject of the request previously has been 1992
convicted of or pleaded guilty to any of the following: 1993

(a) A violation of section 2903.01, 2903.02, 2903.03, 1994
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1995
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 1996
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 1997
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 1998
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 1999
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2000
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2001
2925.22, 2925.23, or 3716.11 of the Revised Code; 2002

(b) An existing or former law of this state, any other state, 2003
or the United States that is substantially equivalent to any of 2004
the offenses listed in division (A)~~(5)~~(6)(a) of this section. 2005

~~(6)~~(7) When conducting a criminal records check upon a 2006
request pursuant to section 3319.39 of the Revised Code for an 2007
applicant who is a teacher, in addition to the determination made 2008
under division (A)(1) of this section, the superintendent shall 2009
determine whether any information exists that indicates that the 2010
person who is the subject of the request previously has been 2011
convicted of or pleaded guilty to any offense specified in section 2012
3319.31 of the Revised Code. 2013

~~(7)~~(8) When conducting a criminal records check on a request 2014
pursuant to section 2151.86 of the Revised Code for a person who 2015
is a prospective foster caregiver or who is eighteen years old or 2016
older and resides in the home of a prospective foster caregiver, 2017
the superintendent, in addition to the determination made under 2018
division (A)(1) of this section, shall determine whether any 2019
information exists that indicates that the person has been 2020
convicted of or pleaded guilty to a violation of: 2021

(a) Section 2909.02 or 2909.03 of the Revised Code; 2022

(b) An existing or former law of this state, any other state, 2023
or the United States that is substantially equivalent to section 2024
2909.02 or 2909.03 of the Revised Code. 2025

~~(8)~~(9) Not later than thirty days after the date the 2026
superintendent receives the request, completed form, and 2027
fingerprint impressions, the superintendent shall send the person, 2028
board, or entity that made the request any information, other than 2029
information the dissemination of which is prohibited by federal 2030
law, the superintendent determines exists with respect to the 2031
person who is the subject of the request that indicates that the 2032
person previously has been convicted of or pleaded guilty to any 2033
offense listed or described in division (A)(1), (2), (3), (4), 2034
(5), (6), ~~or (7)~~, or (8) of this section, as appropriate. The 2035
superintendent shall send the person, board, or entity that made 2036
the request a copy of the list of offenses specified in division 2037
(A)(1), (2), (3), (4), (5), (6), ~~or (7)~~, or (8) of this section, 2038
as appropriate. If the request was made under section 3701.881 of 2039
the Revised Code with regard to an applicant who may be both 2040
responsible for the care, custody, or control of a child and 2041
involved in providing direct care to an older adult, the 2042
superintendent shall provide a list of the offenses specified in 2043
divisions (A)(4) and ~~(5)~~(6) of this section. 2044

(B) The superintendent shall conduct any criminal records 2045
check requested under section 173.41, 2151.86, 3301.32, 3301.541, 2046
3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 5104.012, 2047
5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 5126.281, or 2048
5153.111 of the Revised Code as follows: 2049

(1) The superintendent shall review or cause to be reviewed 2050
any relevant information gathered and compiled by the bureau under 2051
division (A) of section 109.57 of the Revised Code that relates to 2052

the person who is the subject of the request, including any 2053
relevant information contained in records that have been sealed 2054
under section 2953.32 of the Revised Code; 2055

(2) If the request received by the superintendent asks for 2056
information from the federal bureau of investigation, the 2057
superintendent shall request from the federal bureau of 2058
investigation any information it has with respect to the person 2059
who is the subject of the request and shall review or cause to be 2060
reviewed any information the superintendent receives from that 2061
bureau. 2062

(C)(1) The superintendent shall prescribe a form to obtain 2063
the information necessary to conduct a criminal records check from 2064
any person for whom a criminal records check is required by 2065
section 173.41, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 2066
3712.09, 3721.121, 3722.151, 5104.012, 5104.013, 5111.95, 5111.96, 2067
5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. The 2068
form that the superintendent prescribes pursuant to this division 2069
may be in a tangible format, in an electronic format, or in both 2070
tangible and electronic formats. 2071

(2) The superintendent shall prescribe standard impression 2072
sheets to obtain the fingerprint impressions of any person for 2073
whom a criminal records check is required by section 173.41, 2074
2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 2075
3722.151, 5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 2076
5126.281, or 5153.111 of the Revised Code. Any person for whom a 2077
records check is required by any of those sections shall obtain 2078
the fingerprint impressions at a county sheriff's office, 2079
municipal police department, or any other entity with the ability 2080
to make fingerprint impressions on the standard impression sheets 2081
prescribed by the superintendent. The office, department, or 2082
entity may charge the person a reasonable fee for making the 2083
impressions. The standard impression sheets the superintendent 2084

prescribes pursuant to this division may be in a tangible format, 2085
in an electronic format, or in both tangible and electronic 2086
formats. 2087

(3) Subject to division (D) of this section, the 2088
superintendent shall prescribe and charge a reasonable fee for 2089
providing a criminal records check requested under section 173.41, 2090
2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 2091
3722.151, 5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 2092
5126.281, or 5153.111 of the Revised Code. The person making a 2093
criminal records request under section 173.41, 2151.86, 3301.32, 2094
3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 2095
5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 5126.281, 2096
or 5153.111 of the Revised Code shall pay the fee prescribed 2097
pursuant to this division. A person making a request under section 2098
3701.881 of the Revised Code for a criminal records check for an 2099
applicant who may be both responsible for the care, custody, or 2100
control of a child and involved in providing direct care to an 2101
older adult shall pay one fee for the request. 2102

(4) The superintendent of the bureau of criminal 2103
identification and investigation may prescribe methods of 2104
forwarding fingerprint impressions and information necessary to 2105
conduct a criminal records check, which methods shall include, but 2106
not be limited to, an electronic method. 2107

(D) A determination whether any information exists that 2108
indicates that a person previously has been convicted of or 2109
pleaded guilty to any offense listed or described in division 2110
(A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or 2111
(b), (A)(5)(a) or (b), (A)(6), ~~or~~ (A)(7)(a) or (b), or (A)(8)(a) 2112
or (b) of this section that is made by the superintendent with 2113
respect to information considered in a criminal records check in 2114
accordance with this section is valid for the person who is the 2115
subject of the criminal records check for a period of one year 2116

from the date upon which the superintendent makes the 2117
determination. During the period in which the determination in 2118
regard to a person is valid, if another request under this section 2119
is made for a criminal records check for that person, the 2120
superintendent shall provide the information that is the basis for 2121
the superintendent's initial determination at a lower fee than the 2122
fee prescribed for the initial criminal records check. 2123

(E) As used in this section: 2124

(1) "Criminal records check" means any criminal records check 2125
conducted by the superintendent of the bureau of criminal 2126
identification and investigation in accordance with division (B) 2127
of this section. 2128

(2) "Home and community-based waiver services" and "waiver 2129
agency" have the same meanings as in section 5111.95 of the 2130
Revised Code. 2131

(3) "Independent provider" has the same meaning as in section 2132
5111.96 of the Revised Code. 2133

(4) "Minor drug possession offense" has the same meaning as 2134
in section 2925.01 of the Revised Code. 2135

~~(3)~~(5) "Older adult" means a person age sixty or older. 2136

Sec. 109.71. There is hereby created in the office of the 2137
attorney general the Ohio peace officer training commission. The 2138
commission shall consist of nine members appointed by the governor 2139
with the advice and consent of the senate and selected as follows: 2140
one member representing the public; two members who are incumbent 2141
sheriffs; two members who are incumbent chiefs of police; one 2142
member from the bureau of criminal identification and 2143
investigation; one member from the state highway patrol; one 2144
member who is the special agent in charge of a field office of the 2145
federal bureau of investigation in this state; and one member from 2146

the department of education, trade and industrial education	2147
services, law enforcement training.	2148
As used in sections 109.71 to 109.77 of the Revised Code:	2149
(A) "Peace officer" means:	2150
(1) A deputy sheriff, marshal, deputy marshal, member of the	2151
organized police department of a township or municipal	2152
corporation, member of a township police district or joint	2153
township police district police force, member of a police force	2154
employed by a metropolitan housing authority under division (D) of	2155
section 3735.31 of the Revised Code, or township constable, who is	2156
commissioned and employed as a peace officer by a political	2157
subdivision of this state or by a metropolitan housing authority,	2158
and whose primary duties are to preserve the peace, to protect	2159
life and property, and to enforce the laws of this state,	2160
ordinances of a municipal corporation, resolutions of a township,	2161
or regulations of a board of county commissioners or board of	2162
township trustees, or any of those laws, ordinances, resolutions,	2163
or regulations;	2164
(2) A police officer who is employed by a railroad company	2165
and appointed and commissioned by the governor pursuant to	2166
sections 4973.17 to 4973.22 of the Revised Code;	2167
(3) Employees of the department of taxation engaged in the	2168
enforcement of Chapter 5743. of the Revised Code <u>laws the tax</u>	2169
<u>commissioner administers</u> and designated by the tax commissioner	2170
for peace officer training for purposes of the delegation of	2171
investigation powers under section 5743.45 <u>5703.58</u> of the Revised	2172
Code;	2173
(4) An undercover drug agent;	2174
(5) Enforcement agents of the department of public safety	2175
whom the director of public safety designates under section	2176
5502.14 of the Revised Code;	2177

(6) An employee of the department of natural resources who is	2178
a natural resources law enforcement staff officer designated	2179
pursuant to section 1501.013, a park officer designated pursuant	2180
to section 1541.10, a forest officer designated pursuant to	2181
section 1503.29, a preserve officer designated pursuant to section	2182
1517.10, a wildlife officer designated pursuant to section	2183
1531.13, or a state watercraft officer designated pursuant to	2184
section 1547.521 of the Revised Code;	2185
(7) An employee of a park district who is designated pursuant	2186
to section 511.232 or 1545.13 of the Revised Code;	2187
(8) An employee of a conservancy district who is designated	2188
pursuant to section 6101.75 of the Revised Code;	2189
(9) A police officer who is employed by a hospital that	2190
employs and maintains its own proprietary police department or	2191
security department, and who is appointed and commissioned by the	2192
governor pursuant to sections 4973.17 to 4973.22 of the Revised	2193
Code;	2194
(10) Veterans' homes police officers designated under section	2195
5907.02 of the Revised Code;	2196
(11) A police officer who is employed by a qualified	2197
nonprofit corporation police department pursuant to section	2198
1702.80 of the Revised Code;	2199
(12) A state university law enforcement officer appointed	2200
under section 3345.04 of the Revised Code or a person serving as a	2201
state university law enforcement officer on a permanent basis on	2202
June 19, 1978, who has been awarded a certificate by the executive	2203
director of the Ohio peace officer training commission attesting	2204
to the person's satisfactory completion of an approved state,	2205
county, municipal, or department of natural resources peace	2206
officer basic training program;	2207

(13) A special police officer employed by the department of	2208
mental health pursuant to section 5119.14 of the Revised Code or	2209
the department of mental retardation and developmental	2210
disabilities pursuant to section 5123.13 of the Revised Code;	2211
(14) A member of a campus police department appointed under	2212
section 1713.50 of the Revised Code;	2213
(15) A member of a police force employed by a regional	2214
transit authority under division (Y) of section 306.35 of the	2215
Revised Code;	2216
(16) Investigators appointed by the auditor of state pursuant	2217
to section 117.091 of the Revised Code and engaged in the	2218
enforcement of Chapter 117. of the Revised Code;	2219
(17) A special police officer designated by the	2220
superintendent of the state highway patrol pursuant to section	2221
5503.09 of the Revised Code or a person who was serving as a	2222
special police officer pursuant to that section on a permanent	2223
basis on October 21, 1997, and who has been awarded a certificate	2224
by the executive director of the Ohio peace officer training	2225
commission attesting to the person's satisfactory completion of an	2226
approved state, county, municipal, or department of natural	2227
resources peace officer basic training program;	2228
(18) A special police officer employed by a port authority	2229
under section 4582.04 or 4582.28 of the Revised Code or a person	2230
serving as a special police officer employed by a port authority	2231
on a permanent basis on May 17, 2000, who has been awarded a	2232
certificate by the executive director of the Ohio peace officer	2233
training commission attesting to the person's satisfactory	2234
completion of an approved state, county, municipal, or department	2235
of natural resources peace officer basic training program;	2236
(19) A special police officer employed by a municipal	2237
corporation who has been awarded a certificate by the executive	2238

director of the Ohio peace officer training commission for 2239
satisfactory completion of an approved peace officer basic 2240
training program and who is employed on a permanent basis on or 2241
after ~~the effective date of this amendment~~ March 19, 2003, at a 2242
municipal airport, or other municipal air navigation facility, 2243
that has scheduled operations, as defined in section 119.3 of 2244
Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as 2245
amended, and that is required to be under a security program and 2246
is governed by aviation security rules of the transportation 2247
security administration of the United States department of 2248
transportation as provided in Parts 1542. and 1544. of Title 49 of 2249
the Code of Federal Regulations, as amended. 2250

(B) "Undercover drug agent" has the same meaning as in 2251
division (B)(2) of section 109.79 of the Revised Code. 2252

(C) "Crisis intervention training" means training in the use 2253
of interpersonal and communication skills to most effectively and 2254
sensitively interview victims of rape. 2255

(D) "Missing children" has the same meaning as in section 2256
2901.30 of the Revised Code. 2257

Sec. 117.101. The auditor of state ~~may establish~~ shall 2258
provide, operate, and maintain a uniform and compatible 2259
computerized financial management and accounting system known as 2260
the uniform accounting network. ~~Any such~~ The network shall be 2261
designed to provide public offices, other than state agencies and 2262
the Ohio education computer network and public school districts, 2263
with efficient and economical access to data processing and 2264
management information facilities and expertise. In accordance 2265
with this objective, activities of the network shall include, but 2266
not be limited to, provision, maintenance, and operation of the 2267
following facilities and services: 2268

(A) A cooperative program of technical assistance for public 2269

offices, other than state agencies and the Ohio education computer 2270
network and public school districts, including, but not limited 2271
to, an adequate computer software system and a data base; 2272

(B) An information processing service center providing 2273
approved computerized financial accounting and reporting services 2274
to participating public offices. 2275

The auditor of state and any public office, other than a 2276
state agency and the Ohio education computer network and public 2277
school districts, may enter into any necessary agreements, without 2278
advertisement or bidding, for the provision of necessary goods, 2279
materials, supplies, and services to such public offices by the 2280
auditor of state through the network. 2281

The auditor of state may, by rule, provide for a system of 2282
user fees to be charged participating public offices for goods, 2283
materials, supplies, and services received from the network. All 2284
such fees shall be paid into the state treasury to the credit of 2285
the uniform accounting network fund, which is hereby created. The 2286
fund shall be used by the auditor of state to pay the costs of 2287
establishing and maintaining the network. The fund shall be 2288
assessed a proportionate share of the auditor of state's 2289
administrative costs in accordance with procedures prescribed by 2290
the auditor of state and approved by the director of budget and 2291
management. 2292

Sec. 117.16. (A) The auditor of state shall do all of the 2293
following: 2294

(1) Develop a force account project assessment form that each 2295
public office that undertakes force account projects shall use to 2296
estimate or report the cost of a force account project. The form 2297
shall include costs for employee salaries and benefits, any other 2298
labor costs, materials, freight, fuel, hauling, overhead expense, 2299
workers' compensation premiums, and all other items of cost and 2300

expense, including a reasonable allowance for the use of all tools 2301
and equipment used on or in connection with such work and for the 2302
depreciation on the tools and equipment. 2303

(2) Make the form available to public offices by any 2304
cost-effective, convenient method accessible to the auditor of 2305
state and the public offices; 2306

(3) When conducting an audit under this chapter of ~~such~~ a 2307
public office ~~under this chapter~~ that undertakes force account 2308
projects, examine ~~a sample of~~ the forms and records of any a 2309
sampling of the force account ~~project that~~ projects the public 2310
office completed since an audit was last conducted, to determine 2311
compliance with ~~the~~ its force account limits ~~and other force~~ 2312
~~account provisions established by law. If the auditor of state~~ 2313
~~finds a violation of the force account limits, the auditor of~~ 2314
~~state shall conduct an audit of each force account project~~ 2315
~~completed since an audit was last conducted.~~ 2316

(B) If the auditor of state receives a complaint from any 2317
person that a public office has violated the force account limits 2318
established for that office, the auditor of state may conduct an 2319
audit in addition to the audit provided in section 117.11 of the 2320
Revised Code if the auditor of state has reasonable cause to 2321
believe that an additional audit is in the public interest. 2322

(C)(1) If the auditor of state finds that a county, township, 2323
or municipal corporation violated the force account limits 2324
established for that political subdivision, the auditor of state, 2325
in addition to any other action authorized by this chapter, shall 2326
notify the political subdivision that, for a period of one year 2327
from the date of the notification, the force account limits for 2328
the subdivision are reduced as follows: 2329

(a) For a county, the limits shall be ten thousand dollars 2330
per mile for construction or reconstruction of a road and forty 2331

thousand dollars for construction, reconstruction, maintenance, or 2332
repair of a bridge or culvert; 2333

(b) For a township, the limit shall be fifteen thousand 2334
dollars for maintenance and repair of a road or five thousand per 2335
mile for construction or reconstruction of a township road; 2336

(c) For a municipal corporation, the limit shall be ten 2337
thousand dollars for the construction, reconstruction, widening, 2338
resurfacing, or repair of a street or other public way. 2339

(2) If the auditor of state finds that a county, township, or 2340
municipal corporation violated the force account limits 2341
established for that political subdivision a second or subsequent 2342
time, the auditor of state, in addition to any other action 2343
authorized by this chapter, shall notify the political subdivision 2344
that, for a period of two years from the date of the notification, 2345
the force account limits for the subdivision are reduced in 2346
accordance with division (C)(1)(a), (b), or (c) of this section. 2347

(3) If the auditor of state finds that a county, township, or 2348
municipal corporation violated the force account limits 2349
established for that political subdivision a third or subsequent 2350
time, the ~~subdivision shall pay the~~ auditor of state shall certify 2351
to the tax commissioner an amount the auditor of state determines 2352
to be twenty per cent of the total cost of the force account 2353
project that is the basis of the violation. ~~The~~ Upon receipt of 2354
this certification, the tax commissioner shall withhold the 2355
certified amount from any funds under the tax commissioner's 2356
control that are due or payable to that political subdivision. The 2357
tax commissioner shall promptly deposit this withheld amount to 2358
the credit of the highway operating fund created by section 2359
5735.291 of the Revised Code to be redistributed to local 2360
governments that have not violated their force account limits. 2361

If the tax commissioner determines that no funds are due and 2362

payable to the violating political subdivision or that 2363
insufficient amounts of such funds are available to cover the 2364
entire certified amount, the tax commissioner shall withhold and 2365
deposit to the credit of the highway operating fund any amount 2366
available and certify the remaining amount to be withheld to the 2367
county auditor of the county in which the political subdivision is 2368
located. The county auditor shall withhold from that political 2369
subdivision any amount, up to that certified by the tax 2370
commissioner, that is available from any funds under the county 2371
auditor's control, that is due or payable to that political 2372
subdivision, and that can be lawfully withheld. The county auditor 2373
shall promptly pay that withheld amount to the tax commissioner 2374
for deposit into the highway operating fund and redistribution to 2375
local governments that have not violated their force account 2376
limits. 2377

The tax commissioner shall make a distribution from the 2378
highway operating fund to local governments that have not violated 2379
their force account limits at least once every six months. 2380

The payments required under division (C)(3) of this section 2381
are in addition to the force account limit reductions ~~under~~ 2382
~~described in~~ division (C)(2) of this section and also are in 2383
addition to any other action authorized by this chapter. ~~The~~ 2384
~~auditor of state shall certify any money due under division (C)(3)~~ 2385
~~of this section for collection in accordance with division (D) of~~ 2386
~~section 117.13 of the Revised Code.~~ 2387

(D) If the auditor of state finds that a county, township, or 2388
municipal corporation violated its force account ~~limit~~ limits when 2389
participating in a joint force account project, the auditor of 2390
state shall impose the reduction in force account limits under 2391
division (C) of this section on all entities participating in the 2392
joint project. 2393

(E) As used in this section, "force account limits" means any 2394

of the following, as applicable:	2395
(1) For a county, the amounts established in section 5543.19 of the Revised Code;	2396 2397
(2) For a township, the amounts established in section 5575.01 of the Revised Code;	2398 2399
(3) For a municipal corporation, the amount established in section 723.52 of the Revised Code;	2400 2401
(4) For the department of transportation, the amount established in section 5517.02 of the Revised Code.	2402 2403
Sec. 117.44. To enhance local officials' background and working knowledge of government accounting, budgeting and financing, financial report preparation, and the rules adopted by the auditor of state, the auditor of state shall hold training programs for persons elected for the first time as township clerks, city auditors, and village clerks, between the first day of December and the fifteenth <u>first</u> day of February <u>April</u> immediately following a general election for any of these offices. Similar training may also be provided to any township clerk, city auditor, or village clerk who is appointed to fill a vacancy or who is elected in a special election.	2404 2405 2406 2407 2408 2409 2410 2411 2412 2413 2414
The auditor of state also shall develop and provide an annual training program of continuing education for village clerks.	2415 2416
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	2417 2418 2419 2420 2421 2422 2423 2424

officials as a result of attending the training program shall be 2425
borne by the political subdivisions they represent. 2426

The auditor of state shall allow any other interested person 2427
to attend any of the training programs that the auditor of state 2428
holds pursuant to this section; provided, that before attending 2429
any such training program, the interested person shall pay to the 2430
auditor of state the full registration fee that the auditor of 2431
state has set for the training program. 2432

The auditor of state may provide any other appropriate 2433
training or educational programs that may be developed and offered 2434
by the auditor of state or in collaboration with one or more other 2435
state agencies, political subdivisions, or other public or private 2436
entities. 2437

There is hereby established in the state treasury the auditor 2438
of state training program fund, to be used by the auditor of state 2439
for the actual and necessary expenses of any training programs 2440
held pursuant to this section, section 117.441, or section 321.46 2441
of the Revised Code. All registration fees collected under this 2442
section shall be paid into the fund. 2443

Sec. 117.45. (A) The auditor of state shall draw warrants 2444
against the treasurer of state pursuant to all requests for 2445
payment that the director of budget and management has approved 2446
under section 126.07 of the Revised Code. 2447

(B) Unless the director of job and family services has 2448
provided for the making of payments by electronic benefit 2449
transfer, if a financial institution and account have been 2450
designated by the participant or recipient, payment by the auditor 2451
of state to a participant in the Ohio works first program pursuant 2452
to Chapter 5107. of the Revised Code or a recipient of disability 2453
financial assistance pursuant to Chapter 5115. of the Revised Code 2454
shall be made by direct deposit to the account of the participant 2455

or recipient in the financial institution. Payment by the auditor 2456
of state to a recipient of benefits distributed through the medium 2457
of electronic benefit transfer pursuant to section 5101.33 of the 2458
Revised Code shall be by electronic benefit transfer. Payment by 2459
the auditor of state as compensation to an employee of the state 2460
who has, pursuant to section 124.151 of the Revised Code, 2461
designated a financial institution and account for the direct 2462
deposit of such payments shall be made by direct deposit to the 2463
account of the employee. Payment to any other payee who has 2464
designated a financial institution and account for the direct 2465
deposit of such payment may be made by direct deposit to the 2466
account of the payee in the financial institution as provided in 2467
section 9.37 of the Revised Code. The auditor of state shall 2468
contract with an authorized financial institution for the services 2469
necessary to make direct deposits or electronic benefit transfers 2470
under this division and draw lump sum warrants payable to that 2471
institution in the amount to be transferred. Accounts maintained 2472
by the auditor of state or the auditor of state's agent in a 2473
financial institution for the purpose of effectuating payment by 2474
direct deposit or electronic benefit transfer shall be maintained 2475
in accordance with section 135.18 of the Revised Code. 2476

(C) All other payments from the state treasury shall be made 2477
by paper warrants or by direct deposit payable to the respective 2478
payees. The auditor of state may mail the paper warrants to the 2479
respective payees or distribute them through other state agencies, 2480
whichever the auditor of state determines to be the better 2481
procedure. 2482

(D) If the average per transaction cost the auditor of state 2483
incurs in making direct deposits for a state agency exceeds the 2484
average per transaction cost the auditor of state incurs in 2485
drawing paper warrants for all public offices during the same 2486
period of time, the auditor of state may certify the difference in 2487

cost and the number of direct deposits for the agency to the 2488
director of administrative services. The director shall reimburse 2489
the auditor of state for such additional costs and add the amount 2490
to the processing charge assessed upon the state agency. 2491

Sec. 119.035. An agency may appoint an advisory committee to 2492
advise the agency concerning its development of a rule, amendment, 2493
or rescission, and may otherwise consult with persons representing 2494
interests that would be affected by the rule, amendment, or 2495
rescission were it actually to be proposed and adopted. ~~Upon an~~ 2496
~~agency's request, the executive director or another officer or~~ 2497
~~employee of the Ohio commission on dispute resolution and conflict~~ 2498
~~management may serve as a group facilitator for, but not as a~~ 2499
~~member of, such an advisory committee.~~ 2500

Sec. 121.04. Offices are created within the several 2501
departments as follows: 2502

In the department of commerce: 2503

Commissioner of securities; 2504

Superintendent of real estate and professional 2505
licensing;

Superintendent of financial institutions; 2506

~~Fire marshal;~~ 2507

Superintendent of labor and worker safety; 2508

Beginning on July 1, 1997, 2509

Superintendent of liquor control; 2510

Superintendent of industrial compliance. 2511

In the department of administrative services: 2512

State architect and engineer; 2513

Equal employment opportunity coordinator. 2514

In the department of agriculture: 2515

Chiefs of divisions as follows: 2516

Administration;	2517
Animal industry;	2518
Dairy;	2519
Food safety;	2520
Plant industry;	2521
Markets;	2522
Meat inspection;	2523
Consumer analytical laboratory;	2524
Amusement ride safety;	2525
Enforcement;	2526
Weights and measures.	2527
In the department of natural resources:	2528
Chiefs of divisions as follows:	2529
Water;	2530
Mineral resources management;	2531
Forestry;	2532
Natural areas and preserves;	2533
Wildlife;	2534
Geological survey;	2535
Parks and recreation;	2536
Watercraft;	2537
Recycling and litter prevention;	2538
Civilian conservation;	2539
Soil and water conservation;	2540
Real estate and land management;	2541
Engineering.	2542
In the department of insurance:	2543
Deputy superintendent of insurance;	2544
Assistant superintendent of insurance, technical;	2545
Assistant superintendent of insurance, administrative;	2546
Assistant superintendent of insurance, research.	2547

Sec. 121.08. (A) There is hereby created in the department of 2548
commerce the position of deputy director of administration. This 2549
officer shall be appointed by the director of commerce, serve 2550
under the director's direction, supervision, and control, perform 2551
such duties as the director prescribes, and hold office during the 2552
director's pleasure. The director of commerce may designate an 2553
assistant director of commerce to serve as the deputy director of 2554
administration. The deputy director of administration shall 2555
perform such duties as are prescribed by the director of commerce 2556
in supervising the activities of the division of administration of 2557
the department of commerce. 2558

(B) Except as provided in section 121.07 of the Revised Code, 2559
the department of commerce shall have all powers and perform all 2560
duties vested in the deputy director of administration, ~~the state~~ 2561
~~fire marshal~~, the superintendent of financial institutions, the 2562
superintendent of real estate and professional licensing, the 2563
superintendent of liquor control, the superintendent of the 2564
division of industrial compliance, the superintendent of labor and 2565
worker safety, and the commissioner of securities, and shall have 2566
all powers and perform all duties vested by law in all officers, 2567
deputies, and employees of such offices. Except as provided in 2568
section 121.07 of the Revised Code, wherever powers are conferred 2569
or duties imposed upon any of such officers, such powers and 2570
duties shall be construed as vested in the department of commerce. 2571

(C)(1) There is hereby created in the department of commerce 2572
a division of financial institutions, which shall have all powers 2573
and perform all duties vested by law in the superintendent of 2574
financial institutions. Wherever powers are conferred or duties 2575
imposed upon the superintendent of financial institutions, such 2576
powers and duties shall be construed as vested in the division of 2577
financial institutions. The division of financial institutions 2578

shall be administered by a superintendent of financial 2579
institutions. 2580

(2) All provisions of law governing the superintendent of 2581
financial institutions shall apply to and govern the 2582
superintendent of financial institutions provided for in this 2583
section; all authority vested by law in the superintendent of 2584
financial institutions with respect to the management of the 2585
division of financial institutions shall be construed as vested in 2586
the superintendent of financial institutions created by this 2587
section with respect to the division of financial institutions 2588
provided for in this section; and all rights, privileges, and 2589
emoluments conferred by law upon the superintendent of financial 2590
institutions shall be construed as conferred upon the 2591
superintendent of financial institutions as head of the division 2592
of financial institutions. The director of commerce shall not 2593
transfer from the division of financial institutions any of the 2594
functions specified in division (C)(2) of this section. 2595

(D) Beginning on July 1, 1997, there is hereby created in the 2596
department of commerce a division of liquor control, which shall 2597
have all powers and perform all duties vested by law in the 2598
superintendent of liquor control. Wherever powers are conferred or 2599
duties are imposed upon the superintendent of liquor control, 2600
those powers and duties shall be construed as vested in the 2601
division of liquor control. The division of liquor control shall 2602
be administered by a superintendent of liquor control. 2603

(E) The director of commerce shall not be interested, 2604
directly or indirectly, in any firm or corporation which is a 2605
dealer in securities as defined in sections 1707.01 and 1707.14 of 2606
the Revised Code, or in any firm or corporation licensed under 2607
sections 1321.01 to 1321.19 of the Revised Code. 2608

(F) The director of commerce shall not have any official 2609
connection with a savings and loan association, a savings bank, a 2610

bank, a bank holding company, a savings and loan association 2611
holding company, a consumer finance company, or a credit union 2612
that is under the supervision of the division of financial 2613
institutions, or a subsidiary of any of the preceding entities, or 2614
be interested in the business thereof. 2615

(G) There is hereby created in the state treasury the 2616
division of administration fund. The fund shall receive 2617
assessments on the operating funds of the department of commerce 2618
in accordance with procedures prescribed by the director of 2619
commerce and approved by the director of budget and management. 2620
All operating expenses of the division of administration shall be 2621
paid from the division of administration fund. 2622

(H) There is hereby created in the department of commerce a 2623
division of real estate and professional licensing, which shall be 2624
under the control and supervision of the director of commerce. The 2625
division of real estate and professional licensing shall be 2626
administered by a superintendent of real estate and professional 2627
licensing. The superintendent of real estate and professional 2628
licensing shall exercise the powers and perform the functions and 2629
duties delegated to the superintendent under Chapters ~~4707.~~, 2630
~~4735.~~, ~~4749.~~, 4763., and 4767. of the Revised Code. 2631

(I) There is hereby created in the department of commerce a 2632
division of labor and worker safety, which shall have all powers 2633
and perform all duties vested by law in the superintendent of 2634
labor and worker safety. Wherever powers are conferred or duties 2635
imposed upon the superintendent of labor and worker safety, such 2636
powers and duties shall be construed as vested in the division of 2637
labor and worker safety. The division of labor and worker safety 2638
is under the control and supervision of the director of commerce, 2639
and administered by a superintendent of labor and worker safety. 2640
The superintendent of labor and worker safety shall exercise the 2641
powers and perform the duties delegated to the superintendent by 2642

the director under Chapters ~~4709.~~ 4109., ~~4711.~~ 4111., ~~4715.~~ 4115., 2643
and ~~4767.~~ 4167. of the Revised Code. 2644

Sec. 121.084. (A) All moneys collected under sections 2645
~~1333.96,~~ 3783.05, 3791.07, 4104.07, 4104.18, ~~4104.42,~~ 4104.44, 2646
~~4104.45,~~ 4105.17, 4105.20, 4169.03, 4171.04, and 5104.051 of the 2647
Revised Code, and any other moneys collected by the division of 2648
industrial compliance shall be paid into the state treasury to the 2649
credit of the industrial compliance operating fund, which is 2650
hereby created. The department of commerce shall use the moneys in 2651
the fund for paying the operating expenses of the division and the 2652
administrative assessment described in division (B) of this 2653
section. 2654

(B) The director of commerce, with the approval of the 2655
director of budget and management, shall prescribe procedures for 2656
assessing the industrial compliance operating fund a proportionate 2657
share of the administrative costs of the department of commerce. 2658
The assessment shall be made in accordance with those procedures 2659
and be paid from the industrial compliance operating fund to the 2660
division of administration fund created in section 121.08 of the 2661
Revised Code. 2662

Sec. 121.36. (A) As used in this section, "home care 2663
dependent adult" means an individual who resides in a private home 2664
or other noninstitutional and unlicensed living arrangement, 2665
without the presence of a parent or guardian, but has health and 2666
safety needs that require the provision of regularly scheduled 2667
home care services to remain in the home or other living 2668
arrangement because one of the following is the case: 2669

(1) The individual is at least twenty-one years of age but 2670
less than sixty years of age and has a disability. 2671

(2) The individual is sixty years of age or older, regardless 2672

of whether the individual has a disability. 2673

(B) Except as provided in division (D) of this section, the 2674
departments of mental retardation and developmental disabilities, 2675
aging, job and family services, and health shall each implement 2676
this section with respect to all contracts entered into by the 2677
department for the provision of home care services to home care 2678
dependent adults that are paid for in whole or in part with 2679
federal, state, or local funds. Except as provided in division (D) 2680
of this section, each department shall also require all public and 2681
private entities that receive money from or through the department 2682
to comply with this section when entering into contracts for the 2683
provision of home care services to home care dependent adults that 2684
are paid for in whole or in part with federal, state, or local 2685
funds. Such entities may include county boards of mental 2686
retardation and developmental disabilities, area agencies on 2687
aging, county departments of job and family services, and boards 2688
of health of city and general health districts. 2689

(C) Beginning one year after the effective date of this 2690
section, each contract subject to this section shall include terms 2691
requiring that the provider of home care services to home care 2692
dependent adults have a system in place that effectively monitors 2693
whether the provider's employees are present at the location where 2694
the services are to be provided and at the time the services are 2695
to be provided. To be considered an effective monitoring system 2696
for purposes of the contract, the system established by a provider 2697
must include at least the following components: 2698

(1) A mechanism for verifying whether the provider's 2699
employees are providing home care services at the location where 2700
the services are to be provided and at the time the services are 2701
to be provided; 2702

(2) A protocol to be followed in scheduling a substitute 2703
employee when the monitoring mechanism identifies that an employee 2704

has failed to provide home care services at the proper location 2705
and time, including standards for determining the length of time 2706
that may elapse without jeopardizing the health and safety of the 2707
home care dependent adult; 2708

(3) Procedures for maintaining records of the information 2709
obtained through the monitoring mechanism; 2710

(4) Procedures for compiling notarized annual reports of the 2711
information obtained through the monitoring mechanism, including 2712
statistics on the rate at which home care services were provided 2713
at the proper location and time; 2714

(5) Procedures for conducting random checks of the accuracy 2715
of the monitoring system. For purposes of conducting these checks, 2716
random is considered not less than five nor more than fifteen per 2717
cent of the home care visits the provider's employees make to 2718
different home care dependent adults within a particular work 2719
shift. 2720

(D) In implementing this section, the departments shall 2721
exempt providers of home care services who are self-employed 2722
providers with no other employees or are otherwise considered by 2723
the departments not to be agency providers. The departments shall 2724
conduct a study on how the exempted providers may be made subject 2725
to the requirement of effectively monitoring whether home care 2726
services are being provided at the location where the services are 2727
to be provided and at the time the services are to be provided. 2728
Not later than two years after the effective date of this section, 2729
the departments shall prepare a report of their findings and 2730
recommendations. The report shall be submitted to the president of 2731
the senate and the speaker of the house of representatives. 2732

(E) The departments of mental retardation and developmental 2733
disabilities, aging, job and family services, and health shall 2734
each adopt rules as necessary to implement this section. The rules 2735

shall be adopted in accordance with Chapter 119. of the Revised Code. 2736
2737

Sec. 121.41. As used in sections 121.41 to 121.50 of the Revised Code: 2738
2739

(A) "Appropriate ethics commission" has the same meaning as in section 102.01 of the Revised Code. 2740
2741

(B) "Appropriate licensing agency" means a public or private entity that is responsible for licensing, certifying, or registering persons who are engaged in a particular vocation. 2742
2743
2744

(C) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes any officer or employee of the state or any political subdivision of the state. 2745
2746
2747

(D)(1) "State agency" has the same meaning as in section 1.60 of the Revised Code ~~but~~ and also includes any of the following: 2748
2749

(a) The Ohio retirement study council; 2750

(b) The public employees retirement system, state teachers retirement system, school employees retirement system, Ohio police and fire pension fund, and state highway patrol retirement system; 2751
2752
2753

(c) The Ohio historical society. 2754

(2) "State agency" does not include any of the following: 2755

~~(1)~~(a) The general assembly; 2756

~~(2)~~(b) Any court; 2757

~~(3)~~(c) The secretary of state, auditor of state, treasurer of state, or attorney general and their respective offices. 2758
2759

(E) "State employee" means any person who is an employee of a state agency or any person who does business with the state. 2760
2761

(F) "State officer" means any person who is elected or appointed to a public office in a state agency. 2762
2763

(G) "Wrongful act or omission" means an act or omission, 2764
committed in the course of office holding or employment, that is 2765
not in accordance with the requirements of law or ~~such~~ the 2766
standards of proper governmental conduct ~~as~~ that are commonly 2767
accepted in the community and thereby subverts, or tends to 2768
subvert, the process of government. 2769

Sec. 121.48. There is hereby created the office of the 2770
inspector general, to be headed by the inspector general. 2771

The governor shall appoint the inspector general, subject to 2772
section 121.49 of the Revised Code and the advice and consent of 2773
the senate. The inspector general shall hold office for a term 2774
coinciding with the term of the appointing governor. The governor 2775
may remove the inspector general from office only after delivering 2776
written notice to the inspector general of the reasons for which 2777
~~he~~ the governor intends to remove ~~him~~ the inspector general from 2778
office and providing ~~him~~ the inspector general with an opportunity 2779
to appear and show cause why ~~he~~ the inspector general should not 2780
be removed. 2781

In addition to the duties imposed by section 121.42 of the 2782
Revised Code, the inspector general shall manage the office of the 2783
inspector general. The inspector general shall establish and 2784
maintain offices in Columbus. 2785

The inspector general may appoint one or more deputy 2786
inspectors general. Each deputy inspector general shall serve for 2787
a term coinciding with the term of the appointing inspector 2788
general, and shall perform ~~such~~ the duties, including the 2789
performance of investigations, ~~as~~ that are assigned by the 2790
inspector general. All deputy inspectors general are in the 2791
unclassified service and serve at the pleasure of the inspector 2792
general. 2793

In addition to deputy inspectors general, the inspector 2794
general may appoint ~~such~~ professional, technical, and clerical 2795
employees ~~as~~ that are necessary for the effective and efficient 2796
operation of the office of the inspector general. All 2797
professional, technical, and clerical employees of the office of 2798
the inspector general are in the unclassified service and serve at 2799
the pleasure of the appointing inspector general. 2800

The inspector general may enter into any contracts that are 2801
necessary to the operation of the office of the inspector general. 2802
The contracts may include, but are not limited to, contracts for 2803
the services of persons who are experts in a particular field and 2804
whose expertise is necessary to the successful completion of an 2805
investigation. 2806

The inspector general may enter into agreements with state 2807
agencies for reimbursement of the costs of investigations by the 2808
inspector general under section 121.42 of the Revised Code and may 2809
accept from private parties reimbursement of the costs of 2810
investigations by the inspector general that result in judicial or 2811
administrative proceedings against the parties. 2812

Not later than the first day of March in each year, the 2813
inspector general shall publish an annual report summarizing the 2814
activities of ~~his~~ the inspector general's office during the 2815
previous calendar year. The annual report shall not disclose the 2816
results of any investigation insofar as the results are designated 2817
as confidential under section 121.44 of the Revised Code. 2818

The inspector general shall provide copies of ~~his~~ the 2819
inspector general's annual report to the governor and the general 2820
assembly. The inspector general also shall provide a copy of ~~his~~ 2821
the annual report to any other person who requests the copy and 2822
pays a fee prescribed by the inspector general. The fee shall not 2823
exceed the cost of reproducing and delivering the annual report. 2824

Sec. 121.482. There is hereby created in the state treasury 2825
the inspector general reimbursement fund. All amounts received by 2826
the inspector general under section 121.48 of the Revised Code as 2827
reimbursement of the costs of investigation shall be paid into the 2828
state treasury to the credit of the fund. Money in the fund shall 2829
be used for the expenses of the office of the inspector general. 2830

Sec. 121.62. (A) Each executive agency lobbyist and each 2831
employer shall file with the joint legislative ethics committee, 2832
within ten days following the engagement of an executive agency 2833
lobbyist, an initial registration statement showing all of the 2834
following: 2835

(1) The name, business address, and occupation of the 2836
executive agency lobbyist; 2837

(2) The name and business address of the employer or of the 2838
real party in interest on whose behalf the executive agency 2839
lobbyist is acting, if it is different from the employer. For the 2840
purposes of division (A) of this section, where a trade 2841
association or other charitable or fraternal organization that is 2842
exempt from federal income taxation under subsection 501(c) of the 2843
federal Internal Revenue Code is the employer, the statement need 2844
not list the names and addresses of every member of the 2845
association or organization, so long as the association or 2846
organization itself is listed. 2847

(3) A brief description of the executive agency decision to 2848
which the engagement relates; 2849

(4) The name of the executive agency or agencies to which the 2850
engagement relates. 2851

(B) In addition to the initial registration statement 2852
required by division (A) of this section, each executive agency 2853
lobbyist and employer shall file with the joint committee, not 2854

later than the last day of January, May, and September of each 2855
year, an updated registration statement that confirms the 2856
continuing existence of each engagement described in an initial 2857
registration statement and that lists the specific executive 2858
agency decisions that the lobbyist sought to influence under the 2859
engagement during the period covered by the updated statement, and 2860
with it any statement of expenditures required to be filed by 2861
section 121.63 of the Revised Code and any details of financial 2862
transactions required to be filed by section 121.64 of the Revised 2863
Code. 2864

(C) If an executive agency lobbyist is engaged by more than 2865
one employer, the lobbyist shall file a separate initial and 2866
updated registration statement for each engagement. If an employer 2867
engages more than one executive agency lobbyist, the employer need 2868
file only one updated registration statement under division (B) of 2869
this section, which shall contain the information required by 2870
division (B) of this section regarding all of the executive agency 2871
lobbyists engaged by the employer. 2872

(D)(1) A change in any information required by division 2873
(A)(1), (2), or (B) of this section shall be reflected in the next 2874
updated registration statement filed under division (B) of this 2875
section. 2876

(2) Within thirty days following the termination of an 2877
engagement, the executive agency lobbyist who was employed under 2878
the engagement shall send written notification of the termination 2879
to the joint committee. 2880

(E) A registration fee of ~~ten~~ twenty-five dollars shall be 2881
charged for filing an initial registration statement. All money 2882
collected from this fee shall be deposited into the ~~state treasury~~ 2883
~~to the credit of the joint legislative ethics committee fund~~ 2884
~~created under section 101.34 of the Revised Code~~ general revenue 2885
fund of the state. 2886

(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 2919
created under section 121.02 of the Revised Code of the pending 2920
investigation. 2921~~

(H) On or before the fifteenth day of March of each year, the 2922
joint committee shall, in the manner and form that it determines, 2923
publish a report containing statistical information on the 2924
registration statements filed with it under this section during 2925
the preceding year. 2926

(I) If an employer who engages an executive agency lobbyist 2927
is the recipient of a contract, grant, lease, or other financial 2928
arrangement pursuant to which funds of the state or of an 2929
executive agency are distributed or allocated, the executive 2930
agency or any aggrieved party may consider the failure of the 2931
employer or the executive agency lobbyist to comply with this 2932
section as a breach of a material condition of the contract, 2933
grant, lease, or other financial arrangement. 2934

(J) Executive agency officials may require certification from 2935
any person seeking the award of a contract, grant, lease, or 2936
financial arrangement that the person and ~~his~~ the person's 2937
employer are in compliance with this section. 2938

Sec. 122.011. (A) The department of development shall develop 2939
and promote plans and programs designed to assure that state 2940
resources are efficiently used, economic growth is properly 2941
balanced, community growth is developed in an orderly manner, and 2942
local governments are coordinated with each other and the state, 2943
and for such purposes may do all of the following: 2944

(1) Serve as a clearinghouse for information, data, and other 2945
materials that may be helpful or necessary to persons or local 2946
governments, as provided in section 122.07 of the Revised Code; 2947

(2) Prepare and activate plans for the retention, 2948

development, expansion, and use of the resources and commerce of	2949
the state, as provided in section 122.04 of the Revised Code;	2950
(3) Assist and cooperate with federal, state, and local	2951
governments and agencies of federal, state, and local governments	2952
in the coordination of programs to carry out the functions and	2953
duties of the department;	2954
(4) Encourage and foster research and development activities,	2955
conduct studies related to the solution of community problems, and	2956
develop recommendations for administrative or legislative actions,	2957
as provided in section 122.03 of the Revised Code;	2958
(5) Serve as the economic and community development planning	2959
agency, which shall prepare and recommend plans and programs for	2960
the orderly growth and development of this state and which shall	2961
provide planning assistance, as provided in section 122.06 of the	2962
Revised Code;	2963
(6) Cooperate with and provide technical assistance to state	2964
departments, political subdivisions, regional and local planning	2965
commissions, tourist associations, councils of government,	2966
community development groups, community action agencies, and other	2967
appropriate organizations for carrying out the functions and	2968
duties of the department or for the solution of community	2969
problems;	2970
(7) Coordinate the activities of state agencies that have an	2971
impact on carrying out the functions and duties of the department;	2972
(8) Encourage and assist the efforts of and cooperate with	2973
local governments to develop mutual and cooperative solutions to	2974
their common problems that relate to carrying out the purposes of	2975
this section;	2976
(9) Study existing structure, operations, and financing of	2977
regional or local government and those state activities that	2978
involve significant relations with regional or local governmental	2979

units, recommend to the governor and to the general assembly such 2980
changes in these provisions and activities as will improve the 2981
operations of regional or local government, and conduct other 2982
studies of legal provisions that affect problems related to 2983
carrying out the purposes of this section; 2984

(10) Appoint, with the approval of the governor, technical 2985
and other advisory councils as it considers appropriate, as 2986
provided in section 122.09 of the Revised Code; 2987

(11) Create and operate a division of community development 2988
to develop and administer programs and activities that are 2989
authorized by federal statute or the Revised Code; 2990

(12) Until ~~July 1, 2003~~ October 15, 2005, establish fees and 2991
charges, in consultation with the director of agriculture, for 2992
purchasing loans from financial institutions and providing loan 2993
guarantees under the family farm loan program created under 2994
sections 901.80 to 901.83 of the Revised Code; 2995

(13) Provide loan servicing for the loans purchased and loan 2996
guarantees provided under section 901.80 of the Revised Code as 2997
that section existed prior to ~~July 1, 2003~~ October 15, 2005; 2998

(14) Until ~~July 1, 2003~~ October 15, 2005, and upon approval 2999
by the controlling board under division (A)(3) of section 901.82 3000
of the Revised Code of the release of money to be used for 3001
purchasing a loan or providing a loan guarantee, request the 3002
release of that money in accordance with division (B) of section 3003
166.03 of the Revised Code for use for the purposes of the fund 3004
created by section 166.031 of the Revised Code. 3005

(B) The director of development may request the attorney 3006
general to, and the attorney general, in accordance with section 3007
109.02 of the Revised Code, shall bring a civil action in any 3008
court of competent jurisdiction. The director may be sued in the 3009
director's official capacity, in connection with this chapter, in 3010

accordance with Chapter 2743. of the Revised Code.	3011
Sec. 122.04. The department of development shall <u>do the</u>	3012
<u>following:</u>	3013
(A) Maintain a continuing evaluation of the sources available	3014
for the retention, development, or expansion of industrial and	3015
commercial facilities in this state through both public and	3016
private agencies;	3017
(B) Assist public and private agencies in obtaining	3018
information necessary to evaluate the desirability of the	3019
retention, construction, or expansion of industrial and commercial	3020
facilities in the state;	3021
(C) Facilitate contracts between community improvement	3022
corporations organized under Chapter 1724. of the Revised Code or	3023
Ohio development corporations organized under Chapter 1726. of the	3024
Revised Code and industrial and commercial concerns seeking to	3025
locate or expand in Ohio <u>the state</u> ;	3026
(D) Upon request, consult with public agencies or authorities	3027
in the preparation of studies of human and economic needs or	3028
advantages relating to economic and community development;	3029
(E) Encourage, promote, and assist trade and commerce between	3030
this state and foreign nations;	3031
(F) Promote and encourage persons to visit and travel within	3032
this state;	3033
(G) Maintain membership in <u>the</u> national association of state	3034
development agencies;	3035
(H) Assist in the development of facilities and technologies	3036
that will lead to increased, environmentally sound use of Ohio	3037
coal;	3038
<u>(I) Promote economic growth in the state.</u>	3039

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

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

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

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

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

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

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

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

- (B) The office shall do all of the following: 3069
- (1) Act as liaison between the small business community and 3070
state governmental agencies; 3071
- (2) Furnish information and technical assistance to persons 3072
and small businesses concerning the establishment and maintenance 3073
of a small business, and concerning state laws and rules relevant 3074
to the operation of a small business. In conjunction with these 3075
duties, the office shall keep a record of all state agency rules 3076
affecting individuals, small businesses, or small organizations, 3077
as defined in section 121.24 of the Revised Code, and may testify 3078
before the joint committee on agency rule review concerning any 3079
proposed rule affecting individuals, small businesses, or small 3080
organizations. 3081
- (3) Prepare and publish the small business register under 3082
section 122.081 of the Revised Code; 3083
- (4) Receive complaints from small businesses concerning 3084
governmental activity, compile and analyze those complaints, and 3085
periodically make recommendations to the governor and the general 3086
assembly on changes in state laws or agency rules needed to 3087
eliminate burdensome and unproductive governmental regulation to 3088
improve the economic climate within which small businesses 3089
operate; 3090
- (5) Receive complaints or questions from small businesses and 3091
direct ~~such~~ those businesses to the appropriate governmental 3092
agency. If, within a reasonable period of time, a complaint is not 3093
satisfactorily resolved or a question is not satisfactorily 3094
answered, the office shall, on behalf of the small business, make 3095
every effort to secure a satisfactory result. For this purpose, 3096
the office may consult with any state governmental agency and may 3097
make any suggestion or request that seems appropriate. 3098
- (6) Utilize, to the maximum extent possible, the printed and 3099

electronic media to disseminate information of current concern and 3100
interest to the small business community and to make known to 3101
small businesses the services available through the office. The 3102
office shall publish such books, pamphlets, and other printed 3103
materials, and shall participate in such trade association 3104
meetings, conventions, fairs, and other meetings involving the 3105
small business community, as the manager considers appropriate. 3106

(7) Prepare for inclusion in the department of development's 3107
annual report to the governor and general assembly, a description 3108
of the activities of the office and a report of the number of 3109
rules affecting individuals, small businesses, and small 3110
organizations that were filed with the office under division 3111
(B)(2) of section 121.24 of the Revised Code, during the preceding 3112
calendar year; 3113

(8) Operate the Ohio ~~one-stop-business-permit-center~~ 3114
first-stop business connection to assist individuals in 3115
identifying and preparing applications for business licenses, 3116
permits, and certificates and to serve as the central public 3117
distributor for all forms, applications, and other information 3118
related to business licensing. Each state agency, board, and 3119
commission shall cooperate in providing assistance, information, 3120
and materials to enable the ~~center connection~~ to perform its 3121
duties under this division ~~(B)(8) of this section.~~ 3122

(C) The office ~~of small-business~~ may, upon the request of a 3123
state agency, assist the agency with the preparation of any rule 3124
that will affect individuals, small businesses, or small 3125
organizations. 3126

(D) The director of development shall assign ~~such~~ employees 3127
and furnish ~~such~~ equipment and supplies to the office as the 3128
director considers necessary for the proper performance of the 3129
duties assigned to the office. 3130

Sec. 122.17. (A) As used in this section: 3131

(1) "Full-time employee" means an individual who is employed 3132
for consideration for at least thirty-five hours a week, or who 3133
renders any other standard of service generally accepted by custom 3134
or specified by contract as full-time employment. 3135

(2) "New employee" means one of the following: 3136

(a) A full-time employee first employed by a taxpayer in the 3137
project that is the subject of the agreement after the taxpayer 3138
enters into a tax credit agreement with the tax credit authority 3139
under this section; 3140

(b) A full-time employee first employed by a taxpayer in the 3141
project that is the subject of the tax credit after the tax credit 3142
authority approves a project for a tax credit under this section 3143
in a public meeting, as long as the taxpayer enters into the tax 3144
credit agreement prepared by the department of development after 3145
such meeting within sixty days after receiving the agreement from 3146
the department. If the taxpayer fails to enter into the agreement 3147
within sixty days, "new employee" has the same meaning as under 3148
division (A)(2)(a) of this section. 3149

Under division (A)(2)(a) or (b) of this section, if the tax 3150
credit authority determines it appropriate, "new employee" also 3151
may include an employee re-hired or called back from lay-off to 3152
work in a new facility or on a new product or service established 3153
or produced by the taxpayer after entering into the agreement 3154
under this section or after the tax credit authority approves the 3155
tax credit in a public meeting. "New employee" does not include 3156
any employee of the taxpayer who was previously employed in this 3157
state by a related member of the taxpayer and whose employment was 3158
shifted to the taxpayer after the taxpayer entered into the tax 3159
credit agreement or after the tax credit authority approved the 3160

credit in a public meeting, or any employee of the taxpayer for 3161
which the taxpayer has been granted a certificate under division 3162
(B) of section 5709.66 of the Revised Code. "New employee" also 3163
does not include an employee of the taxpayer who is employed in an 3164
employment position that was relocated to a project from other 3165
operations of the taxpayer in this state or from operations of a 3166
related member of the taxpayer in this state. In addition, "new 3167
employee" does not include a child, grandchild, parent, or spouse, 3168
other than a spouse who is legally separated from the individual, 3169
of any individual who is an employee of the taxpayer and who has a 3170
direct or indirect ownership interest of at least five per cent in 3171
the profits, capital, or value of the taxpayer. Such ownership 3172
interest shall be determined in accordance with section 1563 of 3173
the Internal Revenue Code and regulations prescribed thereunder. 3174

(3) "New income tax revenue" means the total amount withheld 3175
under section 5747.06 of the Revised Code by the taxpayer during 3176
the taxable year from the compensation of new employees for the 3177
tax levied under Chapter 5747. of the Revised Code. 3178

(4) "Related member" has the same meaning as under division 3179
(A)(6) of section 5733.042 of the Revised Code without regard to 3180
division (B) of that section. 3181

(B) The tax credit authority may make grants under this 3182
section to foster job creation in this state. Such a grant shall 3183
take the form of a refundable credit allowed against the tax 3184
imposed by section 5733.06 or 5747.02 of the Revised Code. The 3185
credit shall be claimed for the taxable years specified in the 3186
taxpayer's agreement with the tax credit authority under division 3187
(D) of this section. The credit shall be claimed after the 3188
allowance of all other credits provided by Chapter 5733. or 5747. 3189
of the Revised Code. The amount of the credit equals the new 3190
income tax revenue for the taxable year multiplied by the 3191
percentage specified in the agreement with the tax credit 3192

authority.	3193
(C) A taxpayer or potential taxpayer who proposes a project	3194
to create new jobs in this state may apply to the tax credit	3195
authority to enter into an agreement for a tax credit under this	3196
section. The director of development shall prescribe the form of	3197
the application. After receipt of an application, the authority	3198
may enter into an agreement with the taxpayer for a credit under	3199
this section if it determines all of the following:	3200
(1) The taxpayer's project will create new jobs in this	3201
state;	3202
(2) The taxpayer's project is economically sound and will	3203
benefit the people of this state by increasing opportunities for	3204
employment and strengthening the economy of this state;	3205
(3) Receiving the tax credit is a major factor in the	3206
taxpayer's decision to go forward with the project.	3207
(D) An agreement under this section shall include all of the	3208
following:	3209
(1) A detailed description of the project that is the subject	3210
of the agreement;	3211
(2) The term of the tax credit, which shall not exceed ten	3212
<u>fifteen</u> years, and the first taxable year for which the credit may	3213
be claimed;	3214
(3) A requirement that the taxpayer shall maintain operations	3215
at the project location for at least twice the number of years as	3216
the term of the tax credit;	3217
(4) The percentage, as determined by the tax credit	3218
authority, of new income tax revenue that will be allowed as the	3219
amount of the credit for each taxable year;	3220
(5) A specific method for determining how many new employees	3221
are employed during a taxable year;	3222

(6) A requirement that the taxpayer annually shall report to 3223
the director of development the number of new employees, the new 3224
income tax revenue withheld in connection with the new employees, 3225
and any other information the director needs to perform ~~his~~ the 3226
director's duties under this section; 3227

(7) A requirement that the director of development annually 3228
shall verify the amounts reported under division (D)(6) of this 3229
section, and after doing so shall issue a certificate to the 3230
taxpayer stating that the amounts have been verified; 3231

(8)(a) A provision requiring that the taxpayer, except as 3232
otherwise provided in division (D)(8)(b) of this section, shall 3233
not relocate employment positions from elsewhere in this state to 3234
the project site that is the subject of the agreement for the 3235
lesser of five years from the date the agreement is entered into 3236
or the number of years the taxpayer is entitled to claim the tax 3237
credit. 3238

(b) The taxpayer may relocate employment positions from 3239
elsewhere in this state to the project site that is the subject of 3240
the agreement if the director of development determines both of 3241
the following: 3242

(i) That the site from which the employment positions would 3243
be relocated is inadequate to meet market and industry conditions, 3244
expansion plans, consolidation plans, or other business 3245
considerations affecting the taxpayer; 3246

(ii) That the legislative authority of the county, township, 3247
or municipal corporation from which the employment positions would 3248
be relocated has been notified of the relocation. 3249

For purposes of this section, the movement of an employment 3250
position from one political subdivision to another political 3251
subdivision shall be considered a relocation of an employment 3252
position, but the transfer of an individual employee from one 3253

political subdivision to another political subdivision shall not 3254
be considered a relocation of an employment position as long as 3255
the individual's employment position in the first political 3256
subdivision is refilled. 3257

(E) If a taxpayer fails to meet or comply with any condition 3258
or requirement set forth in a tax credit agreement, the tax credit 3259
authority may amend the agreement to reduce the percentage or term 3260
of the tax credit. The reduction of the percentage or term shall 3261
take effect in the taxable year immediately following the taxable 3262
year in which the authority amends the agreement. If the taxpayer 3263
relocates employment positions in violation of the provision 3264
required under division (D)(8)(a) of this section, the taxpayer 3265
shall not claim the tax credit under section 5733.0610 of the 3266
Revised Code for any tax years following the calendar year in 3267
which the relocation occurs, or shall not claim the tax credit 3268
under section 5747.058 of the Revised Code for the taxable year in 3269
which the relocation occurs and any subsequent taxable years. 3270

(F) Projects that consist solely of point-of-final-purchase 3271
retail facilities are not eligible for a tax credit under this 3272
section. If a project consists of both point-of-final-purchase 3273
retail facilities and nonretail facilities, only the portion of 3274
the project consisting of the nonretail facilities is eligible for 3275
a tax credit and only the new income tax revenue from new 3276
employees of the nonretail facilities shall be considered when 3277
computing the amount of the tax credit. If a warehouse facility is 3278
part of a point-of-final-purchase retail facility and supplies 3279
only that facility, the warehouse facility is not eligible for a 3280
tax credit. Catalog distribution centers are not considered 3281
point-of-final-purchase retail facilities for the purposes of this 3282
division, and are eligible for tax credits under this section. 3283

(G) Financial statements and other information submitted to 3284
the department of development or the tax credit authority by an 3285

applicant or recipient of a tax credit under this section, and any 3286
information taken for any purpose from such statements or 3287
information, are not public records subject to section 149.43 of 3288
the Revised Code. However, the chairperson of the authority may 3289
make use of the statements and other information for purposes of 3290
issuing public reports or in connection with court proceedings 3291
concerning tax credit agreements under this section. Upon the 3292
request of the tax commissioner, the chairperson of the authority 3293
shall provide to the commissioner any statement or information 3294
submitted by an applicant or recipient of a tax credit in 3295
connection with the credit. The commissioner shall preserve the 3296
confidentiality of the statement or information. 3297

(H) A taxpayer claiming a credit under this section shall 3298
submit to the tax commissioner a copy of the director of 3299
development's certificate of verification under division (D)(7) of 3300
this section for the taxable year. However, failure to submit a 3301
copy of the certificate does not invalidate a claim for a credit. 3302

(I) The director of development, after consultation with the 3303
tax commissioner and in accordance with Chapter 119. of the 3304
Revised Code, shall adopt rules necessary to implement this 3305
section. The rules may provide for recipients of tax credits under 3306
this section to be charged fees to cover administrative costs of 3307
the tax credit program. At the time the director gives public 3308
notice under division (A) of section 119.03 of the Revised Code of 3309
the adoption of the rules, the director shall submit copies of the 3310
proposed rules to the chairpersons of the standing committees on 3311
economic development in the senate and the house of 3312
representatives. 3313

(J) For the purposes of this section, a taxpayer may include 3314
a partnership, a corporation that has made an election under 3315
subchapter S of chapter one of subtitle A of the Internal Revenue 3316
Code, or any other business entity through which income flows as a 3317

distributive share to its owners. A credit received under this 3318
section by a partnership, S-corporation, or other such business 3319
entity shall be apportioned among the persons to whom the income 3320
or profit of the partnership, S-corporation, or other entity is 3321
distributed, in the same proportions as those in which the income 3322
or profit is distributed. 3323

(K) If the director of development determines that a taxpayer 3324
who has received a credit under this section is not complying with 3325
the requirement under division (D)(3) of this section, the 3326
director shall notify the tax credit authority of the 3327
noncompliance. After receiving such a notice, and after giving the 3328
taxpayer an opportunity to explain the noncompliance, the tax 3329
credit authority may require the taxpayer to refund to this state 3330
a portion of the credit in accordance with the following: 3331

(1) If the taxpayer maintained operations at the project 3332
location for at least one and one-half times the number of years 3333
of the term of the tax credit, an amount not exceeding twenty-five 3334
per cent of the sum of any previously allowed credits under this 3335
section; 3336

(2) If the taxpayer maintained operations at the project 3337
location for at least the number of years of the term of the tax 3338
credit, an amount not exceeding fifty per cent of the sum of any 3339
previously allowed credits under this section; 3340

(3) If the taxpayer maintained operations at the project 3341
location for less than the number of years of the term of the tax 3342
credit, an amount not exceeding one hundred per cent of the sum of 3343
any previously allowed credits under this section. 3344

In determining the portion of the tax credit to be refunded 3345
to this state, the tax credit authority shall consider the effect 3346
of market conditions on the taxpayer's project and whether the 3347
taxpayer continues to maintain other operations in this state. 3348

After making the determination, the authority shall certify the 3349
amount to be refunded to the tax commissioner. The commissioner 3350
shall make an assessment for that amount against the taxpayer 3351
under Chapter 5733. or 5747. of the Revised Code. The time 3352
limitations on assessments under Chapter 5733. or 5747. of the 3353
Revised Code do not apply to an assessment under this division, 3354
but the commissioner shall make the assessment within one year 3355
after the date the authority certifies to the commissioner the 3356
amount to be refunded. 3357

(L) On or before the thirty-first day of March each year, the 3358
director of development shall submit a report to the governor, the 3359
president of the senate, and the speaker of the house of 3360
representatives on the tax credit program under this section. The 3361
report shall include information on the number of agreements that 3362
were entered into under this section during the preceding calendar 3363
year, a description of the project that is the subject of each 3364
such agreement, and an update on the status of projects under 3365
agreements entered into before the preceding calendar year. 3366

During the fifth year of the tax credit program, the director 3367
of development in conjunction with the director of budget and 3368
management shall conduct an evaluation of it. The evaluation shall 3369
include assessments of the effectiveness of the program in 3370
creating new jobs in this state and of the revenue impact of the 3371
program, and may include a review of the practices and experiences 3372
of other states with similar programs. The director of development 3373
shall submit a report on the evaluation to the governor, the 3374
president of the senate, and the speaker of the house of 3375
representatives on or before January 1, 1998. 3376

(M) There is hereby created the tax credit authority, which 3377
consists of the director of development and four other members 3378
appointed as follows: the governor, the president of the senate, 3379
and the speaker of the house of representatives each shall appoint 3380

one member who shall be a specialist in economic development; the 3381
governor also shall appoint a member who is a specialist in 3382
taxation. Of the initial appointees, the members appointed by the 3383
governor shall serve a term of two years; the members appointed by 3384
the president of the senate and the speaker of the house of 3385
representatives shall serve a term of four years. Thereafter, 3386
terms of office shall be for four years. Initial appointments to 3387
the authority shall be made within thirty days after January 13, 3388
1993. Each member shall serve on the authority until the end of 3389
the term for which the member was appointed. Vacancies shall be 3390
filled in the same manner provided for original appointments. Any 3391
member appointed to fill a vacancy occurring prior to the 3392
expiration of the term for which the member's predecessor was 3393
appointed shall hold office for the remainder of that term. 3394
Members may be reappointed to the authority. Members of the 3395
authority shall receive their necessary and actual expenses while 3396
engaged in the business of the authority. The director of 3397
development shall serve as chairperson of the authority, and the 3398
members annually shall elect a vice-chairperson from among 3399
themselves. Three members of the authority constitute a quorum to 3400
transact and vote on the business of the authority. The majority 3401
vote of the membership of the authority is necessary to approve 3402
any such business, including the election of the vice-chairperson. 3403

The director of development may appoint a professional 3404
employee of the department of development to serve as the 3405
director's substitute at a meeting of the authority. The director 3406
shall make the appointment in writing. In the absence of the 3407
director from a meeting of the authority, the appointed substitute 3408
shall serve as chairperson. In the absence of both the director 3409
and the director's substitute from a meeting, the vice-chairperson 3410
shall serve as chairperson. 3411

Sec. 122.171. (A) As used in this section: 3412

(1) "Capital investment project" means a plan of investment 3413
at a project site for the acquisition, construction, renovation, 3414
or repair of buildings, machinery, or equipment, or for 3415
capitalized costs of basic research and new product development 3416
determined in accordance with generally accepted accounting 3417
principles, but does not include any of the following: 3418

(a) Payments made for the acquisition of personal property 3419
through operating leases; 3420

(b) Project costs paid before January 1, 2002, or after 3421
December 31, 2006; 3422

(c) Payments made to a related member as defined in section 3423
5733.042 of the Revised Code. 3424

(2) "Eligible business" means a business with Ohio operations 3425
satisfying all of the following: 3426

(a) Employed an average of at least one thousand employees in 3427
full-time employment positions at a project site during each of 3428
the twelve months preceding the application for a tax credit under 3429
this section; and 3430

(b) On or after January 1, 2002, has made payments for the 3431
capital investment project of either of the following: 3432

(i) At least two hundred million dollars in the aggregate at 3433
the project site during a period of three consecutive calendar 3434
years including the calendar year that includes a day of the 3435
taxpayer's taxable year with respect to which the credit is 3436
granted; 3437

(ii) If the average wage of all full-time employment 3438
positions at the project site is greater than four hundred per 3439
cent of the federal minimum wage, at least one hundred million 3440
dollars in the aggregate at the project site during a period of 3441
three consecutive calendar years including the calendar year that 3442

includes a day of the taxpayer's taxable year with respect to 3443
which the credit is granted. 3444

(c) Is engaged at the project site primarily as a 3445
manufacturer or is providing significant corporate administrative 3446
functions; 3447

(d) Has had a capital investment project reviewed and 3448
approved by the tax credit authority as provided in divisions (C), 3449
(D), and (E) of this section. 3450

(3) "Full-time employment position" means a position of 3451
employment for consideration for at least thirty-five hours a week 3452
that has been filled for at least one hundred eighty days 3453
immediately preceding the filing of an application under this 3454
section and for at least one hundred eighty days during each 3455
taxable year with respect to which the credit is granted. 3456

(4) "Manufacturer" has the same meaning as in section 3457
5739.011 of the Revised Code. 3458

(5) "Project site" means an integrated complex of facilities 3459
in this state, as specified by the tax credit authority under this 3460
section, within a fifteen-mile radius where a taxpayer is 3461
primarily operating as an eligible business. 3462

(6) "Applicable corporation" means a corporation satisfying 3463
all of the following: 3464

(a)(i) For the entire taxable year immediately preceding the 3465
tax year, the corporation develops software applications primarily 3466
to provide telecommunication billing and information services 3467
through outsourcing or licensing to domestic or international 3468
customers. 3469

(ii) Sales and licensing of software generated at least six 3470
hundred million dollars in revenue during the taxable year 3471
immediately preceding the tax year the corporation is first 3472

entitled to claim the credit provided under division (B) of this section. 3473
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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. 3475
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(c) The corporation is eligible for the credit under division (B) of this section for the tax year. 3483
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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. 3485
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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. 3489
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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. 3493
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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. 3497
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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.

(c) If the resulting difference is negative, the applicable tax difference for the tax year shall be zero.

(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

agreement. 3536

The credit computed under this division is in addition to any 3537
credit allowed under division (M) of this section. 3538

Any unused portion of a tax credit may be carried forward for 3539
not more than three additional years after the year for which the 3540
credit is granted. 3541

(C) A taxpayer that proposes a capital investment project to 3542
retain jobs in this state may apply to the tax credit authority to 3543
enter into an agreement for a tax credit under this section. The 3544
director of development shall prescribe the form of the 3545
application. After receipt of an application, the authority shall 3546
forward copies of the application to the director of budget and 3547
management, the tax commissioner, and the director of development, 3548
each of whom shall review the application to determine the 3549
economic impact the proposed project would have on the state and 3550
the affected political subdivisions and shall submit a summary of 3551
their determinations and recommendations to the authority. The 3552
authority shall make no agreements under this section after June 3553
30, 2007. 3554

(D) Upon review of the determinations and recommendations 3555
described in division (C) of this section, the tax credit 3556
authority may enter into an agreement with the taxpayer for a 3557
credit under this section if the authority determines all of the 3558
following: 3559

(1) The taxpayer's capital investment project will result in 3560
the retention of full-time employment positions in this state. 3561

(2) The taxpayer is economically sound and has the ability to 3562
complete the proposed capital investment project. 3563

(3) The taxpayer intends to and has the ability to maintain 3564
operations at the project site for at least twice the term of the 3565
credit. 3566

(4) Receiving the credit is a major factor in the taxpayer's decision to begin, continue with, or complete the project.	3567 3568
(5) The political subdivisions in which the project is located have agreed to provide substantial financial support to the project.	3569 3570 3571
(E) An agreement under this section shall include all of the following:	3572 3573
(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.	3574 3575 3576 3577
(2) The method of calculating the number of full-time employment positions as specified in division (A)(3) of this section.	3578 3579 3580
(3) The term and percentage of the tax credit, and the first year for which the credit may be claimed.	3581 3582
(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.	3583 3584 3585
(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.	3586 3587 3588 3589 3590 3591 3592
(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	3593 3594 3595 3596

the capital investment project, and any other information the 3597
director needs to perform the director's duties under this 3598
section. 3599

(7) A requirement that the director of development annually 3600
review the annual reports of the taxpayer to verify the 3601
information reported under division (E)(6) of this section and 3602
compliance with the agreement. Upon verification, the director 3603
shall issue a certificate to the taxpayer stating that the 3604
information has been verified and identifying the amount of the 3605
credit for the taxable year. The Unless otherwise specified by the 3606
tax credit authority in a resolution and included as part of the 3607
agreement, the director shall not issue a certificate for any year 3608
in which the total number of filled full-time employment positions 3609
for each day of the calendar year divided by three hundred 3610
sixty-five is less than ninety per cent of the full-time 3611
employment positions specified in division (E)(5) of this section. 3612
In determining the number of full-time employment positions, no 3613
position shall be counted that is filled by an employee who is 3614
included in the calculation of a tax credit under section 122.17 3615
of the Revised Code. 3616

(8)(a) A provision requiring that the taxpayer, except as 3617
otherwise provided in division (E)(8)(b) of this section, shall 3618
not relocate employment positions from elsewhere in this state to 3619
the project site that is the subject of the agreement for the 3620
lesser of five years from the date the agreement is entered into 3621
or the number of years the taxpayer is entitled to claim the 3622
credit. 3623

(b) The taxpayer may relocate employment positions from 3624
elsewhere in this state to the project site that is the subject of 3625
the agreement if the director of development determines both of 3626
the following: 3627

(i) That the site from which the employment positions would 3628

be relocated is inadequate to meet market and industry conditions, 3629
expansion plans, consolidation plans, or other business 3630
considerations affecting the taxpayer; 3631

(ii) That the legislative authority of the county, township, 3632
or municipal corporation from which the employment positions would 3633
be relocated has been notified of the relocation. 3634

For purposes of this section, the movement of an employment 3635
position from one political subdivision to another political 3636
subdivision shall be considered a relocation of an employment 3637
position unless the movement is confined to the project site. The 3638
transfer of an individual employee from one political subdivision 3639
to another political subdivision shall not be considered a 3640
relocation of an employment position as long as the individual's 3641
employment position in the first political subdivision is 3642
refilled. 3643

(9) A waiver by the taxpayer of any limitations periods 3644
relating to assessments or adjustments resulting from the 3645
taxpayer's failure to comply with the agreement. 3646

(F) If a taxpayer fails to meet or comply with any condition 3647
or requirement set forth in a tax credit agreement, the tax credit 3648
authority may amend the agreement to reduce the percentage or term 3649
of the credit. The reduction of the percentage or term shall take 3650
effect in the taxable year immediately following the taxable year 3651
in which the authority amends the agreement. If the taxpayer 3652
relocates employment positions in violation of the provision 3653
required under division (D)(8)(a) of this section, the taxpayer 3654
shall not claim the tax credit under section 5733.0610 of the 3655
Revised Code for any tax years following the calendar year in 3656
which the relocation occurs, or shall not claim the tax credit 3657
under section 5747.058 of the Revised Code for the taxable year in 3658
which the relocation occurs and any subsequent taxable years. 3659

(G) Financial statements and other information submitted to 3660
the department of development or the tax credit authority by an 3661
applicant for or recipient of a tax credit under this section, and 3662
any information taken for any purpose from such statements or 3663
information, are not public records subject to section 149.43 of 3664
the Revised Code. However, the chairperson of the authority may 3665
make use of the statements and other information for purposes of 3666
issuing public reports or in connection with court proceedings 3667
concerning tax credit agreements under this section. Upon the 3668
request of the tax commissioner, the chairperson of the authority 3669
shall provide to the commissioner any statement or other 3670
information submitted by an applicant for or recipient of a tax 3671
credit in connection with the credit. The commissioner shall 3672
preserve the confidentiality of the statement or other 3673
information. 3674

(H) A taxpayer claiming a tax credit under this section shall 3675
submit to the tax commissioner a copy of the director of 3676
development's certificate of verification under division (E)(7) of 3677
this section for the taxable year. However, failure to submit a 3678
copy of the certificate does not invalidate a claim for a credit. 3679

(I) For the purposes of this section, a taxpayer may include 3680
a partnership, a corporation that has made an election under 3681
subchapter S of chapter one of subtitle A of the Internal Revenue 3682
Code, or any other business entity through which income flows as a 3683
distributive share to its owners. A tax credit received under this 3684
section by a partnership, S-corporation, or other such business 3685
entity shall be apportioned among the persons to whom the income 3686
or profit of the partnership, S-corporation, or other entity is 3687
distributed, in the same proportions as those in which the income 3688
or profit is distributed. 3689

(J) If the director of development determines that a taxpayer 3690
that received a tax credit under this section is not complying 3691

with the requirement under division (E)(4) of this section, the 3692
director shall notify the tax credit authority of the 3693
noncompliance. After receiving such a notice, and after giving the 3694
taxpayer an opportunity to explain the noncompliance, the 3695
authority may terminate the agreement and require the taxpayer to 3696
refund to the state all or a portion of the credit claimed in 3697
previous years, as follows: 3698

(1) If the taxpayer maintained operations at the project site 3699
for less than the term of the credit, the amount required to be 3700
refunded shall not exceed the amount of any tax credits previously 3701
allowed and received under this section. 3702

(2) If the taxpayer maintained operations at the project site 3703
longer than the term of the credit but less than one and one-half 3704
times the term of the credit, the amount required to be refunded 3705
shall not exceed fifty per cent of the sum of any tax credits 3706
previously allowed and received under this section. 3707

(3) If the taxpayer maintained operations at the project site 3708
for at least one and one-half times the term of the credit but 3709
less than twice the term of the credit, the amount required to be 3710
refunded shall not exceed twenty-five per cent of the sum of any 3711
tax credits previously allowed and received under this section. 3712

In determining the portion of the credit to be refunded to 3713
this state, the authority shall consider the effect of market 3714
conditions on the taxpayer's project and whether the taxpayer 3715
continues to maintain other operations in this state. After making 3716
the determination, the authority shall certify the amount to be 3717
refunded to the tax commissioner. The commissioner shall make an 3718
assessment for that amount against the taxpayer under Chapter 3719
5733. or 5747. of the Revised Code. The time limitations on 3720
assessments under Chapter 5733. or 5747. of the Revised Code do 3721
not apply to an assessment under this division, but the 3722
commissioner shall make the assessment within one year after the 3723

date the authority certifies to the commissioner the amount to be 3724
refunded. 3725

If the director of development determines that a taxpayer 3726
that received a tax credit under this section has reduced the 3727
number of employees agreed to under division (E)(5) of this 3728
section by more than ten per cent, the director shall notify the 3729
tax credit authority of the noncompliance. After receiving such 3730
notice, and after providing the taxpayer an opportunity to explain 3731
the noncompliance, the authority may amend the agreement to reduce 3732
the percentage or term of the tax credit. The reduction in the 3733
percentage or term shall take effect in the taxable year in which 3734
the authority amends the agreement. 3735

(K) The director of development, after consultation with the 3736
tax commissioner and in accordance with Chapter 119. of the 3737
Revised Code, shall adopt rules necessary to implement this 3738
section. The rules may provide for recipients of tax credits under 3739
this section to be charged fees to cover administrative costs of 3740
the tax credit program. At the time the director gives public 3741
notice under division (A) of section 119.03 of the Revised Code of 3742
the adoption of the rules, the director shall submit copies of the 3743
proposed rules to the chairpersons of the standing committees on 3744
economic development in the senate and the house of 3745
representatives. 3746

(L) On or before the thirty-first day of March of each year, 3747
the director of development shall submit a report to the governor, 3748
the president of the senate, and the speaker of the house of 3749
representatives on the tax credit program under this section. The 3750
report shall include information on the number of agreements that 3751
were entered into under this section during the preceding calendar 3752
year, a description of the project that is the subject of each 3753
such agreement, and an update on the status of projects under 3754
agreements entered into before the preceding calendar year. 3755

(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.	3786 3787
(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;	3788 3789 3790 3791
(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;	3792 3793 3794 3795
(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;	3796 3797 3798 3799 3800
(7) Require each applicant to provide a marketing plan and management strategy for the project;	3801 3802
(8) Adopt rules in accordance with Chapter 119. of the Revised Code establishing all of the following:	3803 3804
(a) Forms and procedures by which eligible applicants may apply for assistance;	3805 3806
(b) Criteria for reviewing, evaluating, and ranking applications, and for approving applications that best serve the goals of the program;	3807 3808 3809
(c) Reporting requirements and monitoring procedures;	3810
(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;	3811 3812 3813
(e) Any other rules necessary to implement and administer the program created by section 122.24 of the Revised Code.	3814 3815

(B) The director may adopt rules in accordance with Chapter 3816
119. of the Revised Code establishing requirements governing the 3817
use of any industrial park site receiving assistance under section 3818
122.24 of the Revised Code, such that a certain portion of the 3819
site must be used for manufacturing, distribution, high 3820
technology, research and development, or other businesses wherein 3821
a majority of the product or service produced is exported out of 3822
the state. 3823

(C) As a condition to receiving assistance under section 3824
122.24 of the Revised Code, and except as provided in division (D) 3825
of this section, an applicant must agree, for a period of five 3826
years, not to permit the use of a site that is developed or 3827
improved with such assistance to cause the relocation of jobs to 3828
that site from elsewhere in Ohio. 3829

(D) A site developed or improved with assistance under 3830
section 122.24 of the Revised Code may be the site of jobs 3831
relocated from elsewhere in Ohio if the director of development 3832
does all of the following: 3833

(1) Makes a written determination that the site from which 3834
the jobs would be relocated is inadequate to meet market or 3835
industry conditions, expansion plans, consolidation plans, or 3836
other business considerations affecting the relocating employer; 3837

(2) Provides a copy of the determination required by division 3838
(D)(1) of this section to the members of the general assembly 3839
whose legislative districts include the site from which the jobs 3840
would be relocated, ~~and to the joint legislative committee on tax~~ 3841
~~incentives;~~ 3842

(3) Determines that the governing body of the area from which 3843
the jobs would be relocated has been notified in writing by the 3844
relocating company of the possible relocation. 3845

(E) The director of development must obtain the approval of 3846

the controlling board for any loan or loan guarantee provided 3847
under sections 122.23 to 122.27 of the Revised Code. 3848

Sec. 122.651. (A) There is hereby created the clean Ohio 3849
council consisting of the director of development or the 3850
director's designee, the director of environmental protection or 3851
the director's designee, the lieutenant governor or the lieutenant 3852
governor's designee, the director of the Ohio public works 3853
commission as a nonvoting, ex officio member, one member of the 3854
majority party of the senate and one member of the minority party 3855
of the senate to be appointed by the president of the senate, one 3856
member of the majority party of the house of representatives and 3857
one member of the minority party of the house of representatives 3858
to be appointed by the speaker of the house of representatives, 3859
and seven members to be appointed by the governor with the advice 3860
and consent of the senate. Of the members appointed by the 3861
governor, one shall represent the interests of counties, one shall 3862
represent the interests of townships, one shall represent the 3863
interests of municipal corporations, two shall represent the 3864
interests of business and development, and two shall represent 3865
statewide environmental advocacy organizations. The members 3866
appointed by the governor shall reflect the demographic and 3867
economic diversity of the population of the state. Additionally, 3868
the governor's appointments shall represent all areas of the 3869
state. All appointments to the council shall be made not later 3870
than one hundred twenty days after July 26, 2001. 3871

(B) The members appointed by the president of the senate and 3872
speaker of the house of representatives shall serve at the 3873
pleasure of their appointing authorities. Of the initial members 3874
appointed by the governor to the clean Ohio council, four shall be 3875
appointed for two years and three shall be appointed for one year. 3876
Thereafter, terms of office for members appointed by the governor 3877
shall be for two years, with each term ending on the same day of 3878

the same month as did the term that it succeeds. Each of those 3879
members shall hold office from the date of appointment until the 3880
end of the term for which the member is appointed. 3881

Members may be reappointed. Vacancies shall be filled in the 3882
same manner as provided for original appointments. Any member 3883
appointed to fill a vacancy occurring prior to the expiration date 3884
of the term for which the member was appointed shall hold office 3885
for the remainder of that term. A member shall continue in office 3886
after the expiration date of the member's term until the member's 3887
successor takes office or until a period of sixty days has 3888
elapsed, whichever occurs first. The governor may remove a member 3889
appointed by the governor for misfeasance, nonfeasance, or 3890
malfeasance in office. 3891

(C) The ~~director of development~~ governor shall appoint a 3892
member of the clean Ohio council to serve as the chairperson of 3893
the ~~clean Ohio~~ council. The director of development shall serve as 3894
the vice-chairperson of the council unless appointed chairperson. 3895
If the director is appointed chairperson, the council annually 3896
shall select from among its members a vice-chairperson to serve 3897
while the director is chairperson. The council annually shall 3898
select from among its members ~~a vice-chairperson and~~ a secretary 3899
to keep a record of its proceedings. A majority vote of a quorum 3900
of the members of the council is necessary to take action on any 3901
matter. The council may adopt bylaws governing its operation, 3902
including bylaws that establish the frequency of meetings, 3903
procedures for reviewing eligible projects under sections 122.65 3904
to 122.658 of the Revised Code and policies and requirements 3905
established under section 122.657 of the Revised Code, and other 3906
necessary procedures. 3907

(D) Members of the clean Ohio council shall be deemed to be 3908
public officials or officers only for the purposes of section 9.86 3909
and Chapters 102. and 2921. of the Revised Code. Serving as a 3910

member of the clean Ohio council does not constitute holding a 3911
public office or position of employment so as to constitute 3912
grounds for removal of public officers or employees serving as 3913
members of the council from their offices or positions of 3914
employment. Members of the council shall file with the Ohio ethics 3915
commission the disclosure statement described in division (A) of 3916
section 102.02 of the Revised Code on the form prescribed by the 3917
commission and be subject to divisions (C) and (D) of that 3918
section. Members of the council shall serve without compensation 3919
for attending council meetings, but shall receive their actual and 3920
necessary traveling and other expenses incurred in the performance 3921
of their official duties in accordance with the rules of the 3922
office of budget and management. 3923

(E) Members appointed by the governor to represent the 3924
interests of counties, townships, and municipal corporations do 3925
not have a conflict of interest by virtue of their service in the 3926
position. For the purposes of this division, "conflict of 3927
interest" means the taking of any action as a member of the 3928
council that affects a public agency the person serves as an 3929
officer or employee. 3930

(F) The department of development shall provide office space 3931
for the council. The council shall be assisted in its duties by 3932
the staff of the department of development and the environmental 3933
protection agency. 3934

(G) Sections 101.82 to 101.87 of the Revised Code do not 3935
apply to the clean Ohio council. 3936

Sec. 122.658. (A) The clean Ohio revitalization fund is 3937
hereby created in the state treasury. The fund shall consist of 3938
moneys credited to it pursuant to section 151.40 of the Revised 3939
Code. Moneys in the fund shall be used to make grants or loans for 3940
projects that have been approved by the clean Ohio council in 3941

accordance with section 122.653 of the Revised Code, except that 3942
the council annually shall devote twenty per cent of the net 3943
proceeds of obligations deposited in the clean Ohio revitalization 3944
fund for the purposes of section 122.656 of the Revised Code. 3945

Moneys in the clean Ohio revitalization fund may be used to 3946
pay reasonable costs incurred by the department of development and 3947
the environmental protection agency in administering sections 3948
122.65 to 122.658 of the Revised Code. All investment earnings of 3949
the fund shall be credited to the fund. ~~For two years after July~~ 3950
~~26, 2001, investment~~ Investment earnings credited to the clean 3951
Ohio revitalization fund may be used to pay costs incurred by the 3952
department of development and the environmental protection agency 3953
pursuant to sections 122.65 to 122.658 of the Revised Code. 3954

The department of development shall administer the clean Ohio 3955
revitalization fund in accordance with this section, policies and 3956
requirements established under section 122.657 of the Revised 3957
Code, and the terms of agreements entered into by the council 3958
under section 122.653 of the Revised Code. 3959

(B) Grants awarded and loans made under section 122.653 of 3960
the Revised Code shall provide not more than seventy-five per cent 3961
of the estimated total cost of a project. A grant or loan to any 3962
one project shall not exceed three million dollars. An applicant 3963
shall provide at least twenty-five per cent of the estimated total 3964
cost of a project. The applicant's share may consist of one or a 3965
combination of any of the following: 3966

(1) Payment of the cost of acquiring the property for the 3967
purposes of sections 122.65 to 122.658 of the Revised Code; 3968

(2) Payment of the reasonable cost of an assessment at the 3969
property; 3970

(3) The reasonable value, as determined by the council, of 3971
labor and materials that will be contributed by the applicant in 3972

performing the cleanup or remediation; 3973

(4) Moneys received by the applicant in any form for use in 3974
performing the cleanup or remediation; 3975

(5) Loans secured by the applicant for the purpose of the 3976
cleanup or remediation of the brownfield. 3977

Costs that were incurred more than two years prior to the 3978
submission of an application to the clean Ohio council for the 3979
acquisition of property, assessments, and labor and materials 3980
shall not be used as part of the applicant's matching share. 3981

(C) The department of development shall not make any payment 3982
to an applicant from the clean Ohio revitalization fund to pay 3983
costs of the applicant that were not included in an application 3984
for a grant or loan under section 122.653 of the Revised Code or 3985
that exceed the amount of the estimated total cost of the project 3986
included in the application. If, upon completion of a project, the 3987
costs of the project are less than the amounts included in the 3988
application, the amounts included in the application less the 3989
amounts of the actual costs of the project shall be credited to 3990
the clean Ohio revitalization fund. However, the amounts credited 3991
shall be equivalent in percentage to the percentage of the costs 3992
of the project that were to be funded by the grant or loan from 3993
the fund. 3994

(D) Grants awarded or loans made under section 122.653 of the 3995
Revised Code from the clean Ohio revitalization fund shall be used 3996
by an applicant only to pay the costs of the actual cleanup or 3997
remediation of a brownfield and shall not be used by an applicant 3998
to pay any administrative costs incurred by the applicant. Costs 3999
related to the use of a certified professional for purposes of 4000
section 122.654 of the Revised Code are not administrative costs 4001
and may be paid with moneys from grants awarded or loans made 4002
under section 122.653 of the Revised Code. 4003

(E) The portion of net proceeds of obligations devoted under 4004
division (A) of this section for the purposes of section 122.656 4005
of the Revised Code shall be used to make grants for assessments, 4006
cleanup or remediation of brownfields, and public health projects 4007
that have been approved by the director of development under that 4008
section. The department of development shall administer section 4009
122.656 of the Revised Code in accordance with this section, 4010
policies and requirements established under section 122.657 of the 4011
Revised Code, and the terms of agreements entered into by the 4012
director under section 122.656 of the Revised Code. The director 4013
shall not grant more than twenty-five million dollars for public 4014
health projects under section 122.656 of the Revised Code. 4015

(F) Grants awarded under section 122.656 of the Revised Code 4016
shall be used by an applicant only to pay the costs of actually 4017
conducting an assessment, a cleanup or remediation of a 4018
brownfield, or a public health project and shall not be used by an 4019
applicant to pay any administrative costs incurred by the 4020
applicant. Costs related to the use of a certified professional 4021
for purposes of section 122.654 of the Revised Code are not 4022
administrative costs and may be paid with moneys from grants 4023
awarded under section 122.656 of the Revised Code. 4024

(G)(1) The clean Ohio revitalization revolving loan fund is 4025
hereby created in the state treasury. Payments of principal and 4026
interest on loans made from the clean Ohio revitalization fund 4027
shall be credited to this revolving loan fund, as shall payments 4028
of principal and interest on loans made from the revolving loan 4029
fund itself. The revolving loan fund's investment earnings shall 4030
be credited to it. 4031

(2) The clean Ohio revitalization revolving loan fund shall 4032
be used to make loans for the same purposes and subject to the 4033
same policies, requirements, criteria, and application procedures 4034
as loans made from the clean Ohio revitalization fund. 4035

Sec. 122.87. As used in sections 122.87 to ~~122.89~~ 122.90 of 4036
the Revised Code: 4037

(A) "Surety company" means a company that is authorized by 4038
the department of insurance to issue bonds as surety. 4039

(B) "Minority business" means any of the following 4040
occupations: 4041

(1) Minority construction contractor; 4042

(2) Minority seller; 4043

(3) Minority service vendor. 4044

(C) "Minority construction contractor" means a person who is 4045
both a construction contractor and an owner of a minority business 4046
enterprise certified under division (B) of section 123.151 of the 4047
Revised Code. 4048

(D) "Minority seller" means a person who is both a seller of 4049
goods and an owner of a minority business enterprise listed on the 4050
special minority business enterprise bid notification list under 4051
division (B) of section 125.08 of the Revised Code. 4052

(E) "Minority service vendor" means a person who is both a 4053
vendor of services and an owner of a minority business enterprise 4054
listed on the special minority business enterprise bid 4055
notification list under division (B) of section 125.08 of the 4056
Revised Code. 4057

(F) "Minority business enterprise" has the meaning given in 4058
section 122.71 of the Revised Code. 4059

(G) "EDGE business enterprise" means a sole proprietorship, 4060
association, partnership, corporation, limited liability 4061
corporation, or joint venture certified as a participant in the 4062
encouraging diversity, growth, and equity program by the director 4063
of administrative services under section 123.152 of the Revised 4064

Code. 4065

Sec. 122.88. (A) There is hereby created in the state 4066
treasury the minority business bonding fund, consisting of moneys 4067
deposited or credited to it pursuant to section 169.05 of the 4068
Revised Code; all grants, gifts, and contributions received 4069
pursuant to division (B)(9) of section 122.74 of the Revised Code; 4070
all moneys recovered following defaults; and any other moneys 4071
obtained by the director of development for the purposes of 4072
sections 122.87 to ~~122.89~~ 122.90 of the Revised Code. The fund 4073
shall be administered by the director. Moneys in the fund shall be 4074
held in trust for the purposes of sections 122.87 to ~~122.89~~ 122.90 4075
of the Revised Code. 4076

(B) Any claims against the state arising from defaults shall 4077
be payable from the minority business bonding program 4078
administrative and loss reserve fund as provided in division (C) 4079
of this section or from the minority business bonding fund. 4080
Nothing in sections 122.87 to ~~122.89~~ 122.90 of the Revised Code 4081
grants or pledges to any obligee or other person any state moneys 4082
other than the moneys in the minority business bonding program 4083
administrative and loss reserve fund or the minority business 4084
bonding fund, or moneys available to the minority business bonding 4085
fund upon request of the director in accordance with division (B) 4086
of section 169.05 of the Revised Code. 4087

(C) There is hereby created in the state treasury the 4088
minority business bonding program administrative and loss reserve 4089
fund, consisting of all premiums charged and collected in 4090
accordance with section 122.89 of the Revised Code and any 4091
interest income earned from the moneys in the minority business 4092
bonding fund. All expenses of the director and the minority 4093
development financing advisory board in carrying out the purposes 4094
of sections 122.87 to ~~122.89~~ 122.90 of the Revised Code shall be 4095

paid from the minority business bonding program administrative and 4096
loss reserve fund. 4097

Any moneys to the credit of the minority business bonding 4098
program administrative and loss reserve fund in excess of the 4099
amount necessary to fund the appropriation authority for the 4100
minority business bonding program administrative and loss reserve 4101
fund shall be held as a loss reserve to pay claims arising from 4102
defaults on surety bonds underwritten in accordance with section 4103
122.89 of the Revised Code or guaranteed in accordance with 4104
section 122.90 of the Revised Code. If the balance of funds in the 4105
minority business bonding program administrative and loss reserve 4106
fund is insufficient to pay a claim against the state arising from 4107
default, then such claim shall be payable from the minority 4108
business bonding fund. 4109

Sec. 122.90. (A) The director of development may guarantee 4110
bonds executed by sureties for minority businesses and EDGE 4111
business enterprises certified under section 123.152 of the 4112
Revised Code as principals on contracts with the state, any 4113
political subdivision or instrumentality, or any person as the 4114
obligee. The director, as guarantor, may exercise all the rights 4115
and powers of a company authorized by the department of insurance 4116
to guarantee bonds under Chapter 3929. of the Revised Code but 4117
otherwise is not subject to any laws related to a guaranty company 4118
under Title XXXIX of the Revised Code nor to any rules of the 4119
department of insurance. 4120

(B) The director shall adopt rules under Chapter 119. of the 4121
Revised Code to establish procedures for the application for bond 4122
guarantees and the review and approval of applications for bond 4123
guarantees submitted by sureties that execute bonds eligible for 4124
guarantees under division (A) of this section. 4125

(C) In accordance with rules adopted pursuant to this 4126

section, the director may guarantee up to ninety per cent of the 4127
loss incurred and paid by sureties on bonds guaranteed under 4128
division (A) of this section. 4129

(D) The penal sum amounts of all outstanding guarantees made 4130
by the director under this section shall not exceed three times 4131
the difference between the amount of moneys in the minority 4132
business bonding fund and available to the fund under division (B) 4133
of section 169.05 of the Revised Code and the amount of all 4134
outstanding bonds issued by the director in accordance with 4135
division (A) of section 122.89 of the Revised Code. 4136

Sec. 123.01. (A) The department of administrative services, 4137
in addition to those powers enumerated in Chapters 124. and 125. 4138
of the Revised Code, and as provided elsewhere by law, shall 4139
exercise the following powers: 4140

(1) To prepare, or contract to be prepared, by licensed 4141
engineers or architects, surveys, general and detailed plans, 4142
specifications, bills of materials, and estimates of cost for any 4143
projects, improvements, or public buildings to be constructed by 4144
state agencies that may be authorized by legislative 4145
appropriations or any other funds made available therefor, 4146
provided that the construction of the projects, improvements, or 4147
public buildings is a statutory duty of the department. This 4148
section does not require the independent employment of an 4149
architect or engineer as provided by section 153.01 of the Revised 4150
Code in the cases to which that section applies nor affect or 4151
alter the existing powers of the director of transportation. 4152

(2) To have general supervision over the construction of any 4153
projects, improvements, or public buildings constructed for a 4154
state agency and over the inspection of materials previous to 4155
their incorporation into those projects, improvements, or 4156
buildings; 4157

(3) To make contracts for and supervise the construction of 4158
any projects and improvements or the construction and repair of 4159
buildings under the control of a state agency, except contracts 4160
for the repair of buildings under the management and control of 4161
the departments of public safety, job and family services, mental 4162
health, mental retardation and developmental disabilities, 4163
rehabilitation and correction, and youth services, the bureau of 4164
workers' compensation, the rehabilitation services commission, and 4165
boards of trustees of educational and benevolent institutions. 4166
These contracts shall be made and entered into by the directors of 4167
public safety, job and family services, mental health, mental 4168
retardation and developmental disabilities, rehabilitation and 4169
correction, and youth services, the administrator of workers' 4170
compensation, the rehabilitation services commission, and the 4171
boards of trustees of such institutions, respectively. All such 4172
contracts may be in whole or in part on unit price basis of 4173
maximum estimated cost, with payment computed and made upon actual 4174
quantities or units. 4175

(4) To prepare and suggest comprehensive plans for the 4176
development of grounds and buildings under the control of a state 4177
agency; 4178

(5) To acquire, by purchase, gift, devise, lease, or grant, 4179
all real estate required by a state agency, in the exercise of 4180
which power the department may exercise the power of eminent 4181
domain, in the manner provided by sections 163.01 to 163.22 of the 4182
Revised Code; 4183

(6) To make and provide all plans, specifications, and models 4184
for the construction and perfection of all systems of sewerage, 4185
drainage, and plumbing for the state in connection with buildings 4186
and grounds under the control of a state agency; 4187

(7) To erect, supervise, and maintain all public monuments 4188

and memorials erected by the state, except where the supervision 4189
and maintenance is otherwise provided by law; 4190

(8) To procure, by lease, storage accommodations for a state 4191
agency; 4192

(9) To lease or grant easements or licenses for unproductive 4193
and unused lands or other property under the control of a state 4194
agency. Such leases, easements, or licenses shall be granted for a 4195
period not to exceed fifteen years and shall be executed for the 4196
state by the director of administrative services and the governor 4197
and shall be approved as to form by the attorney general, provided 4198
that leases, easements, or licenses may be granted to any county, 4199
township, municipal corporation, port authority, water or sewer 4200
district, school district, library district, health district, park 4201
district, soil and water conservation district, conservancy 4202
district, or other political subdivision or taxing district, or 4203
any agency of the United States government, for the exclusive use 4204
of that agency, political subdivision, or taxing district, without 4205
any right of sublease or assignment, for a period not to exceed 4206
fifteen years, and provided that the director shall grant leases, 4207
easements, or licenses of university land for periods not to 4208
exceed twenty-five years for purposes approved by the respective 4209
university's board of trustees wherein the uses are compatible 4210
with the uses and needs of the university and may grant leases of 4211
university land for periods not to exceed forty years for purposes 4212
approved by the respective university's board of trustees pursuant 4213
to section 123.77 of the Revised Code. 4214

(10) To lease office space in buildings for the use of a 4215
state agency; 4216

(11) To have general supervision and care of the storerooms, 4217
offices, and buildings leased for the use of a state agency; 4218

(12) To exercise general custodial care of all real property 4219

of the state; 4220

(13) To assign and group together state offices in any city 4221
in the state and to establish, in cooperation with the state 4222
agencies involved, rules governing space requirements for office 4223
or storage use; 4224

(14) To lease for a period not to exceed forty years, 4225
pursuant to a contract providing for the construction thereof 4226
under a lease-purchase plan, buildings, structures, and other 4227
improvements for any public purpose, and, in conjunction 4228
therewith, to grant leases, easements, or licenses for lands under 4229
the control of a state agency for a period not to exceed forty 4230
years. The lease-purchase plan shall provide that at the end of 4231
the lease period, the buildings, structures, and related 4232
improvements, together with the land on which they are situated, 4233
shall become the property of the state without cost. 4234

(a) Whenever any building, structure, or other improvement is 4235
to be so leased by a state agency, the department shall retain 4236
either basic plans, specifications, bills of materials, and 4237
estimates of cost with sufficient detail to afford bidders all 4238
needed information or, alternatively, all of the following plans, 4239
details, bills of materials, and specifications: 4240

(i) Full and accurate plans suitable for the use of mechanics 4241
and other builders in the improvement; 4242

(ii) Details to scale and full sized, so drawn and 4243
represented as to be easily understood; 4244

(iii) Accurate bills showing the exact quantity of different 4245
kinds of material necessary to the construction; 4246

(iv) Definite and complete specifications of the work to be 4247
performed, together with such directions as will enable a 4248
competent mechanic or other builder to carry them out and afford 4249
bidders all needed information; 4250

(v) A full and accurate estimate of each item of expense and 4251
of the aggregate cost thereof. 4252

(b) The department shall give public notice, in such 4253
newspaper, in such form, and with such phraseology as the director 4254
of administrative services prescribes, published once each week 4255
for four consecutive weeks, of the time when and place where bids 4256
will be received for entering into an agreement to lease to a 4257
state agency a building, structure, or other improvement. The last 4258
publication shall be at least eight days preceding the day for 4259
opening the bids. The bids shall contain the terms upon which the 4260
builder would propose to lease the building, structure, or other 4261
improvement to the state agency. The form of the bid approved by 4262
the department shall be used, and a bid is invalid and shall not 4263
be considered unless that form is used without change, alteration, 4264
or addition. Before submitting bids pursuant to this section, any 4265
builder shall comply with Chapter 153. of the Revised Code. 4266

(c) On the day and at the place named for receiving bids for 4267
entering into lease agreements with a state agency, the director 4268
of administrative services shall open the bids and shall publicly 4269
proceed immediately to tabulate the bids upon duplicate sheets. No 4270
lease agreement shall be entered into until the bureau of workers' 4271
compensation has certified that the person to be awarded the lease 4272
agreement has complied with Chapter 4123. of the Revised Code, 4273
until, if the builder submitting the lowest and best bid is a 4274
foreign corporation, the secretary of state has certified that the 4275
corporation is authorized to do business in this state, until, if 4276
the builder submitting the lowest and best bid is a person 4277
nonresident of this state, the person has filed with the secretary 4278
of state a power of attorney designating the secretary of state as 4279
its agent for the purpose of accepting service of summons in any 4280
action brought under Chapter 4123. of the Revised Code, and until 4281
the agreement is submitted to the attorney general and the 4282

attorney general's approval is certified thereon. Within thirty 4283
days after the day on which the bids are received, the department 4284
shall investigate the bids received and shall determine that the 4285
bureau and the secretary of state have made the certifications 4286
required by this section of the builder who has submitted the 4287
lowest and best bid. Within ten days of the completion of the 4288
investigation of the bids, the department shall award the lease 4289
agreement to the builder who has submitted the lowest and best bid 4290
and who has been certified by the bureau and secretary of state as 4291
required by this section. If bidding for the lease agreement has 4292
been conducted upon the basis of basic plans, specifications, 4293
bills of materials, and estimates of costs, upon the award to the 4294
builder the department, or the builder with the approval of the 4295
department, shall appoint an architect or engineer licensed in 4296
this state to prepare such further detailed plans, specifications, 4297
and bills of materials as are required to construct the building, 4298
structure, or improvement. The department shall adopt such rules 4299
as are necessary to give effect to this section. The department 4300
may reject any bid. Where there is reason to believe there is 4301
collusion or combination among bidders, the bids of those 4302
concerned therein shall be rejected. 4303

(15) To acquire by purchase, gift, devise, or grant and to 4304
transfer, lease, or otherwise dispose of all real property 4305
required to assist in the development of a conversion facility as 4306
defined in section 5709.30 of the Revised Code as that section 4307
existed before its repeal by H.B. 95 of the 125th general 4308
assembly; 4309

(16) To lease for a period not to exceed forty years, 4310
notwithstanding any other division of this section, the 4311
state-owned property located at 408-450 East Town Street, 4312
Columbus, Ohio, formerly the state school for the deaf, to a 4313
developer in accordance with this section. "Developer," as used in 4314

this section, has the same meaning as in section 123.77 of the Revised Code. 4315
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Such a lease shall be for the purpose of development of the land for use by senior citizens by constructing, altering, renovating, repairing, expanding, and improving the site as it existed on June 25, 1982. A developer desiring to lease the land shall prepare for submission to the department a plan for development. Plans shall include provisions for roads, sewers, water lines, waste disposal, water supply, and similar matters to meet the requirements of state and local laws. The plans shall also include provision for protection of the property by insurance or otherwise, and plans for financing the development, and shall set forth details of the developer's financial responsibility. 4317
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The department may employ, as employees or consultants, persons needed to assist in reviewing the development plans. Those persons may include attorneys, financial experts, engineers, and other necessary experts. The department shall review the development plans and may enter into a lease if it finds all of the following: 4328
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(a) The best interests of the state will be promoted by entering into a lease with the developer; 4334
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(b) The development plans are satisfactory; 4336

(c) The developer has established the developer's financial responsibility and satisfactory plans for financing the development. 4337
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The lease shall contain a provision that construction or renovation of the buildings, roads, structures, and other necessary facilities shall begin within one year after the date of the lease and shall proceed according to a schedule agreed to between the department and the developer or the lease will be terminated. The lease shall contain such conditions and 4340
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stipulations as the director considers necessary to preserve the 4346
best interest of the state. Moneys received by the state pursuant 4347
to this lease shall be paid into the general revenue fund. The 4348
lease shall provide that at the end of the lease period the 4349
buildings, structures, and related improvements shall become the 4350
property of the state without cost. 4351

(17) To lease to any person any tract of land owned by the 4352
state and under the control of the department, or any part of such 4353
a tract, for the purpose of drilling for or the pooling of oil or 4354
gas. Such a lease shall be granted for a period not exceeding 4355
forty years, with the full power to contract for, determine the 4356
conditions governing, and specify the amount the state shall 4357
receive for the purposes specified in the lease, and shall be 4358
prepared as in other cases. 4359

(18) Biennially implement, by state agency location, a census 4360
of agency employees assigned space; 4361

(19) Require each state agency to categorize periodically the 4362
use of space allotted to the agency between office space, common 4363
areas, storage space, and other uses and report its findings to 4364
the department; 4365

(20) Create and update periodically a master space 4366
utilization plan for all space allotted to state agencies. The 4367
plan shall incorporate space utilization metrics. 4368

(21) Conduct periodically a cost-benefit analysis to 4369
determine the effectiveness of state-owned buildings; 4370

(22) Assess periodically the alternatives associated with 4371
consolidating the commercial leases for buildings located in 4372
Columbus; 4373

(23) Commission a comprehensive space utilization and 4374
capacity study in order to determine the feasibility of 4375
consolidating existing commercially leased space used by state 4376

agencies into a new state-owned facility. 4377

(B) This section and section 125.02 of the Revised Code shall 4378
not interfere with any of the following: 4379

(1) The power of the adjutant general to purchase military 4380
supplies, or with the custody of the adjutant general of property 4381
leased, purchased, or constructed by the state and used for 4382
military purposes, or with the functions of the adjutant general 4383
as director of state armories; 4384

(2) The power of the director of transportation in acquiring 4385
rights-of-way for the state highway system, or the leasing of 4386
lands for division or resident district offices, or the leasing of 4387
lands or buildings required in the maintenance operations of the 4388
department of transportation, or the purchase of real property for 4389
garage sites or division or resident district offices, or in 4390
preparing plans and specifications for and constructing such 4391
buildings as the director may require in the administration of the 4392
department; 4393

(3) The power of the director of public safety and the 4394
registrar of motor vehicles to purchase or lease real property and 4395
buildings to be used solely as locations to which a deputy 4396
registrar is assigned pursuant to division (B) of section 4507.011 4397
of the Revised Code and from which the deputy registrar is to 4398
conduct the deputy registrar's business, the power of the director 4399
of public safety to purchase or lease real property and buildings 4400
to be used as locations for division or district offices as 4401
required in the maintenance of operations of the department of 4402
public safety, and the power of the superintendent of the state 4403
highway patrol in the purchase or leasing of real property and 4404
buildings needed by the patrol, to negotiate the sale of real 4405
property owned by the patrol, to rent or lease real property owned 4406
or leased by the patrol, and to make or cause to be made repairs 4407
to all property owned or under the control of the patrol; 4408

(4) The power of the division of liquor control in the 4409
leasing or purchasing of retail outlets and warehouse facilities 4410
for the use of the division; 4411

(5) The power of the director of development to enter into 4412
leases of real property, buildings, and office space to be used 4413
solely as locations for the state's foreign offices to carry out 4414
the purposes of section 122.05 of the Revised Code. 4415

(C) Purchases for, and the custody and repair of, buildings 4416
under the management and control of the capitol square review and 4417
advisory board, the rehabilitation services commission, the bureau 4418
of workers' compensation, or the departments of public safety, job 4419
and family services, mental health, mental retardation and 4420
developmental disabilities, and rehabilitation and correction, and 4421
buildings of educational and benevolent institutions under the 4422
management and control of boards of trustees, are not subject to 4423
the control and jurisdiction of the department of administrative 4424
services. 4425

(D) Any instrument by which real property is acquired 4426
pursuant to this section shall identify the agency of the state 4427
that has the use and benefit of the real property as specified in 4428
section 5301.012 of the Revised Code. 4429

Sec. 123.152. (A) As used in this section, "EDGE business 4430
enterprise" means a sole proprietorship, association, partnership, 4431
corporation, limited liability corporation, or joint venture 4432
certified as a participant in the encouraging diversity, growth, 4433
and equity program by the director of administrative services 4434
under this section of the Revised Code. 4435

(B) The director of administrative services shall establish a 4436
business assistance program known as the encouraging diversity, 4437
growth, and equity program and shall adopt rules in accordance 4438

with Chapter 119. of the Revised Code to administer the program 4439
and that do all of the following: 4440

(1) Establish procedures by which a sole proprietorship, 4441
association, partnership, corporation, limited liability 4442
corporation, or joint venture may apply for certification as an 4443
EDGE business enterprise; 4444

(2) Establish agency procurement goals for contracting with 4445
EDGE business enterprises in the award of contracts under Chapters 4446
123., 125., and 153. of the Revised Code based on the availability 4447
of eligible program participants by region or geographic area, as 4448
determined by the director, and by standard industrial code. 4449

(a) Goals established under division (B)(2) of this section 4450
shall be based on a percentage level of participation and a 4451
percentage of contractor availability. 4452

(b) Goals established under division (B)(2) of this section 4453
shall be applied at the contract level, relative to an overall 4454
dollar goal for each state agency, in accordance with the 4455
following certification categories: construction, architecture, 4456
and engineering; professional services; goods and services; and 4457
information technology services. 4458

(3) Establish a system of certifying EDGE business 4459
enterprises based on a requirement that the business owner or 4460
owners show both social and economic disadvantage based on the 4461
following, as determined to be sufficient by the director: 4462

(a) Relative wealth of the business seeking certification as 4463
well as the personal wealth of the owner or owners of the 4464
business; 4465

(b) Social disadvantage based on any of the following: 4466

(i) A rebuttable presumption when the business owner or 4467
owners demonstrate membership in a racial minority group or show 4468

<u>personal disadvantage due to color, ethnic origin, gender,</u>	4469
<u>physical disability, long-term residence in an environment</u>	4470
<u>isolated from the mainstream of American society, location in an</u>	4471
<u>area of high unemployment;</u>	4472
<u>(ii) Some other demonstration of personal disadvantage not</u>	4473
<u>common to other small businesses;</u>	4474
<u>(iii) By business location in a qualified census tract.</u>	4475
<u>(c) Economic disadvantage based on economic and business size</u>	4476
<u>thresholds and eligibility criteria designed to stimulate economic</u>	4477
<u>development through contract awards to businesses located in</u>	4478
<u>qualified census tracts.</u>	4479
<u>(4) Establish standards to determine when an EDGE business</u>	4480
<u>enterprise no longer qualifies for EDGE business enterprise</u>	4481
<u>certification;</u>	4482
<u>(5) Develop a process for evaluating and adjusting goals</u>	4483
<u>established by this section to determine what adjustments are</u>	4484
<u>necessary to achieve participation goals established by the</u>	4485
<u>director;</u>	4486
<u>(6) Establish a point system to evaluate bid proposals to</u>	4487
<u>encourage EDGE business enterprises to participate in the</u>	4488
<u>procurement of professional design and information technology</u>	4489
<u>services;</u>	4490
<u>(7) Establish a system to track data and analyze each</u>	4491
<u>certification category established under division (B)(2)(b) of</u>	4492
<u>this section;</u>	4493
<u>(8) Establish a process to mediate complaints and to review</u>	4494
<u>EDGE business enterprise certification appeals;</u>	4495
<u>(9) Implement an outreach program to educate potential</u>	4496
<u>participants about the encouraging diversity, growth, and equity</u>	4497
<u>program;</u>	4498

(10) Establish a system to assist state agencies in identifying and utilizing EDGE business enterprises in their contracting processes; 4499
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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; 4502
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(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; 4505
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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. 4509
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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. 4513
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Sec. 124.03. The state personnel board of review shall exercise the following powers and perform the following duties: 4518
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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 4520
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(D) of section 124.14 of the Revised Code. As used in this 4529
division, "discharge" includes disability separations. ~~The~~ 4530

The board may affirm, disaffirm, or modify the decisions of 4531
the appointing authorities or the director, as the case may be, 4532
and its decision is final. The board's decisions shall be 4533
consistent with the applicable classification specifications. ~~The~~ 4534

The board shall not be deprived of jurisdiction to hear any 4535
appeal due to the failure of an appointing authority to file its 4536
decision with the board. Any final decision of an appointing 4537
authority or of the director not filed in the manner provided in 4538
this chapter shall be disaffirmed. ~~The~~ 4539

The board may place an exempt employee, as defined in section 4540
124.152 of the Revised Code, into a bargaining unit 4541
classification, if the board determines that the bargaining unit 4542
classification is the proper classification for that employee. 4543
Notwithstanding Chapter 4117. of the Revised Code or instruments 4544
and contracts negotiated under it, such placements are at the 4545
board's discretion. 4546

In any hearing before the board, including any hearing at 4547
which a record is taken that may be the basis of an appeal to a 4548
court, an employee may be represented by a person permitted to 4549
practice before the board who is not an attorney at law ~~so~~ as long 4550
as the person does not receive any compensation from the employee 4551
for ~~such~~ the representation. 4552

(B) Hear appeals, as provided by law, of appointing 4553
authorities from final decisions of the director relative to the 4554
classification or reclassification of any position in the 4555
classified state service under the jurisdiction of ~~such~~ that 4556
appointing authority. The board may affirm, disaffirm, or modify 4557
the decisions of the director, and its decision is final. The 4558
board's decisions shall be consistent with the applicable 4559

classification specifications. 4560

(C) Exercise the authority provided by section 124.40 of the 4561
Revised Code, for appointment, removal, and supervision of 4562
municipal and civil service township civil service commissions; 4563

(D) Appoint a secretary, referees, examiners, and whatever 4564
other employees are necessary in the exercise of its powers and 4565
performance of its duties and functions. The board shall determine 4566
appropriate education and experience requirements for its 4567
secretary, referees, examiners, and other employees and shall 4568
prescribe their duties. A referee or examiner does not need to 4569
have been admitted to the practice of law. 4570

(E) Maintain a journal ~~which~~ that shall be open to public 4571
inspection, in which it shall keep a record of all of its 4572
proceedings and of the vote of each of its members upon every 4573
action taken by it; 4574

(F) Adopt rules in accordance with Chapter 119. of the 4575
Revised Code relating to the procedure of the board in 4576
administering the laws ~~which~~ it has the authority or duty to 4577
administer and for the purpose of invoking the jurisdiction of the 4578
board in hearing appeals of appointing authorities and employees 4579
in matters set forth in divisions (A) and (B) of this section; 4580

(G) Subpoena and require the attendance and testimony of 4581
witnesses and the production of books, papers, public records, and 4582
other documentary evidence pertinent to any matter ~~which~~ it has 4583
authority to investigate, inquire into, or hear in the same manner 4584
and to the same extent as provided by division (G) of section 4585
124.09 of the Revised Code. All witness fees shall be paid in the 4586
manner set forth in that division. 4587

(H) The board shall be funded by general revenue fund 4588
appropriations. All moneys received by the board for copies of 4589
documents, rule books, and transcriptions shall be paid into the 4590

state treasury to the credit of the transcript and other documents 4591
 fund, which is hereby created to defray the cost of ~~furnishing or~~ 4592
~~making available such copies, rule books, and transcriptions~~ 4593
producing an administrative record. 4594

Sec. 124.15. (A) Board and commission members appointed prior 4595
 to July 1, 1991, shall be paid a salary or wage in accordance with 4596
 the following schedules of rates: 4597

Schedule B 4598

Pay Ranges and Step Values 4599

Range	Step 1	Step 2	Step 3	Step 4	
23 Hourly	5.72	5.91	6.10	6.31	4601
Annually	11897.60	12292.80	12688.00	13124.80	4602
	Step 5	Step 6			4603
Hourly	6.52	6.75			4604
Annually	13561.60	14040.00			4605
	Step 1	Step 2	Step 3	Step 4	4606
24 Hourly	6.00	6.20	6.41	6.63	4607
Annually	12480.00	12896.00	13332.80	13790.40	4608
	Step 5	Step 6			4609
Hourly	6.87	7.10			4610
Annually	14289.60	14768.00			4611
	Step 1	Step 2	Step 3	Step 4	4612
25 Hourly	6.31	6.52	6.75	6.99	4613
Annually	13124.80	13561.60	14040.00	14539.20	4614
	Step 5	Step 6			4615
Hourly	7.23	7.41			4616
Annually	15038.40	15412.80			4617
	Step 1	Step 2	Step 3	Step 4	4618
26 Hourly	6.63	6.87	7.10	7.32	4619
Annually	13790.40	14289.60	14768.00	15225.60	4620
	Step 5	Step 6			4621
Hourly	7.53	7.77			4622

	Annually	15662.40	16161.60			4623
		Step 1	Step 2	Step 3	Step 4	4624
27	Hourly	6.99	7.23	7.41	7.64	4625
	Annually	14534.20	15038.40	15412.80	15891.20	4626
		Step 5	Step 6	Step 7		4627
	Hourly	7.88	8.15	8.46		4628
	Annually	16390.40	16952.00	17596.80		4629
		Step 1	Step 2	Step 3	Step 4	4630
28	Hourly	7.41	7.64	7.88	8.15	4631
	Annually	15412.80	15891.20	16390.40	16952.00	4632
		Step 5	Step 6	Step 7		4633
	Hourly	8.46	8.79	9.15		4634
	Annually	17596.80	18283.20	19032.00		4635
		Step 1	Step 2	Step 3	Step 4	4636
29	Hourly	7.88	8.15	8.46	8.79	4637
	Annually	16390.40	16952.00	17596.80	18283.20	4638
		Step 5	Step 6	Step 7		4639
	Hourly	9.15	9.58	10.01		4640
	Annually	19032.00	19926.40	20820.80		4641
		Step 1	Step 2	Step 3	Step 4	4642
30	Hourly	8.46	8.79	9.15	9.58	4643
	Annually	17596.80	18283.20	19032.00	19926.40	4644
		Step 5	Step 6	Step 7		4645
	Hourly	10.01	10.46	10.99		4646
	Annually	20820.80	21756.80	22859.20		4647
		Step 1	Step 2	Step 3	Step 4	4648
31	Hourly	9.15	9.58	10.01	10.46	4649
	Annually	19032.00	19962.40	20820.80	21756.80	4650
		Step 5	Step 6	Step 7		4651
	Hourly	10.99	11.52	12.09		4652
	Annually	22859.20	23961.60	25147.20		4653
		Step 1	Step 2	Step 3	Step 4	4654
32	Hourly	10.01	10.46	10.99	11.52	4655

	Annually	20820.80	21756.80	22859.20	23961.60	4656
		Step 5	Step 6	Step 7	Step 8	4657
	Hourly	12.09	12.68	13.29	13.94	4658
	Annually	25147.20	26374.40	27643.20	28995.20	4659
		Step 1	Step 2	Step 3	Step 4	4660
33	Hourly	10.99	11.52	12.09	12.68	4661
	Annually	22859.20	23961.60	25147.20	26374.40	4662
		Step 5	Step 6	Step 7	Step 8	4663
	Hourly	13.29	13.94	14.63	15.35	4664
	Annually	27643.20	28995.20	30430.40	31928.00	4665
		Step 1	Step 2	Step 3	Step 4	4666
34	Hourly	12.09	12.68	13.29	13.94	4667
	Annually	25147.20	26374.40	27643.20	28995.20	4668
		Step 5	Step 6	Step 7	Step 8	4669
	Hourly	14.63	15.35	16.11	16.91	4670
	Annually	30430.40	31928.00	33508.80	35172.80	4671
		Step 1	Step 2	Step 3	Step 4	4672
35	Hourly	13.29	13.94	14.63	15.35	4673
	Annually	27643.20	28995.20	30430.40	31928.00	4674
		Step 5	Step 6	Step 7	Step 8	4675
	Hourly	16.11	16.91	17.73	18.62	4676
	Annually	33508.80	35172.80	36878.40	38729.60	4677
		Step 1	Step 2	Step 3	Step 4	4678
36	Hourly	14.63	15.35	16.11	16.91	4679
	Annually	30430.40	31928.00	33508.80	35172.80	4680
		Step 5	Step 6	Step 7	Step 8	4681
	Hourly	17.73	18.62	19.54	20.51	4682
	Annually	36878.40	38729.60	40643.20	42660.80	4683
	Schedule C					4684
		Pay Range and Values				4685
	Range	Minimum		Maximum		4686
41	Hourly	10.44		15.72		4687
	Annually	21715.20		32697.60		4688

42 Hourly	11.51	17.35	4689
Annually	23940.80	36088.00	4690
43 Hourly	12.68	19.12	4691
Annually	26374.40	39769.60	4692
44 Hourly	13.99	20.87	4693
Annually	29099.20	43409.60	4694
45 Hourly	15.44	22.80	4695
Annually	32115.20	47424.00	4696
46 Hourly	17.01	24.90	4697
Annually	35380.80	51792.00	4698
47 Hourly	18.75	27.18	4699
Annually	39000.00	56534.40	4700
48 Hourly	20.67	29.69	4701
Annually	42993.60	61755.20	4702
49 Hourly	22.80	32.06	4703
Annually	47424.00	66684.80	4704

(B) The pay schedule of all employees shall be on a biweekly basis, with amounts computed on an hourly basis. 4705
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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. 4707
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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 4710
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administrative services and the director of budget and management, 4721
may establish payments to employees for uniforms, tools, 4722
equipment, and other requirements of the department and payments 4723
for the maintenance of them. 4724

The director of administrative services may review collective 4725
bargaining agreements entered into under Chapter 4117. of the 4726
Revised Code that cover state employees and determine whether 4727
certain benefits or payments provided to state employees covered 4728
by those agreements should also be provided to employees who are 4729
exempt from collective bargaining coverage and are paid in 4730
accordance with section 124.152 of the Revised Code or are listed 4731
in division (B)(2) or (4) of section 124.14 of the Revised Code. 4732
On completing the review, the director of administrative services, 4733
with the approval of the director of budget and management, may 4734
provide to some or all of these employees any payment or benefit, 4735
except for salary, contained in such a collective bargaining 4736
agreement even if it is similar to a payment or benefit already 4737
provided by law to some or all of these employees. Any payment or 4738
benefit so provided shall not exceed the highest level for that 4739
payment or benefit specified in such a collective bargaining 4740
agreement. The director of administrative services shall not 4741
provide, and the director of budget and management shall not 4742
approve, any payment or benefit to such an employee under this 4743
division unless the payment or benefit is provided pursuant to a 4744
collective bargaining agreement to a state employee who is in a 4745
position with similar duties as, is supervised by, or is employed 4746
by the same appointing authority as, the employee to whom the 4747
benefit or payment is to be provided. 4748

As used in this division, "payment or benefit already 4749
provided by law" includes, but is not limited to, bereavement, 4750
personal, vacation, administrative, and sick leave, disability 4751
benefits, holiday pay, and pay supplements provided under the 4752

Revised Code, but does not include wages or salary. 4753

(E) New employees paid under schedule B of division (A) of 4754
this section or under schedule E-1 of section 124.152 of the 4755
Revised Code shall be employed at the minimum rate established for 4756
the range unless otherwise provided. Employees with qualifications 4757
that are beyond the minimum normally required for the position and 4758
that are determined by the director to be exceptional may be 4759
employed in, or may be transferred or promoted to, a position at 4760
an advanced step of the range. Further, in time of a serious labor 4761
market condition when it is relatively impossible to recruit 4762
employees at the minimum rate for a particular classification, the 4763
entrance rate may be set at an advanced step in the range by the 4764
director of administrative services. This rate may be limited to 4765
geographical regions of the state. Appointments made to an 4766
advanced step under the provision regarding exceptional 4767
qualifications shall not affect the step assignment of employees 4768
already serving. However, anytime the hiring rate of an entire 4769
classification is advanced to a higher step, all incumbents of 4770
that classification being paid at a step lower than that being 4771
used for hiring, shall be advanced beginning at the start of the 4772
first pay period thereafter to the new hiring rate, and any time 4773
accrued at the lower step will be used to calculate advancement to 4774
a succeeding step. If the hiring rate of a classification is 4775
increased for only a geographical region of the state, only 4776
incumbents who work in that geographical region shall be advanced 4777
to a higher step. When an employee in the unclassified service 4778
changes from one state position to another or is appointed to a 4779
position in the classified service, or if an employee in the 4780
classified service is appointed to a position in the unclassified 4781
service, the employee's salary or wage in the new position shall 4782
be determined in the same manner as if the employee were an 4783
employee in the classified service. When an employee in the 4784
unclassified service who is not eligible for step increases is 4785

appointed to a classification in the classified service under 4786
which step increases are provided, future step increases shall be 4787
based on the date on which the employee last received a pay 4788
increase. If the employee has not received an increase during the 4789
previous year, the date of the appointment to the classified 4790
service shall be used to determine the employee's annual step 4791
advancement eligibility date. In reassigning any employee to a 4792
classification resulting in a pay range increase or to a new pay 4793
range as a result of a promotion, an increase pay range 4794
adjustment, or other classification change resulting in a pay 4795
range increase, the director shall assign such employee to the 4796
step in the new pay range that will provide an increase of 4797
approximately four per cent if the new pay range can accommodate 4798
the increase. When an employee is being assigned to a 4799
classification or new pay range as the result of a class plan 4800
change, if the employee has completed a probationary period, the 4801
employee shall be placed in a step no lower than step two of the 4802
new pay range. If the employee has not completed a probationary 4803
period, the employee may be placed in step one of the new pay 4804
range. Such new salary or wage shall become effective on such date 4805
as the director determines. 4806

(F) If employment conditions and the urgency of the work 4807
require such action, the director of administrative services may, 4808
upon the application of a department head, authorize payment at 4809
any rate established within the range for the class of work, for 4810
work of a casual or intermittent nature or on a project basis. 4811
Payment at such rates shall not be made to the same individual for 4812
more than three calendar months in any one calendar year. Any such 4813
action shall be subject to the approval of the director of budget 4814
and management as to the availability of funds. This section and 4815
sections 124.14 and 124.152 of the Revised Code do not repeal any 4816
authority of any department or public official to contract with or 4817
fix the compensation of professional persons who may be employed 4818

temporarily for work of a casual nature or for work on a project 4819
basis. 4820

(G) ~~Each~~ (1) Except as provided in division (G)(2) of this 4821
section, each state employee paid under schedule B of this section 4822
or under schedule E-1 of section 124.152 of the Revised Code shall 4823
be eligible for advancement to succeeding steps in the range for 4824
the employee's class according to the schedule established in this 4825
division. Beginning on the first day of the pay period within 4826
which the employee completes the prescribed probationary period in 4827
the employee's classification with the state, each employee shall 4828
receive an automatic salary adjustment equivalent to the next 4829
higher step within the pay range for the employee's class or 4830
grade. 4831

Each employee paid under schedule E-1 of section 124.152 of 4832
the Revised Code shall be eligible to advance to the next higher 4833
step until the employee reaches step six, if the employee has 4834
maintained satisfactory performance in accordance with criteria 4835
established by the employee's appointing authority. Those step 4836
~~increases~~ advancements shall not occur more frequently than once 4837
in any twelve-month period. An employee only may advance to step 4838
seven upon performing at an exemplary level as determined in the 4839
employee's performance evaluation. An employee's advancement to 4840
step seven is at the discretion of the employee's appointing 4841
authority. An employee may not appeal the denial of advancement to 4842
step seven to the state personnel board of review. 4843

When an employee is promoted or reassigned to a higher pay 4844
range, the employee's step indicator shall return to "0" or be 4845
adjusted to account for a probationary period, as appropriate. 4846
Step advancement shall not be affected by demotion. A promoted 4847
employee shall advance to the next higher step of the pay range on 4848
the first day of the pay period in which the required probationary 4849
period is completed. Step advancement shall become effective at 4850

the beginning of the pay period within which the employee attains 4851
the necessary length of service. Time spent on authorized leave of 4852
absence shall be counted for this purpose. 4853

If determined to be in the best interest of the state 4854
service, the director of administrative services may, either 4855
statewide or in selected agencies, adjust the dates on which 4856
annual step ~~increases~~ advancements are received by employees paid 4857
under schedule E-1 of section 124.152 of the Revised Code. 4858

(2)(a)(i) Except as provided in division (G)(2)(a)(ii) of 4859
this section, there shall be a moratorium on step advancements 4860
under division (G)(1) of this section from the pay period 4861
beginning June 29, 2003, through the pay period ending June 25, 4862
2005. Step advancements shall resume with the pay period beginning 4863
June 26, 2005. Upon the resumption of step advancements, there 4864
shall be no retroactive step advancements for the period the 4865
moratorium was in effect. The moratorium shall not affect an 4866
employee's performance evaluation schedule. 4867

(ii) During the moratorium under division (G)(2)(a)(i) of 4868
this section, an employee who is hired or promoted and serves a 4869
probationary period in the employee's new position shall advance 4870
to the next step in the employee's pay range upon successful 4871
completion of the employee's probationary period. Thereafter, the 4872
employee is subject to the moratorium. 4873

(b) The moratorium under division (G)(2)(a)(i) of this 4874
section shall apply to the employees of the secretary of state, 4875
the auditor of state, the treasurer of state, the attorney 4876
general, the supreme court, and state boards and commissions, who 4877
are subject to this section unless the secretary of state, auditor 4878
of state, treasurer of state, attorney general, supreme court, 4879
board, or commission decides to exempt its employees from the 4880
moratorium and so notifies the director of administrative services 4881
in writing on or before July 1, 2003. 4882

(H) Employees in appointive managerial or professional 4883
positions paid under salary schedule C of this section or under 4884
salary schedule E-2 of section 124.152 of the Revised Code may be 4885
appointed at any rate within the appropriate pay range. This rate 4886
of pay may be adjusted higher or lower within the respective pay 4887
range at any time the appointing authority so desires as long as 4888
the adjustment is based on the employee's ability to successfully 4889
administer those duties assigned to the employee. Salary 4890
adjustments shall not be made more frequently than once in any 4891
six-month period under this provision to incumbents holding the 4892
same position and classification. 4893

(I) When an employee is assigned to duty outside this state, 4894
the employee may be compensated, upon request of the department 4895
head and with the approval of the director of administrative 4896
services, at a rate not to exceed fifty per cent in excess of the 4897
employee's current base rate for the period of time spent on that 4898
duty. 4899

(J) Unless compensation for members of a board or commission 4900
is otherwise specifically provided by law, the director of 4901
administrative services shall establish the rate and method of 4902
payment for members of boards and commissions pursuant to the pay 4903
schedules listed in section 124.152 of the Revised Code. 4904

(K) Regular full-time employees in positions assigned to 4905
classes within the instruction and education administration series 4906
under the rules of the director of administrative services, except 4907
certificated employees on the instructional staff of the state 4908
school for the blind or the state school for the deaf, whose 4909
positions are scheduled to work on the basis of an academic year 4910
rather than a full calendar year, shall be paid according to the 4911
pay range assigned by such rules but only during those pay periods 4912
included in the academic year of the school where the employee is 4913
located. 4914

(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 4946
that begins on the ensuing first day of July, teacher salary 4947
schedules with the highest minimum salaries for a teacher with a 4948
bachelor's degree and no experience; 4949

(c) Divide the sum of such six highest minimum salaries by 4950
ten thousand five hundred sixty; 4951

(d) Multiply each per cent determined in division (L)(1)(a) 4952
of this section by the quotient obtained in division (L)(1)(c) of 4953
this section; 4954

(e) One hundred five per cent of each product thus obtained 4955
shall be the hourly rate for the corresponding level of training, 4956
experience, or other professional qualification in the schedule 4957
for the ensuing fiscal year. 4958

(2) Annually, assign each certificated employee on the 4959
instructional staff of the superintendent's respective school to 4960
an hourly rate on the schedule that is commensurate with the 4961
employee's training, experience, and other professional 4962
qualifications. 4963

If an employee is employed on the basis of an academic year, 4964
the employee's annual salary shall be calculated by multiplying 4965
the employee's assigned hourly rate times one thousand seven 4966
hundred sixty. If an employee is not employed on the basis of an 4967
academic year, the employee's annual salary shall be calculated in 4968
accordance with the following formula: 4969

(a) Multiply the number of days the employee is required to 4970
work pursuant to the employee's contract by eight; 4971

(b) Multiply the product of division (L)(2)(a) of this 4972
section by the employee's assigned hourly rate. 4973

Each employee shall be paid an annual salary in biweekly 4974
installments. The amount of each installment shall be calculated 4975

by dividing the employee's annual salary by the number of biweekly installments to be paid during the year. 4976
4977

Sections 124.13 and 124.19 of the Revised Code do not apply to an employee who is paid under this division. 4978
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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. 4980
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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. 4994
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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. 4997
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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:~~ 5002
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5005

	Annually	51667	54558	57658	60840	64189	67746	71469	5039
16	Hourly	27.39	28.91	30.51	32.21	33.99	35.92	37.90	5040
	Annually	56971	60133	63461	66997	70699	74714	78832	5041
17	Hourly	30.18	31.85	33.63	35.49	37.47	39.56	41.74	5042
	Annually	62774	66248	69950	73819	77938	82285	86819	5043
18	Hourly	33.26	35.10	37.07	39.12	41.28	43.59	45.99	5044
	Annually	69181	73008	77106	81370	85862	90667	95659	5045
Schedule E-2									5046
	Range			Minimum				Maximum	5047
41	Hourly			16.23				30.15	5048
	Annually			33758				62712	5049
42	Hourly			17.89				33.31	5050
	Annually			37211				69285	5051
43	Hourly			19.70				36.69	5052
	Annually			40976				76315	5053
44	Hourly			21.73				40.07	5054
	Annually			45198				83346	5055
45	Hourly			24.01				43.75	5056
	Annually			49941				91000	5057
46	Hourly			26.43				47.81	5058
	Annually			54974				99445	5059
47	Hourly			29.14				52.17	5060
	Annually			60611				108514	5061
48	Hourly			32.14				56.94	5062
	Annually			66851				118435	5063
49	Hourly			35.44				61.48	5064
	Annually			73715				127878	5065
(B) Beginning on the first day of the pay period that									5066
includes July 1, 2001, each exempt employee shall be paid a salary									5067
or wage in accordance with the following schedule of rates:									5068
Schedule E-1									5069
Pay Ranges and Step Values									5070

		Step	Step	Step	Step	Step	Step	Step	
	Range	1	2	3	4	5	6	7	
									5071
									5072
1	Hourly	8.44	8.81	9.19	9.59				5073
	Annually	17555	18325	19115	19947				5074
2	Hourly	10.23	10.66	11.13	11.62				5075
	Annually	21278	22173	23150	24170				5076
3	Hourly	10.71	11.20	11.69	12.20				5077
	Annually	22277	23296	24315	25376				5078
4	Hourly	11.25	11.76	12.32	12.87				5079
	Annually	23400	24461	25626	26770				5080
5	Hourly	11.81	12.35	12.87	13.43				5081
	Annually	24565	25688	26770	27934				5082
6	Hourly	12.44	12.95	13.53	14.08				5083
	Annually	25875	26936	28142	29286				5084
7	Hourly	13.21	13.71	14.26	14.76	15.33			5085
	Annually	27477	28517	29661	30701	31886			5086
8	Hourly	13.97	14.58	15.22	15.89	16.57			5087
	Annually	29058	30326	31658	33051	34466			5088
9	Hourly	14.90	15.67	16.45	17.26	18.14			5089
	Annually	30992	32594	34216	35901	37731			5090
10	Hourly	16.08	16.95	17.87	18.89	19.90			5091
	Annually	33446	35256	37170	39291	41392			5092
11	Hourly	17.50	18.53	19.60	20.70	21.88			5093
	Annually	36400	38542	40768	43056	45510			5094
12	Hourly	19.31	20.39	21.49	22.68	23.94	25.25	26.64	5095
	Annually	40165	42411	44699	47174	49795	52520	55411	5096
13	Hourly	21.28	22.45	23.68	24.95	26.35	27.79	29.32	5097
	Annually	44262	46696	49254	51896	54808	57803	60986	5098
14	Hourly	23.41	24.73	26.06	27.49	29.04	30.65	32.33	5099
	Annually	48693	51438	54205	57179	60403	63752	67246	5100
15	Hourly	25.71	27.15	28.69	30.27	31.94	33.71	35.56	5101
	Annually	53477	56472	59675	62962	66435	70117	73965	5102
16	Hourly	28.35	29.92	31.58	33.34	35.18	37.18	39.23	5103

	Annually	58968	62234	65686	69347	73174	77334	81598	5104
17	Hourly	31.24	32.96	34.81	36.73	38.78	40.94	43.20	5105
	Annually	64979	68557	72405	76398	80662	85155	89856	5106
18	Hourly	34.42	36.33	38.37	40.49	42.72	45.12	47.60	5107
	Annually	71594	75566	79810	84219	88858	93850	99008	5108

Schedule E-2 5109

	Range		Minimum		Maximum				5110
41	Hourly		16.23		31.21				5111
	Annually		33758		64917				5112
42	Hourly		17.89		34.48				5113
	Annually		37211		71718				5114
43	Hourly		19.70		37.97				5115
	Annually		40976		78978				5116
44	Hourly		21.73		41.47				5117
	Annually		45198		86258				5118
45	Hourly		24.01		45.28				5119
	Annually		49941		94182				5120
46	Hourly		26.43		49.48				5121
	Annually		54974		102918				5122
47	Hourly		29.14		54.00				5123
	Annually		60611		112320				5124
48	Hourly		32.14		58.93				5125
	Annually		66851		122574				5126
49	Hourly		35.44		63.63				5127
	Annually		73715		132350				5128

(C) Beginning on the first day of the pay period that 5129
includes July 1, 2002, each exempt employee shall be paid a salary 5130
or wage in accordance with the following schedule of rates: 5131

Schedule E-1 5132

Pay Ranges and Step Values 5133

	Step	Step	Step	Step	Step	Step	Step		5134
Range	1	2	3	4	5	6	7		5135

1	Hourly	8.78	9.16	9.56	9.97				5136
	Annually	18262	19053	19885	20738				5137
2	Hourly	10.64	11.09	11.58	12.08				5138
	Annually	22131	23067	24086	25126				5139
3	Hourly	11.14	11.65	12.16	12.69				5140
	Annually	23171	24232	25293	26395				5141
4	Hourly	11.70	12.23	12.81	13.38				5142
	Annually	24336	25438	26645	27830				5143
5	Hourly	12.28	12.84	13.38	13.97				5144
	Annually	25542	26707	27830	29058				5145
6	Hourly	12.94	13.47	14.07	14.64				5146
	Annually	26915	28018	29266	30451				5147
7	Hourly	13.74	14.26	14.83	15.35	15.94			5148
	Annually	28579	29661	30846	31928	33155			5149
8	Hourly	14.53	15.16	15.83	16.53	17.23			5150
	Annually	30222	31533	32926	34382	35838			5151
9	Hourly	15.50	16.30	17.11	17.95	18.87			5152
	Annually	32240	33904	35589	37336	39250			5153
10	Hourly	16.72	17.63	18.58	19.65	20.70			5154
	Annually	34778	36670	38646	40872	43056			5155
11	Hourly	18.20	19.27	20.38	21.53	22.76			5156
	Annually	37856	40082	42390	44782	47341			5157
12	Hourly	20.08	21.21	22.35	23.59	24.90	26.26	27.71	5158
	Annually	41766	44117	46488	49067	51792	54621	57637	5159
13	Hourly	22.13	23.35	24.63	25.95	27.40	28.90	30.49	5160
	Annually	46030	48568	51230	53976	56992	60112	63419	5161
14	Hourly	24.35	25.72	27.10	28.59	30.20	31.88	33.62	5162
	Annually	50648	53498	56368	59467	62816	66310	69930	5163
15	Hourly	26.74	28.24	29.84	31.48	33.22	35.06	36.98	5164
	Annually	55619	58739	62067	65478	69098	72925	76918	5165
16	Hourly	29.48	31.12	32.84	34.67	36.59	38.67	40.80	5166
	Annually	61318	64730	68307	72114	76107	80434	84864	5167
17	Hourly	32.49	34.28	36.20	38.20	40.33	42.58	44.93	5168

	Annually	67579	71302	75296	79456	83886	88566	93454	5169
18	Hourly	35.80	37.78	39.90	42.11	44.43	46.92	49.50	5170
	Annually	74464	78582	82992	87589	92414	97594	102960	5171
Schedule E-2									5172
	Range			Minimum				Maximum	5173
41	Hourly			16.23				32.46	5174
	Annually			33758				67517	5175
42	Hourly			17.89				35.86	5176
	Annually			37211				74589	5177
43	Hourly			19.70				39.49	5178
	Annually			40976				82139	5179
44	Hourly			21.73				43.13	5180
	Annually			45198				89710	5181
45	Hourly			24.01				47.09	5182
	Annually			49941				97947	5183
46	Hourly			26.43				51.46	5184
	Annually			54974				107037	5185
47	Hourly			29.14				56.16	5186
	Annually			60611				116813	5187
48	Hourly			32.14				61.29	5188
	Annually			66851				127483	5189
49	Hourly			35.44				66.18	5190
	Annually			73715				137654	5191

(D)(B) Beginning on the first day of the pay period that 5192
includes July 1, 2005, each exempt employee shall be paid a salary 5193
or wage in accordance with the following schedule of rates: 5194

Schedule E-1 5195

		<u>Pay Ranges and Step Values</u>							5196
		<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>	5197
	<u>Range</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	5198
1	<u>Hourly</u>	<u>9.13</u>	<u>9.53</u>	<u>9.94</u>	<u>10.37</u>				5199
	<u>Annually</u>	<u>18990</u>	<u>19822</u>	<u>20675</u>	<u>21570</u>				5200

<u>2</u>	<u>Hourly</u>	<u>11.07</u>	<u>11.53</u>	<u>12.04</u>	<u>12.56</u>				5201
	<u>Annually</u>	<u>23026</u>	<u>23982</u>	<u>25043</u>	<u>26125</u>				5202
<u>3</u>	<u>Hourly</u>	<u>11.59</u>	<u>12.12</u>	<u>12.65</u>	<u>13.20</u>				5203
	<u>Annually</u>	<u>24107</u>	<u>25210</u>	<u>26312</u>	<u>27456</u>				5204
<u>4</u>	<u>Hourly</u>	<u>12.17</u>	<u>12.72</u>	<u>13.32</u>	<u>13.92</u>				5205
	<u>Annually</u>	<u>25314</u>	<u>26458</u>	<u>27706</u>	<u>28954</u>				5206
<u>5</u>	<u>Hourly</u>	<u>12.77</u>	<u>13.35</u>	<u>13.92</u>	<u>14.53</u>				5207
	<u>Annually</u>	<u>26562</u>	<u>27768</u>	<u>28954</u>	<u>30222</u>				5208
<u>6</u>	<u>Hourly</u>	<u>13.46</u>	<u>14.01</u>	<u>14.63</u>	<u>15.23</u>				5209
	<u>Annually</u>	<u>27997</u>	<u>29141</u>	<u>30430</u>	<u>31678</u>				5210
<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>			5211
	<u>Annually</u>	<u>29723</u>	<u>30846</u>	<u>32074</u>	<u>33197</u>	<u>34486</u>			5212
<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>			5213
	<u>Annually</u>	<u>31429</u>	<u>32802</u>	<u>34237</u>	<u>35755</u>	<u>37274</u>			5214
<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>			5215
	<u>Annually</u>	<u>33530</u>	<u>35256</u>	<u>37003</u>	<u>38834</u>	<u>40810</u>			5216
<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>			5217
	<u>Annually</u>	<u>36171</u>	<u>38147</u>	<u>40186</u>	<u>42515</u>	<u>44782</u>			5218
<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>			5219
	<u>Annually</u>	<u>39374</u>	<u>41683</u>	<u>44096</u>	<u>46571</u>	<u>49234</u>			5220
<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>	5221
	<u>Annually</u>	<u>43430</u>	<u>45885</u>	<u>48339</u>	<u>51022</u>	<u>53872</u>	<u>56805</u>	<u>59946</u>	5222
<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>	5223
	<u>Annually</u>	<u>47882</u>	<u>50502</u>	<u>53290</u>	<u>56139</u>	<u>59280</u>	<u>62525</u>	<u>65957</u>	5224
<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>	5225
	<u>Annually</u>	<u>52666</u>	<u>55640</u>	<u>58614</u>	<u>61838</u>	<u>65333</u>	<u>68973</u>	<u>72717</u>	5226
<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>	5227
	<u>Annually</u>	<u>57845</u>	<u>61090</u>	<u>64542</u>	<u>68099</u>	<u>71864</u>	<u>75837</u>	<u>79997</u>	5228
<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>	5229
	<u>Annually</u>	<u>63773</u>	<u>67309</u>	<u>71032</u>	<u>75005</u>	<u>79144</u>	<u>83658</u>	<u>88254</u>	5230
<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>	5231
	<u>Annually</u>	<u>70283</u>	<u>74152</u>	<u>78312</u>	<u>82638</u>	<u>87235</u>	<u>92102</u>	<u>97198</u>	5232
<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>	5233

	<u>Annually</u>	<u>77438</u>	<u>81723</u>	<u>86320</u>	<u>91083</u>	<u>96117</u>	<u>101504</u>	<u>107078</u>	5234
	<u>Schedule E-2</u>								5235
	<u>Range</u>			<u>Minimum</u>			<u>Maximum</u>		5236
<u>41</u>	<u>Hourly</u>			<u>16.23</u>			<u>33.76</u>		5237
	<u>Annually</u>			<u>33758</u>			<u>70221</u>		5238
<u>42</u>	<u>Hourly</u>			<u>17.89</u>			<u>37.29</u>		5239
	<u>Annually</u>			<u>37211</u>			<u>77563</u>		5240
<u>43</u>	<u>Hourly</u>			<u>19.70</u>			<u>41.07</u>		5241
	<u>Annually</u>			<u>40976</u>			<u>85426</u>		5242
<u>44</u>	<u>Hourly</u>			<u>21.73</u>			<u>44.86</u>		5243
	<u>Annually</u>			<u>45198</u>			<u>93309</u>		5244
<u>45</u>	<u>Hourly</u>			<u>24.01</u>			<u>48.97</u>		5245
	<u>Annually</u>			<u>49941</u>			<u>101858</u>		5246
<u>46</u>	<u>Hourly</u>			<u>26.43</u>			<u>53.52</u>		5247
	<u>Annually</u>			<u>54974</u>			<u>111322</u>		5248
<u>47</u>	<u>Hourly</u>			<u>29.14</u>			<u>58.41</u>		5249
	<u>Annually</u>			<u>60611</u>			<u>121493</u>		5250
<u>48</u>	<u>Hourly</u>			<u>32.14</u>			<u>63.74</u>		5251
	<u>Annually</u>			<u>66851</u>			<u>132579</u>		5252
<u>49</u>	<u>Hourly</u>			<u>35.44</u>			<u>68.83</u>		5253
	<u>Annually</u>			<u>73715</u>			<u>143166</u>		5254

(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 5266
section, any employee paid under schedule B of section 124.15 or 5267
under schedule E-1 of section 124.152 of the Revised Code is 5268
eligible for the pay supplements provided in this section upon 5269
application by the appointing authority substantiating the 5270
employee's qualifications for the supplement and with the approval 5271
of the director of administrative services except as provided in 5272
division (E) of this section. 5273

(B) ~~In~~ Except as provided in section 124.183 of the Revised 5274
Code, in computing any of the pay supplements provided in this 5275
section, the classification salary base shall be the minimum 5276
hourly rate of the pay range, provided in section 124.15 or 5277
124.152 of the Revised Code, in which the employee is assigned at 5278
the time of computation. 5279

(C) The effective date of any pay supplement, except as 5280
provided in section 124.183 of the Revised Code or unless 5281
otherwise provided in this section, shall be determined by the 5282
director. 5283

(D) The director shall, by rule, establish standards 5284
regarding the administration of this section. 5285

(E)(1) Except as otherwise provided in this division, 5286
beginning on the first day of the pay period within which the 5287
employee completes five years of total service with the state 5288
government or any of its political subdivisions, each employee in 5289
positions paid under salary schedule B of section 124.15 or under 5290
salary schedule E-1 of section 124.152 of the Revised Code shall 5291
receive an automatic salary adjustment equivalent to two and 5292
one-half per cent of the classification salary base, to the 5293
nearest whole cent. Each employee shall receive thereafter an 5294
annual adjustment equivalent to one-half of one per cent of the 5295
employee's classification salary base, to the nearest whole cent, 5296

for each additional year of qualified employment until a maximum 5297
of ten per cent of the employee's classification salary base is 5298
reached. The granting of longevity adjustments shall not be 5299
affected by promotion, demotion, or other changes in 5300
classification held by the employee, nor by any change in pay 5301
range for the employee's class. Longevity pay adjustments shall 5302
become effective at the beginning of the pay period within which 5303
the employee completes the necessary length of service, except 5304
that when an employee requests credit for prior service, the 5305
effective date of the prior service credit and of any longevity 5306
adjustment shall be the first day of the pay period following 5307
approval of the credit by the director of administrative services. 5308
No employee, other than an employee who submits proof of prior 5309
service within ninety days after the date of the employee's 5310
hiring, shall receive any longevity adjustment for the period 5311
prior to the director's approval of a prior service credit. Time 5312
spent on authorized leave of absence shall be counted for this 5313
purpose. 5314

(2) An employee who has retired in accordance with the 5315
provisions of any retirement system offered by the state and who 5316
is employed by the state or any political subdivision of the state 5317
on or after June 24, 1987, shall not have prior service with the 5318
state or any political subdivision of the state counted for the 5319
purpose of determining the amount of the salary adjustment 5320
provided under this division. 5321

(3) There shall be a moratorium on employees' receipt under 5322
this division of credit for service with the state government or 5323
any of its political subdivisions during the period from July 1, 5324
2003, through June 30, 2005. In calculating the number of years of 5325
total service under this division, no credit shall be included for 5326
service during the moratorium. The moratorium shall apply to the 5327
employees of the secretary of state, the auditor of state, the 5328

treasurer of state, the attorney general, the supreme court, and 5329
state boards and commissions, who are subject to this section 5330
unless the secretary of state, auditor of state, treasurer of 5331
state, attorney general, supreme court, board, or commission 5332
decides to exempt its employees from the moratorium and so 5333
notifies the director of administrative services in writing. 5334

If an employee is exempt from the moratorium, receives credit 5335
for a period of service during the moratorium, and takes a 5336
position with another entity in the state government or any of its 5337
political subdivisions, either during or after the moratorium, and 5338
if that entity's employees are or were subject to the moratorium, 5339
the employee shall continue to retain the credit. However, if the 5340
moratorium is in effect upon the taking of the new position, the 5341
employee shall cease receiving additional credit as long as the 5342
employee is in the position, until the moratorium expires. 5343

(F) When an exceptional condition exists that creates a 5344
temporary or a permanent hazard for one or more positions in a 5345
class paid under schedule B of section 124.15 or under salary 5346
schedule E-1 of section 124.152 of the Revised Code, a special 5347
hazard salary adjustment may be granted for the time the employee 5348
is subjected to the hazardous condition. All special hazard 5349
conditions shall be identified for each position and incidence 5350
from information submitted to the director on an appropriate form 5351
provided by the director and categorized into standard conditions 5352
of: some unusual hazard not common to the class; considerable 5353
unusual hazard not common to the class; and exceptional hazard not 5354
common to the class. 5355

(1) A hazardous salary adjustment of five per cent of the 5356
employee's classification salary base may be applied in the case 5357
of some unusual hazardous condition not common to the class for 5358
those hours worked, or a fraction thereof, while the employee was 5359
subject to the unusual hazard condition. 5360

(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 5392
qualified bilingual employees. The bilingual pay supplement 5393
provided in this division may be granted in the amount of five per 5394
cent of the employee's classification salary base for each 5395
required foreign language and shall remain in effect as long as 5396
the bilingual requirement exists. 5397

(I) The director may establish a shift differential for 5398
employees. Such differential shall be paid to employees in 5399
positions working in other than the regular or first shift. In 5400
those divisions or agencies where only one shift prevails, no 5401
shift differential shall be paid regardless of the hours of the 5402
day that are worked. The director and the appointing authority 5403
shall designate which positions shall be covered by this division. 5404

(J) Whenever an employee is assigned to work in a higher 5405
level position for a continuous period of more than two weeks but 5406
no more than two years because of a vacancy, the employee's pay 5407
may be established at a rate that is approximately four per cent 5408
above the employee's current base rate for the period the employee 5409
occupies the position, provided that this temporary occupancy is 5410
approved by the director. Employees paid under this division shall 5411
continue to receive any of the pay supplements due them under 5412
other divisions of this section based on the step one base rate 5413
for their normal classification. 5414

(K) If a certain position, or positions, within a class paid 5415
under schedule B of section 124.15 or under salary schedule E-1 of 5416
section 124.152 of the Revised Code are mandated by state or 5417
federal law or regulation or other regulatory agency or other 5418
certification authority to have special technical certification, 5419
registration, or licensing to perform the functions which are 5420
under the mandate, a special professional achievement pay 5421
supplement may be granted. This special professional achievement 5422
pay supplement shall not be granted when all incumbents in all 5423

positions in a class require license as provided in the 5424
classification description published by the department of 5425
administrative services; to licensees where no special or 5426
extensive training is required; when certification is granted upon 5427
completion of a stipulated term of in-service training; when an 5428
appointing authority has required certification; or any other 5429
condition prescribed by the director. 5430

(1) Before this supplement may be applied, evidence as to the 5431
requirement must be provided by the agency for each position 5432
involved, and certification must be received from the director as 5433
to the director's concurrence for each of the positions so 5434
affected. 5435

(2) The professional achievement pay supplement provided in 5436
this division shall be granted in an amount up to ten per cent of 5437
the employee's classification salary base and shall remain in 5438
effect as long as the mandate exists. 5439

(L) Those employees assigned to teaching supervisory, 5440
principal, assistant principal, or superintendent positions who 5441
have attained a higher educational level than a basic bachelor's 5442
degree may receive an educational pay supplement to remain in 5443
effect as long as the employee's assignment and classification 5444
remain the same. 5445

(1) An educational pay supplement of two and one-half per 5446
cent of the employee's classification salary base may be applied 5447
upon the achievement of a bachelor's degree plus twenty quarter 5448
hours of postgraduate work. 5449

(2) An educational pay supplement of an additional five per 5450
cent of the employee's classification salary base may be applied 5451
upon achievement of a master's degree. 5452

(3) An educational pay supplement of an additional two and 5453
one-half per cent of the employee's classification salary base may 5454

be applied upon achievement of a master's degree plus thirty 5455
quarter hours of postgraduate work. 5456

(4) An educational pay supplement of five per cent of the 5457
employee's classification salary base may be applied when the 5458
employee is performing as a master teacher. 5459

(5) An educational pay supplement of five per cent of the 5460
employee's classification salary base may be applied when the 5461
employee is performing as a special education teacher. 5462

(6) Those employees in teaching supervisory, principal, 5463
assistant principal, or superintendent positions who are 5464
responsible for specific extracurricular activity programs shall 5465
receive overtime pay for those hours worked in excess of their 5466
normal schedule, at their straight time hourly rate up to a 5467
maximum of five per cent of their regular base salary in any 5468
calendar year. 5469

(M)(1) A state agency, board, or commission may establish a 5470
supplementary compensation schedule for those licensed physicians 5471
employed by the agency, board, or commission in positions 5472
requiring a licensed physician. The supplementary compensation 5473
schedule, together with the compensation otherwise authorized by 5474
this chapter, shall provide for the total compensation for these 5475
employees to range appropriately, but not necessarily uniformly, 5476
for each classification title requiring a licensed physician, in 5477
accordance with a schedule approved by the state controlling 5478
board. The individual salary levels recommended for each such 5479
physician employed shall be approved by the director. 5480
Notwithstanding section 124.11 of the Revised Code, such personnel 5481
are in the unclassified civil service. 5482

(2) The director of administrative services may approve 5483
supplementary compensation for the director of health, if the 5484
director is a licensed physician, in accordance with a 5485

supplementary compensation schedule approved under division (M)(1) 5486
of this section or in accordance with another supplementary 5487
compensation schedule the director of administrative services 5488
considers appropriate. The supplementary compensation shall not 5489
exceed twenty per cent of the director of health's base rate of 5490
pay. 5491

(N) Notwithstanding sections 117.28, 117.30, 117.33, 117.36, 5492
117.42, and 131.02 of the Revised Code, the state shall not 5493
institute any civil action to recover and shall not seek 5494
reimbursement for overpayments made in violation of division (E) 5495
of this section or division (C) of section 9.44 of the Revised 5496
Code for the period starting after June 24, 1987, and ending on 5497
October 31, 1993. 5498

(O) Employees of the office of the treasurer of state who are 5499
exempt from collective bargaining coverage may be granted a merit 5500
pay supplement of up to one and one-half per cent of their step 5501
rate. The rate at which this supplement is granted shall be based 5502
on performance standards established by the treasurer of state. 5503
Any supplements granted under this division shall be administered 5504
on an annual basis. 5505

Sec. 124.183. (A) As used in this section, "active payroll" 5506
means when an employee is actively working; on military, worker's 5507
compensation, occupational injury, or disability leave; or on an 5508
approved leave of absence. 5509

(B) Each permanent employee paid under schedule E-1 of 5510
section 124.152 of the Revised Code who was appointed on or before 5511
March 6, 2003, and is on the active payroll as of November 14, 5512
2004, shall receive a one-time pay supplement. The supplement 5513
shall be a two per cent lump sum payment that is based on the 5514
annualization of the top step of the pay range that the employee 5515
is in on November 14, 2004. 5516

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 5548
benefits in any state retirement system. 5549

(G)(1) This section does not apply to employees of the 5550
general assembly, legislative agencies, or the supreme court. 5551

(2) This section does not apply to employees of the secretary 5552
of state, auditor of state, treasurer of state, attorney general, 5553
or state boards and commissions unless the secretary of state, 5554
auditor of state, treasurer of state, attorney general, board, or 5555
commission decides that its employees should be eligible for the 5556
one-time pay supplement and so notifies the director of 5557
administrative services in writing on or before July 1, 2004. 5558

Sec. 125.073. (A) The department of administrative services 5559
shall actively promote and accelerate the use of electronic 5560
procurement, including reverse auctions as defined by section 5561
125.072 of the Revised Code, by implementing the relevant 5562
recommendations concerning electronic procurement from the "2000 5563
Management Improvement Commission Report to the Governor" when 5564
exercising its statutory powers. 5565

(B) Beginning July 1, 2004, the department shall annually on 5566
or before the first day of July report to the committees in each 5567
house of the general assembly dealing with finance indicating the 5568
effectiveness of electronic procurement. 5569

Sec. 125.15. All state agencies required to secure any 5570
equipment, materials, supplies, or services, ~~or contracts of~~ 5571
~~insurance~~ from the department of administrative services shall 5572
make acquisition in the manner and upon forms prescribed by the 5573
director of administrative services and shall reimburse the 5574
department for the equipment, materials, supplies, or services, ~~or~~ 5575
~~contracts of insurance~~, including a reasonable sum to cover the 5576
department's administrative costs, whenever reimbursement is 5577

required by the department. The money so paid shall be deposited 5578
in the state treasury to the credit of the general services fund 5579
or the information technology fund, as appropriate. ~~Such~~ Those 5580
funds are hereby created. 5581

Sec. 125.91. As used in sections 125.92 to 125.98 of the 5582
Revised Code: 5583

(A) "State agency" includes every department, bureau, board, 5584
commission, office, or other organized body established by the 5585
constitution and laws of the state for the exercise of any 5586
function of state government, but does not include any 5587
state-supported institution of higher education, the general 5588
assembly or any legislative agency, the attorney general, the 5589
auditor of state, the secretary of state, the treasurer of state, 5590
the bureau of workers' compensation, any court or judicial agency, 5591
or any political subdivision or agency ~~thereof~~ of a political 5592
subdivision. 5593

(B) "Form" means any document, device, or item used to convey 5594
information, regardless of medium, that has blank spaces for the 5595
insertion of information and that may have a predetermined format 5596
and data elements to guide the entry, ~~interpretation~~ 5597
interpretation, and use of the information. "Form" does not 5598
include letterheads, envelopes, labels, tags, tickets, or note 5599
pads, or forms mandated by the federal government, but does 5600
include all computer-generated forms except those mandated by the 5601
federal government. ~~As used in sections 125.931 to 125.935 of the~~ 5602
~~Revised Code, "form" applies only to a form that is used by a~~ 5603
~~state agency and that is completed in whole or in part by private~~ 5604
~~business, political subdivisions, or the public.~~ 5605

Sec. 125.92. There is hereby established in the department of 5606
administrative services a state forms management ~~control center~~ 5607

program, which shall be under the control and supervision of the 5608
director of administrative services, ~~who shall appoint an~~ 5609
~~administrator of the center~~ or the director's designee. 5610

The ~~center~~ state forms management program shall ~~develop,~~ 5611
~~implement, and maintain a statewide forms management program that~~ 5612
~~involves~~ be developed, implemented, and maintained for all state 5613
agencies and ~~is~~ be designed to simplify, consolidate, or 5614
eliminate, when expedient, forms, surveys, and other documents 5615
used by state agencies. In developing the program, particular 5616
emphasis shall be placed upon determining the actual need for any 5617
information, records, and reports sought from private business, 5618
agriculture, and local governments through the use of ~~such~~ forms, 5619
surveys, and other documents. 5620

Sec. 125.93. The state forms management ~~control-center~~ 5621
program shall do each of the following: 5622

(A) Assist state agencies in establishing internal forms 5623
management capabilities; 5624

(B) Study, develop, coordinate, and initiate forms of 5625
interagency and common administrative usage, and establish basic 5626
design and specification criteria to standardize state forms; 5627

(C) Assist state agencies to design economical forms ~~and~~ 5628
~~compose art work for forms;~~ 5629

(D) ~~Establish and supervise control procedures to prevent the~~ 5630
~~undue creation and reproduction of state forms;~~ 5631

~~(E)~~ Assist, train, and instruct state agencies and their 5632
forms management representatives in forms management techniques, 5633
and provide direct forms management assistance to new state 5634
agencies as they are created; 5635

~~(F)~~(E) Maintain a central ~~cross-index~~ forms repository of all 5636
state forms to facilitate standardization of the forms, eliminate 5637

redundant forms, and provide a central source of information on 5638
forms usage and availability. 5639

~~(G) Utilize existing functions within the department of 5640
administrative services to design economical forms and compose art 5641
work, as well as use appropriate procurement techniques to take 5642
advantage of competitive selection, consolidated orders, and 5643
contract procurement of forms; 5644~~

~~(H) Conduct an annual evaluation of the effectiveness of the 5645
forms management program and the forms management practices of 5646
individual state agencies, and maintain records that indicate 5647
dollar savings resulting from, and the number of forms eliminated, 5648
simplified, or standardized through, centralized forms management. 5649
The results of the evaluation shall be reported to the speaker of 5650
the house of representatives and president of the senate not later 5651
than the fifteenth day of January each year. The center shall 5652
report on the first day of each month to the state records 5653
administrator on its activities during the preceding month. 5654~~

Sec. 125.95. (A) The administrator of the state forms 5655
management ~~control center~~ program may permit any state agency to 5656
manage fully any forms used or proposed to be used by it, whenever 5657
the ~~administrator~~ program determines that the delegation will 5658
result in the most timely and economical method of accomplishing 5659
the objectives of the ~~forms management~~ program as set forth in 5660
section 125.93 of the Revised Code. A determination to delegate to 5661
a state agency authority to manage forms may, among other matters, 5662
take into consideration the benefits of central management of any 5663
form in relation to the costs associated with ~~such that~~ 5664
management. 5665

(B) To expedite the collection and disposition of general 5666
state and local revenue, the ~~administrator~~ state forms management 5667
program shall permit, without prior authorization, the tax 5668

commissioner to design, print or have printed, distribute, and 5669
require the use of those forms ~~which~~ that the tax commissioner 5670
determines are necessary for the proper administration of those 5671
taxes and programs ~~he~~ the tax commissioner administers except as 5672
provided in division (A) of section 4307.05 of the Revised Code. 5673
The tax commissioner shall report to the ~~administrator~~ program not 5674
later than fifteen days after the close of each calendar quarter 5675
with respect to the forms activities occurring within ~~his~~ the tax 5676
commissioner's agency during the preceding calendar quarter. 5677

Sec. 125.96. The director of administrative services may 5678
adopt, amend, or rescind rules necessary to carry out the powers 5679
and duties imposed upon the state forms management ~~control center~~ 5680
~~and its administrator~~ program and state agencies by sections 5681
125.92 to 125.98 of the Revised Code. The director shall adopt, 5682
and may amend or rescind, rules providing ~~that~~ each of the 5683
following: 5684

(A) After a date to be determined by the ~~administrator~~ state 5685
forms management program, no state agency shall utilize any form, 5686
other than a form subject to division (B) of section 125.95 of the 5687
Revised Code, the management of which has not been delegated to 5688
the agency by the ~~administrator~~ program under division (A) of that 5689
section ~~125.95 of the Revised Code~~ or ~~that has not~~ been approved 5690
by the ~~center~~ program. 5691

(B) The notice required by section 125.97 of the Revised Code 5692
shall appear in a standard place and a standard manner on each 5693
form to which the notice applies, and shall include specified 5694
indicia of approval by the ~~administrator~~ state forms management 5695
program. 5696

(C) Any form required by a state agency on an emergency basis 5697
may be given interim approval by the ~~administrator~~ state forms 5698
management program if the form is accompanied by a letter from the 5699

director or other head of the agency setting forth the nature of 5700
the emergency and requesting interim approval. 5701

Sec. 125.98. (A) Each state agency shall appoint a forms 5702
management representative, who may be from existing personnel. The 5703
appointee shall cooperate with, and provide other necessary 5704
assistance to, the director of administrative services and the 5705
~~administrator of the~~ state forms management ~~control center~~ program 5706
in implementing the ~~state forms management~~ program. A forms 5707
management representative shall do all of the following: 5708

(1) Manage the agency's forms management program and 5709
cooperate with and provide other necessary assistance to the 5710
director of administrative services in implementing the state 5711
forms management program; 5712

(2) Monitor the use and reproduction of all forms to ensure 5713
that all policies, procedures, guidelines, and standards 5714
established by the agency and the director of administrative 5715
services are followed; 5716

(3) Ensure that every form used by the agency is presented to 5717
the state forms management ~~control center~~ program for registration 5718
prior to its reproduction; 5719

(4) Maintain a master forms file history file, in numeric 5720
order, of all agency forms; 5721

(5) Verify and update the information on all forms ~~computer~~ 5722
~~file reports returned to the agency by the state forms management~~ 5723
~~control center~~ in the central forms repository database. 5724

(B) Any state agency, as ~~such term is~~ defined in section 1.60 5725
of the Revised Code, not included within the definition of a state 5726
agency in section 125.91 of the Revised Code may elect to 5727
participate in the state forms management program. The ~~center~~ 5728
program may provide to any such agency any service required or 5729

authorized by sections 125.92 to 125.98 of the Revised Code to be 5730
performed for a state agency. 5731

Sec. 127.16. (A) Upon the request of either a state agency or 5732
the director of budget and management and after the controlling 5733
board determines that an emergency or a sufficient economic reason 5734
exists, the controlling board may approve the making of a purchase 5735
without competitive selection as provided in division (B) of this 5736
section. 5737

(B) Except as otherwise provided in this section, no state 5738
agency, using money that has been appropriated to it directly, 5739
shall: 5740

(1) Make any purchase from a particular supplier, that would 5741
amount to fifty thousand dollars or more when combined with both 5742
the amount of all disbursements to the supplier during the fiscal 5743
year for purchases made by the agency and the amount of all 5744
outstanding encumbrances for purchases made by the agency from the 5745
supplier, unless the purchase is made by competitive selection or 5746
with the approval of the controlling board; 5747

(2) Lease real estate from a particular supplier, if the 5748
lease would amount to seventy-five thousand dollars or more when 5749
combined with both the amount of all disbursements to the supplier 5750
during the fiscal year for real estate leases made by the agency 5751
and the amount of all outstanding encumbrances for real estate 5752
leases made by the agency from the supplier, unless the lease is 5753
made by competitive selection or with the approval of the 5754
controlling board. 5755

(C) Any person who authorizes a purchase in violation of 5756
division (B) of this section shall be liable to the state for any 5757
state funds spent on the purchase, and the attorney general shall 5758
collect the amount from the person. 5759

(D) Nothing in division (B) of this section shall be construed as:	5760 5761
(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;	5762 5763 5764
(2) Applying to medicaid provider agreements under Chapter 5111. of the Revised Code or payments or provider agreements under <u>the</u> disability assistance medical assistance <u>program</u> established under Chapter 5115. of the Revised Code;	5765 5766 5767 5768
(3) Applying to the purchase of examinations from a sole supplier by a state licensing board under Title XLVII of the Revised Code;	5769 5770 5771
(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;	5772 5773 5774 5775 5776 5777 5778 5779 5780
(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;	5781 5782 5783 5784
(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	5785 5786 5787 5788 5789 5790

of the agency. The filing shall be in a form and at such times as 5791
the board considers appropriate. 5792

(7) Applying to purchases made with money for the per cent 5793
for arts program established by section 3379.10 of the Revised 5794
Code; 5795

(8) Applying to purchases made by the rehabilitation services 5796
commission of services, or supplies, that are provided to persons 5797
with disabilities, or to purchases made by the commission in 5798
connection with the eligibility determinations it makes for 5799
applicants of programs administered by the social security 5800
administration; 5801

(9) Applying to payments by the department of job and family 5802
services under section 5111.13 of the Revised Code for group 5803
health plan premiums, deductibles, coinsurance, and other 5804
cost-sharing expenses; 5805

(10) Applying to any agency of the legislative branch of the 5806
state government; 5807

(11) Applying to agreements or contracts entered into under 5808
section 5101.11, 5101.20, 5101.201, 5101.21, or ~~5101.211~~ 5101.214 5809
of the Revised Code; 5810

(12) Applying to purchases of services by the adult parole 5811
authority under section 2967.14 of the Revised Code or by the 5812
department of youth services under section 5139.08 of the Revised 5813
Code; 5814

(13) Applying to dues or fees paid for membership in an 5815
organization or association; 5816

(14) Applying to purchases of utility services pursuant to 5817
section 9.30 of the Revised Code; 5818

(15) Applying to purchases made in accordance with rules 5819
adopted by the department of administrative services of motor 5820

vehicle, aviation, or watercraft fuel, or emergency repairs of	5821
such vehicles;	5822
(16) Applying to purchases of tickets for passenger air	5823
transportation;	5824
(17) Applying to purchases necessary to provide public	5825
notifications required by law or to provide notifications of job	5826
openings;	5827
(18) Applying to the judicial branch of state government;	5828
(19) Applying to purchases of liquor for resale by the	5829
division of liquor control;	5830
(20) Applying to purchases of motor courier and freight	5831
services made in accordance with department of administrative	5832
services rules;	5833
(21) Applying to purchases from the United States postal	5834
service and purchases of stamps and postal meter replenishment	5835
from vendors at rates established by the United States postal	5836
service;	5837
(22) Applying to purchases of books, periodicals, pamphlets,	5838
newspapers, maintenance subscriptions, and other published	5839
materials;	5840
(23) Applying to purchases from other state agencies,	5841
including state-assisted institutions of higher education;	5842
(24) Limiting the authority of the director of environmental	5843
protection to enter into contracts under division (D) of section	5844
3745.14 of the Revised Code to conduct compliance reviews, as	5845
defined in division (A) of that section;	5846
(25) Applying to purchases from a qualified nonprofit agency	5847
pursuant to sections 4115.31 to 4115.35 of the Revised Code;	5848
(26) Applying to payments by the department of job and family	5849
services to the United States department of health and human	5850

services for printing and mailing notices pertaining to the tax	5851
refund offset program of the internal revenue service of the	5852
United States department of the treasury;	5853
(27) Applying to contracts entered into by the department of	5854
mental retardation and developmental disabilities under sections	5855
5123.18, 5123.182, and 5111.252 <u>5123.199</u> of the Revised Code;	5856
(28) Applying to payments made by the department of mental	5857
health under a physician recruitment program authorized by section	5858
5119.101 of the Revised Code;	5859
(29) Applying to contracts entered into with persons by the	5860
director of commerce for unclaimed funds collection and remittance	5861
efforts as provided in division (F) of section 169.03 of the	5862
Revised Code. The director shall keep an itemized accounting of	5863
unclaimed funds collected by those persons and amounts paid to	5864
them for their services.	5865
(30) Applying to purchases made by a state institution of	5866
higher education in accordance with the terms of a contract	5867
between the vendor and an inter-university purchasing group	5868
comprised of purchasing officers of state institutions of higher	5869
education;	5870
(31) Applying to the department of job and family services'	5871
purchases of health assistance services under the children's	5872
health insurance program part I provided for under section 5101.50	5873
of the Revised Code or the children's health insurance program	5874
part II provided for under section 5101.51 of the Revised Code;	5875
(32) Applying to payments by the attorney general from the	5876
reparations fund to hospitals and other emergency medical	5877
facilities for performing medical examinations to collect physical	5878
evidence pursuant to section 2907.28 of the Revised Code;	5879
(33) Applying to contracts with a contracting authority or	5880
administrative receiver under division (G)(2) of section 5126.055	5881

of the Revised Code;	5882
<u>(34) Applying to reimbursements paid to the United States</u>	5883
<u>department of veterans affairs for pharmaceutical and patient</u>	5884
<u>supply purchases made on behalf of the Ohio veterans' home agency.</u>	5885
(E) Notwithstanding division (B)(1) of this section, the	5886
cumulative purchase threshold shall be seventy-five thousand	5887
dollars for the departments of mental retardation and	5888
developmental disabilities, mental health, rehabilitation and	5889
correction, and youth services.	5890
(F) When determining whether a state agency has reached the	5891
cumulative purchase thresholds established in divisions (B)(1),	5892
(B)(2), and (E) of this section, all of the following purchases by	5893
such agency shall not be considered:	5894
(1) Purchases made through competitive selection or with	5895
controlling board approval;	5896
(2) Purchases listed in division (D) of this section;	5897
(3) For the purposes of the thresholds of divisions (B)(1)	5898
and (E) of this section only, leases of real estate.	5899
(G) As used in this section, "competitive selection,"	5900
"purchase," "supplies," and "services" have the same meanings as	5901
in section 125.01 of the Revised Code.	5902
Sec. 131.02. (A) Whenever any amount is payable to the state,	5903
the officer, employee, or agent responsible for administering the	5904
law under which the amount is payable shall immediately proceed to	5905
collect the amount or cause the amount to be collected and shall	5906
pay the amount into the state treasury <u>or into the appropriate</u>	5907
<u>custodial fund</u> in the manner set forth pursuant to section 113.08	5908
of the Revised Code. If the amount is not paid within forty-five	5909
days after payment is due, the officer, employee, or agent shall	5910
certify the amount due to the attorney general, in the form and	5911

manner prescribed by the attorney general, and notify the director 5912
of budget and management thereof. The attorney general may assess 5913
the collection cost to the amount certified in such manner and 5914
amount as prescribed by the attorney general. 5915

(B)(1) The attorney general shall give immediate notice by 5916
mail or otherwise to the party indebted of the nature and amount 5917
of the indebtedness. 5918

(2) If the amount payable to this state arises from a tax 5919
levied under Chapter 5733., 5739., 5741., or 5747. of the Revised 5920
Code, the notice also shall specify all of the following: 5921

(a) The assessment or case number; 5922

(b) The tax pursuant to which the assessment is made; 5923

(c) The reason for the liability, including, if applicable, 5924
that a penalty or interest is due; 5925

(d) An explanation of how and when interest will be added to 5926
the amount assessed; 5927

(e) That the attorney general and tax commissioner, acting 5928
together, have the authority, but are not required, to compromise 5929
the claim and accept payment over a reasonable time, if such 5930
actions are in the best interest of the state. 5931

(C) The attorney general shall collect the claim or secure a 5932
judgment and issue an execution for its collection. 5933

(D) Each claim shall bear interest, from the day on which the 5934
claim became due, at the ~~base rate per annum for advances and~~ 5935
~~discounts to member banks in effect at the federal reserve bank in~~ 5936
required by section 5703.47 of the second federal reserve district 5937
Revised Code. 5938

(E) The attorney general and the chief officer of the agency 5939
reporting a claim, acting together, may do ~~either or both~~ any of 5940
the following if such action is in the best interests of the 5941

state:	5942
(1) Compromise the claim;	5943
(2) Extend for a reasonable period the time for payment of the claim by agreeing to accept monthly or other periodic payments. The agreement may require security for payment of the claim.	5944 5945 5946 5947
<u>(3) Add fees to recover the cost of processing checks or other draft instruments returned for insufficient funds and the cost of providing electronic payment options.</u>	5948 5949 5950
Sec. 131.23. The various political subdivisions of this state may issue bonds, and any indebtedness created by such issuance shall not be subject to the limitations or included in the calculation of indebtedness prescribed by sections 133.05, 133.06, 133.07, and 133.09 of the Revised Code, but such bonds may be issued only under the following conditions:	5951 5952 5953 5954 5955 5956
(A) The subdivision desiring to issue such bonds shall obtain from the county auditor a certificate showing the total amount of delinquent taxes due and unpayable to such subdivision at the last semiannual tax settlement.	5957 5958 5959 5960
(B) The fiscal officer of that subdivision shall prepare a statement, from the books of the subdivision, verified by him <u>the</u> <u>fiscal officer</u> under oath, which shall contain the following facts of such subdivision:	5961 5962 5963 5964
(1) The total bonded indebtedness;	5965
(2) The aggregate amount of notes payable or outstanding accounts of the subdivision, incurred prior to the commencement of the current fiscal year, which shall include all evidences of indebtedness issued by the subdivision except notes issued in anticipation of bond issues and the indebtedness of any nontax-supported public utility;	5966 5967 5968 5969 5970 5971

(3) Except in the case of school districts, the aggregate 5972
current year's requirement for disability financial assistance and 5973
disability medical assistance provided under Chapter 5115. of the 5974
Revised Code that the subdivision is unable to finance except by 5975
the issue of bonds; 5976

(4) The indebtedness outstanding through the issuance of any 5977
bonds or notes pledged or obligated to be paid by any delinquent 5978
taxes; 5979

(5) The total of any other indebtedness; 5980

(6) The net amount of delinquent taxes unpledged to pay any 5981
bonds, notes, or certificates, including delinquent assessments on 5982
improvements on which the bonds have been paid; 5983

(7) The budget requirements for the fiscal year for bond and 5984
note retirement; 5985

(8) The estimated revenue for the fiscal year. 5986

(C) The certificate and statement provided for in divisions 5987
(A) and (B) of this section shall be forwarded to the tax 5988
commissioner together with a request for authority to issue bonds 5989
of such subdivision in an amount not to exceed seventy per cent of 5990
the net unobligated delinquent taxes and assessments due and owing 5991
to such subdivision, as set forth in division (B)(6) of this 5992
section. 5993

(D) No subdivision may issue bonds under this section in 5994
excess of a sufficient amount to pay the indebtedness of the 5995
subdivision as shown by division (B)(2) of this section and, 5996
except in the case of school districts, to provide funds for 5997
disability financial assistance and disability medical assistance, 5998
as shown by division (B)(3) of this section. 5999

(E) The tax commissioner shall grant to such subdivision 6000
authority requested by such subdivision as restricted by divisions 6001

(C) and (D) of this section and shall make a record of the 6002
certificate, statement, and grant in a record book devoted solely 6003
to such recording and which shall be open to inspection by the 6004
public. 6005

(F) The commissioner shall immediately upon issuing the 6006
authority provided in division (E) of this section notify the 6007
proper authority having charge of the retirement of bonds of such 6008
subdivision by forwarding a copy of such grant of authority and of 6009
the statement provided for in division (B) of this section. 6010

(G) Upon receipt of authority, the subdivision shall proceed 6011
according to law to issue the amount of bonds authorized by the 6012
commissioner, and authorized by the taxing authority, provided the 6013
taxing authority of that subdivision may by resolution submit to 6014
the electors of that subdivision the question of issuing such 6015
bonds. Such resolution shall make the declarations and statements 6016
required by section 133.18 of the Revised Code. The county auditor 6017
and taxing authority shall thereupon proceed as set forth in 6018
divisions (C) and (D) of such section. The election on the 6019
question of issuing such bonds shall be held under divisions (E), 6020
(F), and (G) of such section, except that publication of the 6021
notice of such election shall be made on four separate days prior 6022
to such election in one or more newspapers of general circulation 6023
in the subdivisions. Such bonds may be exchanged at their face 6024
value with creditors of the subdivision in liquidating the 6025
indebtedness described and enumerated in division (B)(2) of this 6026
section or may be sold as provided in Chapter 133. of the Revised 6027
Code, and in either event shall be uncontestable. 6028

(H) The per cent of delinquent taxes and assessments 6029
collected for and to the credit of the subdivision after the 6030
exchange or sale of bonds as certified by the commissioner shall 6031
be paid to the authority having charge of the sinking fund of the 6032
subdivision, which money shall be placed in a separate fund for 6033

the purpose of retiring the bonds so issued. The proper authority 6034
of the subdivisions shall provide for the levying of a tax 6035
sufficient in amount to pay the debt charges on all such bonds 6036
issued under this section. 6037

(I) This section is for the sole purpose of assisting the 6038
various subdivisions in paying their unsecured indebtedness, and 6039
providing funds for disability financial assistance and disability 6040
medical assistance. The bonds issued under authority of this 6041
section shall not be used for any other purpose and any exchange 6042
for other purposes, or the use of the money derived from the sale 6043
of such bonds by the subdivision for any other purpose, is 6044
misapplication of funds. 6045

(J) The bonds authorized by this section shall be redeemable 6046
or payable in not to exceed ten years from date of issue and shall 6047
not be subject to or considered in calculating the net 6048
indebtedness of the subdivision. The budget commission of the 6049
county in which the subdivision is located shall annually allocate 6050
such portion of the then delinquent levy due such subdivision 6051
which is unpledged for other purposes to the payment of debt 6052
charges on the bonds issued under authority of this section. 6053

(K) The issue of bonds under this section shall be governed 6054
by Chapter 133. of the Revised Code, respecting the terms used, 6055
forms, manner of sale, and redemption except as otherwise provided 6056
in this section. 6057

The board of county commissioners of any county may issue 6058
bonds authorized by this section and distribute the proceeds of 6059
such bond issues to any or all of the cities and townships of such 6060
counties, according to their relative needs for disability 6061
financial assistance and disability medical assistance as 6062
determined by such county. 6063

All sections of the Revised Code inconsistent with or 6064

prohibiting the exercise of the authority conferred by this 6065
section are inoperative respecting bonds issued under this 6066
section. 6067

Sec. 131.35. (A) With respect to the federal funds received 6068
into any fund of the state from which transfers may be made under 6069
division (D) of section 127.14 of the Revised Code: 6070

(1) No state agency may make expenditures of any federal 6071
funds, whether such funds are advanced prior to expenditure or as 6072
reimbursement, unless such expenditures are made pursuant to 6073
specific appropriations of the general assembly ~~identifying the~~ 6074
~~federal program that is the source of funds, are authorized~~ 6075
~~pursuant to section 131.38 of the Revised Code, are authorized by~~ 6076
the controlling board pursuant to division (A)(5) of this section, 6077
or are authorized by an executive order issued in accordance with 6078
section 107.17 of the Revised Code, and until an allotment has 6079
been approved by the director of budget and management. All 6080
federal funds received by a state agency shall be reported to the 6081
director within fifteen days of the receipt of such funds or the 6082
notification of award, whichever occurs first. The director shall 6083
prescribe the forms and procedures to be used when reporting the 6084
receipt of federal funds. 6085

(2) If the federal funds received are greater than the amount 6086
of such funds appropriated by the general assembly for a specific 6087
purpose, the total appropriation of federal and state funds for 6088
such purpose shall remain at the amount designated by the general 6089
assembly, except that the expenditure of federal funds received in 6090
excess of such specific appropriation may be authorized by the 6091
controlling board. 6092

(3) To the extent that the expenditure of excess federal 6093
funds is authorized, the controlling board may transfer a like 6094
amount of general revenue fund appropriation authority from the 6095

affected agency to the emergency purposes appropriation of the 6096
controlling board, if such action is permitted under federal 6097
regulations. 6098

(4) Additional funds may be created by the controlling board 6099
to receive revenues not anticipated in an appropriations act for 6100
the biennium in which such new revenues are received. Expenditures 6101
from such additional funds may be authorized by the controlling 6102
board, but such authorization shall not extend beyond the end of 6103
the biennium in which such funds are created. 6104

(5) Controlling board authorization for a state agency to 6105
make an expenditure of federal funds constitutes authority for the 6106
agency to participate in the federal program providing the funds, 6107
and the agency is not required to obtain an executive order under 6108
section 107.17 of the Revised Code to participate in the federal 6109
program. 6110

(B) With respect to nonfederal funds received into the 6111
waterways safety fund, the wildlife fund, and any fund of the 6112
state from which transfers may be made under division (D) of 6113
section 127.14 of the Revised Code: 6114

(1) No state agency may make expenditures of any such funds 6115
unless the expenditures are made pursuant to specific 6116
appropriations of the general assembly. 6117

(2) If the receipts received into any fund are greater than 6118
the amount appropriated, the appropriation for that fund shall 6119
remain at the amount designated by the general assembly or as 6120
increased and approved by the controlling board. 6121

(3) Additional funds may be created by the controlling board 6122
to receive revenues not anticipated in an appropriations act for 6123
the biennium in which such new revenues are received. Expenditures 6124
from such additional funds may be authorized by the controlling 6125
board, but such authorization shall not extend beyond the end of 6126

the biennium in which such funds are created. 6127

(C) The controlling board shall not authorize more than ten 6128
per cent of additional spending from the occupational licensing 6129
and regulatory fund, created in section 4743.05 of the Revised 6130
Code, in excess of any appropriation made by the general assembly 6131
to a licensing agency except an appropriation for costs related to 6132
the examination or reexamination of applicants for a license. As 6133
used in this division, "licensing agency" and "license" have the 6134
same meanings as in section 4745.01 of the Revised Code. 6135

Sec. 131.41. There is hereby created in the state treasury 6136
the family services stabilization fund. The fund shall consist of 6137
moneys deposited into it pursuant to acts of the general assembly. 6138
The director of budget and management, with advice from the 6139
director of job and family services, may transfer moneys in the 6140
family services stabilization fund to the general revenue fund for 6141
the department of job and family services. Moneys may be 6142
transferred due to identified shortfalls for family services 6143
activities, such as higher caseloads, federal funding changes, and 6144
unforeseen costs due to significant state policy changes. Before 6145
transfers are authorized, the director of budget and management 6146
shall exhaust the possibilities for transfers of moneys within the 6147
department of job and family services to meet the identified 6148
shortfall. Transfers shall not be used to fund policy changes not 6149
contemplated by acts of the general assembly. Any investment 6150
earnings of the family services stabilization fund shall be 6151
credited to that fund. 6152

Sec. 145.38. (A) As used in this section and ~~section~~ sections 6153
145.381 and 145.384 of the Revised Code: 6154

(1) "PERS retirant" means a former member of the public 6155
employees retirement system who is receiving one of the following: 6156

(a) Age and service retirement benefits under section 145.32, 6157
145.33, 145.331, 145.34, or 145.46 of the Revised Code; 6158

(b) Age and service retirement benefits paid by the public 6159
employees retirement system under section 145.37 of the Revised 6160
Code; 6161

(c) Any benefit paid under a PERS defined contribution plan. 6162

(2) "Other system retirant" means both of the following: 6163

(a) A member or former member of the Ohio police and fire 6164
pension fund, state teachers retirement system, school employees 6165
retirement system, state highway patrol retirement system, or 6166
Cincinnati retirement system who is receiving age and service or 6167
commuted age and service retirement benefits or a disability 6168
benefit from a system of which the person is a member or former 6169
member; 6170

(b) A member or former member of the public employees 6171
retirement system who is receiving age and service retirement 6172
benefits or a disability benefit under section 145.37 of the 6173
Revised Code paid by the school employees retirement system or the 6174
state teachers retirement system. 6175

(B)(1) Subject to this section and section 145.381 of the 6176
Revised Code, a PERS retirant or other system retirant may be 6177
employed by a public employer. If so employed, the PERS retirant 6178
or other system retirant shall contribute to the public employees 6179
retirement system in accordance with section 145.47 of the Revised 6180
Code, and the employer shall make contributions in accordance with 6181
section 145.48 of the Revised Code. 6182

(2) A public employer that employs a PERS retirant or other 6183
system retirant, or enters into a contract for services as an 6184
independent contractor with a PERS retirant shall notify the 6185
retirement board of the employment or contract not later than the 6186

end of the month in which the employment or contract commences. 6187
Any overpayment of benefits to a PERS retirant by the retirement 6188
system resulting from delay or failure of the employer to give the 6189
notice shall be repaid to the retirement system by the employer. 6190

(3) On receipt of notice from a public employer that a person 6191
who is an other system retirant has been employed, the retirement 6192
system shall notify the retirement system of which the other 6193
system retirant was a member of such employment. 6194

(4)(a) A PERS retirant who has received a retirement 6195
allowance for less than two months when employment subject to this 6196
section commences shall forfeit the retirement allowance for any 6197
month the PERS retirant is employed prior to the expiration of the 6198
two-month period. Service and contributions for that period shall 6199
not be included in calculation of any benefits payable to the PERS 6200
retirant and those contributions shall be refunded on the 6201
retirant's death or termination of the employment. 6202

(b) An other system retirant who has received a retirement 6203
allowance or disability benefit for less than two months when 6204
employment subject to this section commences shall forfeit the 6205
retirement allowance or disability benefit for any month the other 6206
system retirant is employed prior to the expiration of the 6207
two-month period. Service and contributions for that period shall 6208
not be included in the calculation of any benefits payable to the 6209
other system retirant and those contributions shall be refunded on 6210
the retirant's death or termination of the employment. 6211

(c) Contributions made on compensation earned after the 6212
expiration of the two-month period shall be used in the 6213
calculation of the benefit or payment due under section 145.384 of 6214
the Revised Code. 6215

(5) On receipt of notice from the Ohio police and fire 6216
pension fund, school employees retirement system, or state 6217

teachers retirement system of the re-employment of a PERS 6218
retirant, the public employees retirement system shall not pay, or 6219
if paid, shall recover, the amount to be forfeited by the PERS 6220
retirant in accordance with section 742.26, 3307.35, or 3309.341 6221
of the Revised Code. 6222

(6) A PERS retirant who enters into a contract to provide 6223
services as an independent contractor to the employer by which the 6224
retirant was employed at the time of retirement or, less than two 6225
months after the retirement allowance commences, begins providing 6226
services as an independent contractor pursuant to a contract with 6227
another public employer, shall forfeit the pension portion of the 6228
retirement benefit for the period beginning the first day of the 6229
month following the month in which the services begin and ending 6230
on the first day of the month following the month in which the 6231
services end. The annuity portion of the retirement allowance 6232
shall be suspended on the day services under the contract begin 6233
and shall accumulate to the credit of the retirant to be paid in a 6234
single payment after services provided under the contract 6235
terminate. A PERS retirant subject to division (B)(6) of this 6236
section shall not contribute to the retirement system and shall 6237
not become a member of the system. 6238

(7) As used in this division, "employment" includes service 6239
for which a PERS retirant or other system retirant, the retirant's 6240
employer, or both, have waived any earnable salary for the 6241
service. 6242

(C)(1) Except as provided in division (C)(3) of this section, 6243
this division applies to both of the following: 6244

(a) A PERS retirant who, prior to September 14, 2000, was 6245
subject to division (C)(1)(b) of this section as that division 6246
existed immediately prior to September 14, 2000, and has not 6247
elected pursuant to Am. Sub. S.B. 144 of the 123rd general 6248
assembly to cease to be subject to that division; 6249

(b) A PERS retirant to whom both of the following apply: 6250

(i) The retirant held elective office in this state, or in 6251
any municipal corporation, county, or other political subdivision 6252
of this state at the time of retirement under this chapter. 6253

(ii) The retirant was elected or appointed to the same office 6254
for the remainder of the term or the term immediately following 6255
the term during which the retirement occurred. 6256

(2) A PERS retirant who is subject to this division is a 6257
member of the public employees retirement system with all the 6258
rights, privileges, and obligations of membership, except that the 6259
membership does not include survivor benefits provided pursuant to 6260
section 145.45 of the Revised Code or, beginning on the ninetieth 6261
day after September 14, 2000, any amount calculated under section 6262
145.401 of the Revised Code. The pension portion of the PERS 6263
retirant's retirement allowance shall be forfeited until the first 6264
day of the first month following termination of the employment. 6265
The annuity portion of the retirement allowance shall accumulate 6266
to the credit of the PERS retirant to be paid in a single payment 6267
after termination of the employment. The retirement allowance 6268
shall resume on the first day of the first month following 6269
termination of the employment. On termination of the employment, 6270
the PERS retirant shall elect to receive either a refund of the 6271
retirant's contributions to the retirement system during the 6272
period of employment subject to this section or a supplemental 6273
retirement allowance based on the retirant's contributions and 6274
service credit for that period of employment. 6275

(3) This division does not apply to any of the following: 6276

(a) A PERS retirant elected to office who, at the time of the 6277
election for the retirant's current term, was not retired but, not 6278
less than ninety days prior to the election for the term, filed a 6279
written declaration of intent to retire before the end of the term 6280

with the board of elections of the county in which petitions for 6281
nomination or election to the office were filed; 6282

(b) A PERS retirant elected to office who, at the time of the 6283
election for the retirant's current term, was a retirant and had 6284
been retired for not less than ninety days; 6285

(c) A PERS retirant appointed to office who, at the time of 6286
appointment to the retirant's current term, notified the person or 6287
entity making the appointment that the retirant was already 6288
retired or intended to retire before the end of the term. 6289

(D)(1) Except as provided in division (C) of this section, a 6290
PERS retirant or other system retirant subject to this section is 6291
not a member of the public employees retirement system, and, 6292
except as specified in this section does not have any of the 6293
rights, privileges, or obligations of membership. Except as 6294
specified in division (D)(2) of this section, the retirant is not 6295
eligible to receive health, medical, hospital, or surgical 6296
benefits under section 145.58 of the Revised Code for employment 6297
subject to this section. 6298

(2) A PERS retirant subject to this section shall receive 6299
primary health, medical, hospital, or surgical insurance coverage 6300
from the retirant's employer, if the employer provides coverage to 6301
other employees performing comparable work. Neither the employer 6302
nor the PERS retirant may waive the employer's coverage, except 6303
that the PERS retirant may waive the employer's coverage if the 6304
retirant has coverage comparable to that provided by the employer 6305
from a source other than the employer or the public employees 6306
retirement system. If a claim is made, the employer's coverage 6307
shall be the primary coverage and shall pay first. The benefits 6308
provided under section 145.58 of the Revised Code shall pay only 6309
those medical expenses not paid through the employer's coverage or 6310
coverage the PERS retirant receives through a source other than 6311
the retirement system. 6312

(E) If the disability benefit of an other system retirant 6313
employed under this section is terminated, the retirant shall 6314
become a member of the public employees retirement system, 6315
effective on the first day of the month next following the 6316
termination with all the rights, privileges, and obligations of 6317
membership. If such person, after the termination of the 6318
disability benefit, earns two years of service credit under this 6319
system or under the Ohio police and fire pension fund, state 6320
teachers retirement system, school employees retirement system, or 6321
state highway patrol retirement system, the person's prior 6322
contributions as an other system retirant under this section shall 6323
be included in the person's total service credit as a public 6324
employees retirement system member, and the person shall forfeit 6325
all rights and benefits of this section. Not more than one year of 6326
credit may be given for any period of twelve months. 6327

(F) This section does not affect the receipt of benefits by 6328
or eligibility for benefits of any person who on August 20, 1976, 6329
was receiving a disability benefit or service retirement pension 6330
or allowance from a state or municipal retirement system in Ohio 6331
and was a member of any other state or municipal retirement system 6332
of this state. 6333

(G) The public employees retirement board may adopt rules to 6334
carry out this section. 6335

Sec. 145.381. (A) Except as provided in division (B) of this 6336
section, no person who is, or at the time of employment will be, a 6337
PERS retirant may be employed by a public employer or provide 6338
service as an independent contractor to a public employer unless 6339
the public employer does both of the following in accordance with 6340
rules adopted under division (C) of this section: 6341

(1) Not less than sixty days before the employment or service 6342
is to begin, gives public notice that the person is or will be 6343

retired and is seeking employment with the public employer or to 6344
provide service as an independent contractor to the public 6345
employer; 6346

(2) Between fifteen and thirty days before the employment or 6347
service is to begin and after complying with division (A)(1) of 6348
this section, holds a public meeting on the issue of the person 6349
being employed by or providing services as an independent 6350
contractor to the public employer. 6351

The notice regarding division (A)(1) of this section shall 6352
include the time, date, and location at which the public meeting 6353
is to take place. 6354

(B) A person is not subject to division (A) of this section 6355
if the employment involved is an elective office of this state or 6356
any municipal corporation, county, or other political subdivision 6357
of this state. 6358

(C) The public employees retirement board shall adopt rules 6359
as necessary to implement this section. 6360

Sec. 147.01. (A) The secretary of state may appoint and 6361
commission as notaries public as many persons who meet the 6362
qualifications of division (B) of this section as the secretary of 6363
state considers necessary. 6364

(B) In order for a person to qualify to be appointed and 6365
commissioned as a notary public, the person must satisfy both of 6366
the following: 6367

(1) The person has attained the age of eighteen years. 6368

(2) One of the following applies: 6369

(a) The person is a ~~citizen~~ legal resident of this state who 6370
is not an attorney admitted to the practice of law in this state 6371
by the Ohio supreme court. 6372

(b) The person is a ~~citizen~~ legal resident of this state who 6373
is an attorney admitted to the practice of law in this state by 6374
the Ohio supreme court. 6375

(c) The person is not a ~~citizen~~ legal resident of this state, 6376
is an attorney admitted to the practice of law in this state by 6377
the Ohio supreme court, and has the person's principal place of 6378
business or the person's primary practice in this state. 6379

(C) A notary public shall be appointed and commissioned as a 6380
notary public for the state. The secretary of state may revoke a 6381
commission issued to a notary public upon presentation of 6382
satisfactory evidence of official misconduct or incapacity. 6383

Sec. 147.37. Each person receiving a commission as notary 6384
public, ~~except~~ including an attorney admitted to the practice of 6385
law in this state by the Ohio supreme court, shall pay a fee of 6386
~~five~~ fifteen dollars to the secretary of state. ~~Each person~~ 6387
~~receiving a commission as a notary public who is an attorney~~ 6388
~~admitted to the practice of law in this state by the Ohio supreme~~ 6389
~~court shall pay a fee of ten dollars to the secretary of state.~~ 6390

Sec. 149.011. As used in this chapter: 6391

(A) "Public office" includes any state agency, public 6392
institution, political subdivision, or ~~any~~ other organized body, 6393
office, agency, institution, or entity established by the laws of 6394
this state for the exercise of any function of government. 6395

(B) "State agency" includes every department, bureau, board, 6396
commission, office, or other organized body established by the 6397
constitution and laws of this state for the exercise of any 6398
function of state government, including any state-supported 6399
institution of higher education, the general assembly, ~~or~~ any 6400
legislative agency, any court or judicial agency, or any political 6401
subdivision or agency ~~thereof~~ of a political subdivision. 6402

(C) "Public money" includes all money received or collected 6403
by or due a public official, whether in accordance with or under 6404
authority of any law, ordinance, resolution, or order, under color 6405
of office, or otherwise. It also includes any money collected by 6406
any individual on behalf of a public office or as a purported 6407
representative or agent of the public office. 6408

(D) "Public official" includes all officers, employees, or 6409
duly authorized representatives or agents of a public office. 6410

(E) "Color of office" includes any act purported or alleged 6411
to be done under any law, ordinance, resolution, order, or other 6412
pretension to official right, power, or authority. 6413

(F) "Archive" includes any public record that is transferred 6414
to the state archives or other designated archival institutions 6415
because of the historical information contained on it. 6416

(G) "Records" includes any document, device, or item, 6417
regardless of physical form or characteristic, including an 6418
electronic record as defined in section 1306.01 of the Revised 6419
Code, created or received by or coming under the jurisdiction of 6420
any public office of the state or its political subdivisions, 6421
which serves to document the organization, functions, policies, 6422
decisions, procedures, operations, or other activities of the 6423
office. 6424

Sec. 149.30. The Ohio historical society, chartered by this 6425
state as a corporation not for profit to promote a knowledge of 6426
history and archaeology, especially of Ohio, and operated 6427
continuously in the public interest since 1885, may perform public 6428
functions as prescribed by law. 6429

The general assembly may appropriate money to the Ohio 6430
historical society each biennium to carry out the public functions 6431
of the society as enumerated in this section. An appropriation by 6432

the general assembly to the society constitutes an offer to 6433
contract with the society to carry out those public functions for 6434
which appropriations are made. An acceptance by the society of the 6435
appropriated funds constitutes an acceptance by the society of the 6436
offer and is considered an agreement by the society to perform 6437
those functions in accordance with the terms of the appropriation 6438
and the law and to expend the funds only for the purposes for 6439
which appropriated. The governor may request on behalf of the 6440
society, and the controlling board may release, additional funds 6441
to the society for survey, salvage, repair, or rehabilitation of 6442
an emergency nature for which funds have not been appropriated, 6443
and acceptance by the society of those funds constitutes an 6444
agreement on the part of the society to expend those funds only 6445
for the purpose for which released by the controlling board. 6446

The society shall faithfully expend and apply all moneys 6447
received from the state to the uses and purposes directed by law 6448
and for necessary administrative expenses. The society shall 6449
perform the public function of sending notice by certified mail to 6450
the owner of any property at the time it is listed on the national 6451
register of historic places. The society shall accurately record 6452
all expenditures of such funds in conformity with generally 6453
accepted accounting principles. 6454

The auditor of state shall audit all funds and fiscal records 6455
of the society. 6456

The public functions to be performed by the Ohio historical 6457
society shall include all of the following: 6458

(A) Creating, supervising, operating, protecting, 6459
maintaining, and promoting for public use a system of state 6460
memorials, titles to which may reside wholly or in part with this 6461
state or wholly or in part with the society as provided in and in 6462
conformity to appropriate acts and resolves of the general 6463
assembly, and leasing for renewable periods of two years or less, 6464

with the advice and consent of the attorney general and the 6465
director of administrative services, lands and buildings owned by 6466
the state which are in the care, custody, and control of the 6467
society, all of which shall be maintained and kept for public use 6468
at reasonable hours; 6469

(B) Making alterations and improvements, marking, and 6470
constructing, reconstructing, protecting, or restoring structures, 6471
earthworks, and monuments in its care, and equipping such 6472
facilities with appropriate educational maintenance facilities; 6473

(C) Serving as the archives administration for the state and 6474
its political subdivisions as provided in sections 149.31 to 6475
149.42 of the Revised Code; 6476

(D) Administering a state historical museum, to be the 6477
headquarters of the society and its principal museum and library, 6478
which shall be maintained and kept for public use at reasonable 6479
hours; 6480

(E) Establishing a marking system to identify all designated 6481
historic and archaeological sites within the state and marking or 6482
causing to be marked historic sites and communities considered by 6483
the society to be historically or archaeologically significant; 6484

(F) Publishing books, pamphlets, periodicals, and other 6485
publications about history, archaeology, and natural science and 6486
~~supplying~~ offering one copy of each regular periodical issue to 6487
all public libraries in this state ~~without charge~~ at a reasonable 6488
price, which shall not exceed one hundred ten per cent more than 6489
the total cost of publication; 6490

(G) Engaging in research in history, archaeology, and natural 6491
science and providing historical information upon request to all 6492
state agencies; 6493

(H) Collecting, preserving, and making available by all 6494
appropriate means and under approved safeguards all manuscript, 6495

print, or near-print library collections and all historical 6496
objects, specimens, and artifacts which pertain to the history of 6497
Ohio and its people, including the following original documents: 6498
Ohio Constitution of 1802; Ohio Constitution of 1851; proposed 6499
Ohio Constitution of 1875; design and the letters of patent and 6500
assignment of patent for the state flag; S.J.R. 13 (1873); S.J.R. 6501
53 (1875); S.J.R. 72 (1875); S.J.R. 50 (1883); H.J.R. 73 (1883); 6502
S.J.R. 28 (1885); H.J.R. 67 (1885); S.J.R. 17 (1902); S.J.R. 28 6503
(1902); H.J.R. 39 (1902); S.J.R. 23 (1903); H.J.R. 19 (1904); 6504
S.J.R. 16 (1905); H.J.R. 41 (1913); H.J.R. 34 (1917); petition 6505
form (2) (1918); S.J.R. 6 (1921); H.J.R. 5 (1923); H.J.R. 40 6506
(1923); H.J.R. 8 (1929); H.J.R. 20 (1929); S.J.R. 4 (1933); 6507
petition form (2) (1933); S.J.R. 57 (1936); petition form (1936); 6508
H.J.R. 14 (1942); H.J.R. 15 (1944); H.J.R. 8 (1944); S.J.R. 6 6509
(1947); petition form (1947); H.J.R. 24 (1947); and H.J.R. 48 6510
(1947); 6511

(I) Encouraging and promoting the organization and 6512
development of county and local historical societies; 6513

(J) Providing to Ohio schools ~~with~~ such materials ~~at cost or~~ 6514
~~near cost~~ as the society may prepare to facilitate the instruction 6515
of Ohio history at a reasonable price, which shall not exceed one 6516
hundred ten per cent more than the total cost of preparation and 6517
delivery; 6518

(K) Providing advisory and technical assistance to local 6519
societies for the preservation and restoration of historic and 6520
archaeological sites; 6521

(L) Devising uniform criteria for the designation of historic 6522
and archaeological sites throughout the state and advising local 6523
historical societies of the criteria and their application; 6524

(M) Taking inventory, in cooperation with the Ohio arts 6525
council, the Ohio archaeological council, and the archaeological 6526

society of Ohio, of significant designated and undesignated state 6527
and local sites and keeping an active registry of all designated 6528
sites within the state; 6529

(N) Contracting with the owners or persons having an interest 6530
in designated historic or archaeological sites or property 6531
adjacent or contiguous to those sites, or acquiring, by purchase, 6532
gift, or devise, easements in those sites or in property adjacent 6533
or contiguous to those sites, in order to control or restrict the 6534
use of those historic or archaeological sites or adjacent or 6535
contiguous property for the purpose of restoring or preserving the 6536
historical or archaeological significance or educational value of 6537
those sites; 6538

(O) Constructing a monument honoring Governor James A. 6539
Rhodes, which shall stand on the northeast quadrant of the grounds 6540
surrounding the capitol building. The monument shall be 6541
constructed with private funds donated to the Ohio historical 6542
society and designated for this purpose. No public funds shall be 6543
expended to construct this monument. The department of 6544
administrative services shall cooperate with the Ohio historical 6545
society in carrying out this function and shall maintain the 6546
monument in a manner compatible with the grounds of the capitol 6547
building. 6548

(P) Commissioning a portrait of each departing governor, 6549
which shall be displayed in the capitol building. The Ohio 6550
historical society may accept private contributions designated for 6551
this purpose and, at the discretion of its board of trustees, also 6552
may apply for the same purpose funds appropriated by the general 6553
assembly to the society pursuant to this section. 6554

(Q) Planning and developing a center at the capitol building 6555
for the purpose of educating visitors about the history of Ohio, 6556
including its political, economic, and social development and the 6557
design and erection of the capitol building and its grounds. The 6558

Ohio historical society may accept contributions of private moneys 6559
and in-kind services designated for this purpose and may, at the 6560
discretion of its board of trustees, also apply, for the same 6561
purpose, personnel and other resources paid in whole or in part by 6562
its state subsidy. 6563

(R) Submitting an annual report of its activities, programs, 6564
and operations to the governor within two months after the close 6565
of each fiscal year of the state. 6566

The society shall not sell, mortgage, transfer, or dispose of 6567
historical or archaeological sites to which it has title and in 6568
which the state has monetary interest except by action of the 6569
general assembly. 6570

In consideration of the public functions performed by the 6571
Ohio historical society for the state, employees of the society 6572
shall be considered public employees within the meaning of section 6573
145.01 of the Revised Code. 6574

Sec. 149.31. (A) The Ohio historical society, in addition to 6575
its other functions, shall function as the state archives 6576
administration for the state and its political subdivisions. 6577

It shall be the function of the state archives to preserve 6578
government archives, documents, and records of historical value 6579
~~which that~~ may come into its possession from public or private 6580
sources. 6581

The archives administration shall evaluate, preserve, 6582
arrange, service repair, or make other disposition, such as 6583
transfer to public libraries, county historical societies, state 6584
universities, or other public or quasi-public institutions, 6585
agencies, or corporations, of those public records of the state 6586
and its political subdivisions ~~which that~~ may come into its 6587
possession under ~~the provisions of~~ this section. Such public 6588

records shall be transferred by written agreement only, and only 6589
to public or quasi-public institutions, agencies, or corporations 6590
capable of meeting accepted archival standards for housing and 6591
use. 6592

The archives administration shall be headed by a trained 6593
archivist designated by the Ohio historical society, and shall 6594
make its services available to county, city, township, and ~~school~~ 6595
school district records commissions upon request. The archivist 6596
shall be designated as the "state archivist." 6597

(B) The archives administration ~~of the Ohio historical~~ 6598
~~society~~ may purchase or procure for itself, or authorize the board 6599
of trustees of an archival institution to purchase or procure from 6600
an insurance company licensed to do business in this state 6601
policies of insurance insuring the administration or the members 6602
of the board and their officers, employees, and agents against 6603
liability on account of damage or injury to persons and property 6604
resulting from any act or omission of the board members, officers, 6605
employees, and agents in their official capacity. 6606

(C) Notwithstanding any other provision of the Revised Code 6607
to the contrary, the archives administration may establish a fee 6608
schedule, which may include the cost of labor, for researching, 6609
retrieving, copying, and mailing copies of public records in the 6610
state archives. Revisions to the fee schedule shall be subject to 6611
approval by the board of trustees of the Ohio historical society. 6612

Sec. 149.33. (A) The department of administrative services 6613
shall have ~~full~~ responsibility for establishing and administering 6614
a state records program for all state agencies, except for 6615
state-supported institutions of higher education. The department 6616
shall apply efficient and economical management methods to the 6617
creation, utilization, maintenance, retention, preservation, and 6618
disposition of state records. 6619

There is hereby established within the department of 6620
administrative services ~~an office of a~~ a state records 6621
~~administration program~~, which shall be under the control and 6622
supervision of the director of administrative services or ~~his~~ the 6623
~~director's~~ appointed deputy. ~~The director shall designate an~~ 6624
~~administrator of the office of state records administration.~~ 6625

(B) The boards of trustees of state-supported institutions of 6626
higher education shall have full responsibility for establishing 6627
and administering a records program for their respective 6628
institutions. The boards shall apply efficient and economical 6629
management methods to the creation, utilization, maintenance, 6630
retention, preservation, and disposition of the records of their 6631
respective institutions. 6632

Sec. 149.331. The state ~~record administration~~ records program 6633
of the department of administrative services shall do all of the 6634
following: 6635

(A) Establish and promulgate in consultation with the state 6636
archivist standards, procedures, and techniques for the effective 6637
management of state records; 6638

~~(B) Make continuing surveys of record keeping operations and~~ 6639
~~recommend improvements in current records management practices~~ 6640
~~including the use of space, equipment, and supplies employed in~~ 6641
~~creating, maintaining, storing, and servicing records;~~ 6642

~~(C) Establish and operate such state records centers and~~ 6643
~~auxiliary facilities as may be authorized by appropriation and~~ 6644
~~provide such related services as are deemed necessary for the~~ 6645
~~preservation, screening, storage, and servicing of state records~~ 6646
~~pending disposition;~~ 6647

~~(D)~~ Review applications for one-time records disposal and 6648
schedules of records retention and destruction submitted by state 6649

agencies in accordance with section 149.333 of the Revised Code; 6650

~~(E)~~(C) Establish "general schedules" proposing the disposal, 6651
after the lapse of specified periods of time, of records of 6652
specified form or character common to several or all agencies that 6653
either have accumulated or may accumulate in such agencies and 6654
that apparently will not, after the lapse of the periods 6655
specified, have sufficient administrative, legal, fiscal, or other 6656
value to warrant their further preservation by the state; 6657

~~(F)~~(D) Establish and maintain a records management training 6658
program, and provide a basic consulting service, for personnel 6659
involved in record-making and record-keeping functions of 6660
departments, offices, and institutions; 6661

~~(G)~~ Obtain reports from departments, offices, and 6662
~~institutions necessary for the effective administration of the~~ 6663
~~program;~~ 6664

~~(H)~~(E) Provide for the disposition of any remaining records 6665
of any state agency, board, or commission, whether in the 6666
executive, judicial, or legislative branch of government, that has 6667
terminated its operations. After the closing of the Ohio veterans' 6668
children's home, the resident records of the home and the resident 6669
records of the home when it was known as the soldiers' and 6670
sailors' orphans' home required to be maintained by approved 6671
records retention schedules shall be administered by the state 6672
department of education pursuant to this chapter, the 6673
administrative records of the home required to be maintained by 6674
approved records retention schedules shall be administered by the 6675
department of administrative services pursuant to this chapter, 6676
and historical records of the home shall be transferred to an 6677
appropriate archival institution in this state prescribed by the 6678
state ~~record administration~~ records program. 6679

~~(I)~~(F) Establish a centralized program coordinating 6680

micrographics standards, training, and services for the benefit of 6681
all state agencies; 6682

~~(J)~~(G) Establish and publish in accordance with the 6683
applicable law necessary procedures and rules for the retention 6684
and disposal of state records. 6685

This section does not apply to the records of state-supported 6686
institutions of higher education, which shall keep their own 6687
records. 6688

Sec. 149.332. Upon request the ~~state records administrator~~ 6689
director of administrative services and the state archivist shall 6690
assist and advise in the establishment of records management 6691
programs in the legislative and judicial branches of state 6692
government and shall, as required by them, provide program 6693
services similar to those available to the executive branch 6694
~~pursuant to~~ under section 149.33 of the Revised Code. Prior to the 6695
disposal of any records, the state archivist shall be allowed 6696
sixty days to select for preservation in the state archives those 6697
records ~~he~~ the state archivist determines to have continuing 6698
historical value. 6699

Sec. 149.333. No state agency shall retain, destroy, or 6700
otherwise transfer its state records in violation of this section. 6701
This section does not apply to state-supported institutions of 6702
higher education. 6703

Each state agency shall submit to the state records 6704
~~administrator~~ program under the director of administrative 6705
services all applications for records disposal or transfer and all 6706
schedules of records retention and destruction. The state records 6707
~~administrator~~ program shall review ~~such~~ the applications and 6708
schedules and provide written approval, rejection, or modification 6709
of ~~the~~ an application or schedule. The state records ~~administrator~~ 6710

program shall then forward the application for records disposal or 6711
transfer or the schedule for retention or destruction, with the 6712
~~administrator's~~ program's recommendation attached, to the auditor 6713
of state for review and approval. The decision of the auditor of 6714
state to approve, reject, or modify the ~~applications~~ application 6715
or ~~schedules~~ schedule shall be based upon the continuing 6716
administrative and fiscal value of the state records to the state 6717
or to its citizens. If the auditor of state disapproves the action 6718
by the state agency, ~~he~~ the auditor of state shall so inform the 6719
state agency through the state records ~~administrator~~ program 6720
within sixty days, and ~~these~~ the records shall not be destroyed. 6721
~~At~~ 6722

At the same time, the state records ~~administrator~~ program 6723
shall forward the application for records disposal or transfer or 6724
the schedule for retention or destruction to the state archivist 6725
for review and approval. The state archivist shall have sixty days 6726
to select for custody ~~such~~ the state records ~~as he~~ that the state 6727
archivist determines to be of continuing historical value. Records 6728
not ~~so~~ selected shall be disposed of in accordance with this 6729
section. 6730

Sec. 149.34. The head of each state agency, office, 6731
institution, board, or commission shall do the following: 6732

(A) Establish, maintain, and direct an active continuing 6733
program for the effective management of the records of the state 6734
agency; 6735

~~(B) Cooperate with the state records administrator in the~~ 6736
~~conduct of surveys pursuant to section 149.331 of the Revised~~ 6737
~~Code;~~ 6738

~~(C)~~ Submit to the state records ~~administrator~~ program, in 6739
accordance with applicable standards and procedures, schedules 6740
proposing the length of time each record series warrants retention 6741

for administrative, legal, or fiscal purposes after it has been 6742
received or created by the agency. The head of each state agency 6743
also shall submit to the state records ~~administrator~~ program 6744
applications for disposal of records in ~~his~~ the head's custody 6745
that are not needed in the transaction of current business and are 6746
not otherwise scheduled for retention or destruction. 6747

~~(D) Transfer to a state records center or auxiliary 6748
facilities, in the manner prescribed by the state records 6749
administrator, those records of the agency that can be retained 6750
more efficiently and economically in such a center;~~ 6751

~~(E)~~ (C) Within one year after their date of creation or 6752
receipt, schedule all records for disposition or retention in the 6753
manner prescribed by applicable law and procedures. 6754

This section does not apply to state-supported institutions 6755
of higher education. 6756

Sec. 149.35. If any law prohibits the destruction of records, 6757
~~neither the state records administrator nor~~ director of 6758
administrative services, the director's designee, or the boards of 6759
trustees of state-supported institutions of higher education shall 6760
not order their destruction or other disposition, ~~and, if.~~ If any 6761
law provides that records shall be kept for a specified period of 6762
time, ~~neither the administrator nor~~ director of administrative 6763
services, the director's designee, or the boards shall not order 6764
their destruction or other disposition prior to the expiration of 6765
~~such~~ that period. 6766

Sec. 153.65. As used in sections 153.65 to 153.71 of the 6767
Revised Code: 6768

(A) "Public authority" means the state, ~~or~~ a county, 6769
township, municipal corporation, school district, or other 6770
political subdivision, or any public agency, authority, board, 6771

commission, instrumentality, or special district of the state or a 6772
county, township, municipal corporation, school district, or other 6773
political subdivision. 6774

(B) "Professional design firm" means any person legally 6775
engaged in rendering professional design services. 6776

(C) "Professional design services" means services within the 6777
scope of practice of an architect or landscape architect 6778
registered under Chapter 4703. of the Revised Code or a 6779
professional engineer or surveyor registered under Chapter 4733. 6780
of the Revised Code. 6781

(D) "Qualifications" means all of the following: 6782

(1) Competence of the professional design firm to perform the 6783
required professional design services as indicated by the 6784
technical training, education, and experience of the firm's 6785
personnel, especially the technical training, education, and 6786
experience of the employees within the firm who would be assigned 6787
to perform the services; 6788

(2) Ability of the firm in terms of its workload and the 6789
availability of qualified personnel, equipment, and facilities to 6790
perform the required professional design services competently and 6791
expeditiously; 6792

(3) Past performance of the firm as reflected by the 6793
evaluations of previous clients with respect to such factors as 6794
control of costs, quality of work, and meeting of deadlines; 6795

(4) ~~Other similar~~ Any other relevant factors as determined by 6796
the public authority. 6797

Sec. 153.691. No public authority planning to contract for 6798
professional design services under section 153.69 of the Revised 6799
Code shall require any form of fee estimate, fee proposal, or 6800
other estimate or measure of compensation prior to selecting and 6801

ranking professional design firms, except in instances when firms 6802
are selected and ranked by a state agency from a list of 6803
prequalified firms created under section 153.68 of the Revised 6804
Code and the state agency's payment of funds for the professional 6805
design services has been preapproved by the controlling board. 6806

Sec. 164.27. (A) The clean Ohio conservation fund is hereby 6807
created in the state treasury. Seventy-five per cent of the net 6808
proceeds of obligations issued and sold by the issuing authority 6809
pursuant to sections 151.01 and 151.09 of the Revised Code shall 6810
be deposited into the fund. Investment earnings of the fund shall 6811
be credited to the fund. ~~For two years after the effective date of~~ 6812
~~this section, investment earnings credited to the fund and~~ may be 6813
used to pay costs incurred by the Ohio public works commission in 6814
administering sections 164.20 to 164.27 of the Revised Code. 6815
Moneys in the clean Ohio conservation fund shall be used to make 6816
grants to local political subdivisions and nonprofit organizations 6817
for projects that have been approved for grants under sections 6818
164.20 to 164.27 of the Revised Code. 6819

The clean Ohio conservation fund shall be administered by the 6820
Ohio public works commission. 6821

(B) For the purpose of grants issued under sections 164.20 to 6822
164.27 of the Revised Code, moneys shall be allocated on an annual 6823
basis from the clean Ohio conservation fund to districts 6824
represented by natural resources assistance councils as follows: 6825

(1) Each district shall receive an amount that is equal to 6826
one-fourth of one per cent of the total annual amount allocated to 6827
all districts each year for each county that is represented by the 6828
district. 6829

(2) The remaining moneys shall be allocated to each district 6830
annually on a per capita basis. 6831

(C) A grant that is awarded under sections 164.20 to 164.27 6832
of the Revised Code may provide up to seventy-five per cent of the 6833
estimated cost of a project. Matching funds from a grant recipient 6834
may consist of contributions of money by any person, any local 6835
political subdivision, or the federal government or of 6836
contributions in-kind by such entities through the purchase or 6837
donation of equipment, land, easements, interest in land, labor, 6838
or materials necessary to complete the project. 6839

(D) The director of the Ohio public works commission shall 6840
notify the director of budget and management of the amounts 6841
allocated pursuant to this section, and that information shall be 6842
entered in the state accounting system. The director of budget and 6843
management may establish appropriate line items or other 6844
mechanisms that are needed to track the allocations. 6845

(E) Grants awarded under sections 164.20 to 164.27 of the 6846
Revised Code from the clean Ohio conservation fund shall be used 6847
by a local political subdivision or nonprofit organization only to 6848
pay the costs related to the purposes for which grants may be 6849
issued under section 164.22 of the Revised Code and shall not be 6850
used by a local political subdivision or nonprofit organization to 6851
pay any administrative costs incurred by the local political 6852
subdivision or nonprofit organization. 6853

Sec. 165.09. Any real or personal property, or both, of an 6854
issuer ~~which~~ that is acquired, constructed, reconstructed, 6855
enlarged, improved, furnished or equipped, or any combination 6856
thereof, and leased or subleased under authority of either Chapter 6857
165. or 761. of the Revised Code shall be subject to ad valorem, 6858
sales, use, and franchise taxes and to zoning, planning, and 6859
building regulations and fees, to the same extent and in the same 6860
manner as if the lessee-user or sublessee-user thereof, rather 6861
than the issuer, had acquired, constructed, reconstructed, 6862

enlarged, improved, furnished, or equipped, or any combination 6863
thereof, such real or personal property, and title thereto was in 6864
the name of such lessee-user or sublessee-user. 6865

The transfer of tangible personal property by lease or 6866
sublease under authority of either Chapter 165. or 761. of the 6867
Revised Code is not a sale as used in Chapter 5739. of the Revised 6868
Code. The exemptions provided in divisions (B)(1) and (B)~~(14)~~(13) 6869
of section 5739.02 of the Revised Code shall not be applicable to 6870
purchases for a project under either Chapters 165. or 761. of the 6871
Revised Code. 6872

An issuer shall be exempt from all taxes on its real or 6873
personal property, or both, which has been acquired, constructed, 6874
reconstructed, enlarged, improved, furnished, or equipped, or any 6875
combination thereof, under Chapter 165. or 761. of the Revised 6876
Code, so long as such property is used by the issuer for purposes 6877
which would otherwise exempt such property; has ceased to be used 6878
by a former lessee-user or sublessee-user and is not occupied or 6879
used; or has been acquired by the issuer, but development has not 6880
yet commenced. The exemption shall be effective as of the date the 6881
exempt use begins. All taxes on the exempt real or personal 6882
property for the year should be prorated and the taxes for the 6883
exempt portion of the year shall be remitted by the county 6884
auditor. 6885

Sec. 173.06. (A) The director of aging shall establish a 6886
golden buckeye card program and provide a golden buckeye card to 6887
any resident of this state who applies to the director for a card 6888
and ~~who~~ is sixty years of age or older or ~~disabled~~ is a person 6889
with a disability and is eighteen years of age or older. The 6890
director shall devise programs to provide benefits of any kind to 6891
card holders, and encourage support and participation in them by 6892
all persons, including governmental organizations. Card holders 6893

shall be entitled to any benefits granted to them by private 6894
persons or organizations, the laws of this state, or ordinances or 6895
resolutions of political subdivisions. This section does not 6896
require any person or organization to provide benefits to any card 6897
holder. The department of aging shall bear all costs of the 6898
program, except that the department is not required to bear any 6899
costs related to the prescription drug ~~discount~~ programs 6900
established pursuant to section 173.061 of the Revised Code. 6901

(B) Before issuing a golden buckeye card to any person, the 6902
director shall establish the identity of any person who applies 6903
for a card and shall ascertain that such person is sixty years of 6904
age or older or ~~disabled~~ is a person with a disability and is 6905
eighteen years of age or older. The director shall adopt rules 6906
under Chapter 119. of the Revised Code to prevent the issuance of 6907
cards to persons not qualified to have them. Cards shall contain 6908
the signature of the card holder and any other information the 6909
director considers necessary to carry out the purposes of the 6910
golden buckeye card program under this section. Any card that the 6911
director issues shall be held in perpetuity by the original card 6912
holder and shall not be transferable to any other person. A person 6913
who loses the person's card may obtain another card from the 6914
director upon providing the same information to the director as 6915
was required for the issuance of the original card. 6916

(C) No person shall use a golden buckeye card except to 6917
obtain a benefit for the holder of the card to which the holder is 6918
entitled under the conditions of the offer. 6919

(D) As used in this section, "~~disabled~~ person with a 6920
disability" means a person who has some impairment of body or mind 6921
~~that makes the person unfit to work at any substantially~~ 6922
~~remunerative employment that the person is substantially able to~~ 6923
~~perform and that will, with reasonable probability, continue for a~~ 6924
~~period of at least twelve months without any present indication of~~ 6925

~~recovery therefrom, or who~~ and has been certified as permanently 6926
and totally disabled by an agency of this state or the United 6927
States having the function of so classifying persons. 6928

Sec. 173.061. (A) As used in this section: 6929

(1) "Prescription drug" means a drug that may not be 6930
dispensed without a prescription from a licensed health 6931
professional authorized to prescribe drugs. 6932

(2) "Drug," "licensed health professional authorized to 6933
prescribe drugs," "pharmacy," and "prescription" have the same 6934
meanings as in section 4729.01 of the Revised Code. 6935

(3) "~~Disabled person~~ Person with a disability" has the same 6936
meaning as in section 173.06 of the Revised Code. 6937

(4) "Drug discount" means a reimbursement of a certain 6938
portion of the wholesale price of a drug to the administrator of a 6939
prescription drug program for funds accrued or paid in connection 6940
with a reduction in cost of the drug by the manufacturer to the 6941
prescription drug program cardholder pursuant to an agreement 6942
between the manufacturer and the administrator and in 6943
consideration of the administrator's agreement to return one 6944
hundred per cent of the non-negotiated discounts to the cardholder 6945
at the point of sale. A discount is not tied to and does not vary 6946
based on market share performance. 6947

(5) "Rebate" means a refund of a certain portion of the 6948
wholesale price of a drug to the administrator of a prescription 6949
drug program based on a negotiated agreement between the 6950
manufacturer and the administrator and in consideration of market 6951
share performance or continued access or availability of the drug 6952
under the administrator's prescription drug program. 6953

(B) The director of aging shall establish one or more 6954
prescription drug ~~discount card~~ programs that enable cardholders 6955

to receive ~~discounts~~ reduced prices on prescription drugs 6956
dispensed at participating pharmacies. A card shall be provided to 6957
any resident of this state who applies in accordance with rules 6958
adopted by the director pursuant to division (F) of this section 6959
and is sixty years of age or older or is a ~~disabled~~ person with a 6960
disability. 6961

If the director establishes more than one prescription drug 6962
~~discount card~~ program under this section, an eligible resident may 6963
participate in one or more or all of the programs. 6964

(C)(1) The director shall solicit and accept proposals from 6965
entities separate from the department of aging to provide for 6966
administration of a program or programs in accordance with rules 6967
adopted under division (F) of this section. Proposals must be 6968
submitted not later than a date established by the director. The 6969
director shall accept only those proposals that specify all of the 6970
following: 6971

(a) The estimated amount of the ~~discount~~ reduced prices on 6972
prescription drugs based on the entity's previous experience and 6973
how the ~~discount~~ reduction is to be achieved; 6974

(b) To the extent that ~~discounts on prescription drugs are to~~ 6975
~~be achieved through rebates or discounts in prices that the an~~ 6976
entity negotiates rebates with drug manufacturers, the proportion 6977
of the rebates ~~or discounts~~ to be used to do ~~all~~ any of the 6978
following: 6979

(i) Reduce any costs to cardholders; 6980

(ii) ~~Achieve discounts for cardholders;~~ 6981

~~(iii) Cover costs for administering the program;~~ 6982

(iii) Offer any other benefits to cardholders. 6983

(c) Any other benefits offered to cardholders; 6984

(d) If fees are permitted, the fee, if any, to cardholders 6985

for participation in the program and whether the fee is to be a	6986
one-time or periodic fee;	6987
(e) The estimated number and geographic distribution of	6988
participating pharmacies and the process for establishing the	6989
program's pharmacy network;	6990
(f) Financial incentives to be paid to participating	6991
pharmacies by the entity;	6992
(g) The percentage of prescription drugs to be covered by the	6993
program by major drug category;	6994
(h) How the entity proposes to improve medication management	6995
for cardholders;	6996
(i) How cardholders and participating pharmacies will be	6997
informed of the discounted <u>reduced</u> price negotiated by the entity;	6998
(j) How the entity will handle complaints about the program's	6999
operation;	7000
(k) The entity's previous experience in managing similar	7001
programs;	7002
(1) Any additional information requested by the director.	7003
(2) The director shall contract with one or more entities to	7004
administer a program or programs on the basis of the proposals	7005
submitted, but may require an administrator to modify its conduct	7006
of a program in accordance with rules adopted under division (F)	7007
of this section. Prior to entering into a contract with an entity,	7008
the director shall obtain approval of the contract from the	7009
controlling board at a public hearing.	7010
The director shall adopt rules specifying the period for	7011
which a contract will be in effect and may terminate a contract if	7012
an administrator fails to conduct a program in accordance with its	7013
proposal or with any modifications required by rule. When a	7014
contract period ends or a contract is terminated, the director	7015

shall enter into a new contract in the manner specified in this 7016
section for an original contract. Prior to making a new contract, 7017
the director may modify the rules for administration of the 7018
program or programs. 7019

(D) The rules for administration of a program established 7020
under division (C)(2) of this section may permit an administrator 7021
to charge a fee for a prescription drug ~~discount~~ card. The fee may 7022
be a one-time or periodic fee. If the rules permit a fee to be 7023
charged, each entity that submits a proposal under which a fee 7024
will be charged shall specify the amount of the fee and the period 7025
to which the fee will apply. 7026

If an administrator charges a fee for a prescription drug 7027
~~discount~~ card, the rules may require the administrator to issue 7028
the cards. If an administrator does not charge a fee, the rules 7029
may require the administrator to issue the cards or may include 7030
the prescription drug ~~discount~~ information on golden buckeye cards 7031
issued under section 173.06 of the Revised Code. 7032

(E) As used in this division, "administrator" includes the 7033
administrator's parent company and any subsidiary of the parent 7034
company. 7035

(1) No administrator shall sell any information concerning a 7036
person who holds a prescription drug ~~discount~~ card, other than 7037
aggregate information that does not identify the cardholder, 7038
without the cardholder's written consent. 7039

(2) Unless an administrator has the cardholder's written 7040
consent, no administrator shall use any personally identifiable 7041
information that it obtains concerning a cardholder through the 7042
program to promote or sell a program or product offered by the 7043
administrator that is not related to the administration of the 7044
program. This division does not prohibit an administrator from 7045
contacting cardholders concerning participation in or 7046

administration of the program, including, but not limited to, 7047
mailing a list of pharmacies participating in the program's 7048
network. 7049

(3) When determining medicaid drug rebates, an administrator 7050
shall be subject to best price calculations promulgated by the 7051
centers for medicare and medicaid services in the United States 7052
department of health and human services. An administrator may use 7053
rebates negotiated with a drug manufacturer without restriction, 7054
including sharing a portion of the rebate with the administrator's 7055
clients, prescription drug program participants, or participating 7056
pharmacies. To the extent that ~~a discount is achieved through~~ 7057
~~rebates or discounts in prices that~~ an administrator negotiates 7058
rebates with drug manufacturers, ~~an~~ the administrator shall use 7059
the rebates ~~or discounts~~ to do one or more of the following: 7060

- (a) Reduce any costs to cardholders; 7061
- (b) ~~Achieve discounts for cardholders;~~ 7062
- ~~(e)~~ Cover any administrative costs of the program; 7063
- (c) Offer any other benefits to cardholders. 7064

(4) An administrator may negotiate with drug manufacturers to 7065
have the prescription drug program or programs established by the 7066
department of aging under this section serve as a single 7067
enrollment point for the manufacturer's discount program. To the 7068
extent that discounts are offered by manufacturers through the 7069
program, discounts are exempt from best price calculations when 7070
determining medicaid drug rebates pursuant to 42 U.S.C. 1396r-8, 7071
as amended, if all of the following apply: 7072

(a) The manufacturer's program provides prescription drug 7073
assistance to a limited group of persons without negotiations 7074
between the manufacturer and a third party regarding the amount of 7075
assistance. 7076

(b) The manufacturer establishes the amount of the benefit to be given to persons without negotiations between the manufacturer and a third party regarding the amount of the benefit. 7077
7078
7079

(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. 7080
7081
7082
7083

(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. 7084
7085
7086
7087

(e) Other than the benefit amount, a participating pharmacy collects no additional payment from the manufacturer's discount program. 7088
7089
7090

(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. 7091
7092
7093
7094

(F) The director shall adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following: 7095
7096

(1) Specify how a resident may apply to participate in any one or more prescription drug discount card programs; 7097
7098

(2) Provide for the administration of each program; 7099

(3) Specify the circumstances under which the director may require an administrator to modify its conduct of a program; 7100
7101

(4) Specify the duration of a contract; 7102

(5) Specify whether an administrator may charge a fee for a card and whether an administrator is required to issue the cards; 7103
7104

(6) Require that an administrator permit any pharmacy willing 7105

to comply with the administrator's terms and conditions for 7106
participation in the program's network to participate in any 7107
network used by the administrator for its program; 7108

(7) Prohibit an administrator from requiring a pharmacy or 7109
drug manufacturer to participate in the program's network as a 7110
condition of participation in another network operated by the 7111
administrator; 7112

(8) Permit an administrator to work with one or more drug 7113
manufacturers to obtain drug discounts; 7114

(9) Permit an administrator to negotiate with one or more 7115
drug manufacturers for ~~discounts in drug prices or~~ rebates; 7116

~~(9)~~(10) Permit an administrator to receive any rebate 7117
payments from drug manufacturers; 7118

~~(10)~~(11) Require that an administrator create a financial 7119
incentive program for participating pharmacies through which the 7120
administrator shall distribute a portion of any rebate payments 7121
from drug manufacturers received under division (F)~~(9)~~(10) of this 7122
section. 7123

(G) Not later than one month after the end of each 7124
twelve-month period that one or more prescription drug ~~discount~~ 7125
~~card~~ programs are in operation, each administrator shall collect 7126
from each of its participating pharmacies and provide to the 7127
director of aging the information required by section 173.071 of 7128
the Revised Code. 7129

Sec. 173.062. Records identifying the recipients of golden 7130
buckeye cards issued under section 173.06 of the Revised Code or 7131
prescription drug ~~discount~~ cards issued under section 173.061 of 7132
the Revised Code are not public records subject to inspection or 7133
copying under section 149.43 of the Revised Code and may be 7134
disclosed only at the discretion of the director of aging. The 7135

director may disclose only information in records identifying the 7136
recipients of golden buckeye cards or prescription drug ~~discount~~ 7137
cards that does not contain the recipient's medical history or 7138
prescription drug utilization history. 7139

Sec. 173.07. Not later than four months after the end of each 7140
twelve-month period that one or more prescription drug ~~discount~~ 7141
~~card~~ programs established under section 173.061 of the Revised 7142
Code are in operation, the director of aging shall issue a report 7143
on the operation of each program during that twelve-month period. 7144

Sec. 173.071. Each report issued under section 173.07 of the 7145
Revised Code shall be based on information received by the 7146
director of aging from each administrator under division (G) of 7147
section 173.061 of the Revised Code and specify all of the 7148
following about each program: 7149

(A) The number of prescription drug ~~discount~~ cardholders; 7150

(B) The number of cardholders who used the card at least once 7151
in the immediately preceding twelve-month period; 7152

(C) The total cost savings to all cardholders generated by 7153
the program; 7154

(D) The average cost savings to a cardholder per 7155
prescription; 7156

(E) The source and method of cost savings under the program; 7157

(F) The drugs that are discounted under the program listed 7158
according to major drug category; 7159

(G) The drugs for which rebates are offered under the 7160
program, listed according to major drug category; 7161

(H) For each participating pharmacy, the number of times in 7162
the twelve-month period that the pharmacy's customary and usual 7163
price was lower than the price offered under the prescription drug 7164

discount program;	7165
(H) (I) The name of the program's administrator;	7166
(I) (J) The length of the contract between the director and the program's administrator;	7167 7168
(J) (K) The number of pharmacies participating in the program;	7169
(K) (L) Other than the cost of prescription drugs, any fees paid by cardholders to participate in the program;	7170 7171
(L) (M) Any costs incurred by the state to operate the program;	7172 7173
(M) (N) Any costs incurred by participating pharmacies to participate in the program.	7174 7175
<u>Sec. 173.08. (A) The resident services coordinator program is</u>	7176
<u>established in the department of aging to fund resident services</u>	7177
<u>coordinators. The coordinators shall provide information to</u>	7178
<u>low-income and special-needs tenants, including the elderly, who</u>	7179
<u>live in subsidized rental housing complexes, and assist those</u>	7180
<u>tenants in identifying and obtaining community and program</u>	7181
<u>services and other benefits for which they are eligible.</u>	7182
<u>(B) The resident services coordinator program fund is hereby</u>	7183
<u>created in the state treasury to support the resident services</u>	7184
<u>coordinator program established pursuant to this section. The fund</u>	7185
<u>consists of all moneys the department of development sets aside</u>	7186
<u>pursuant to division (A)(4) of section 175.21 of the Revised Code</u>	7187
<u>and moneys the general assembly appropriates to the fund.</u>	7188
Sec. 173.14. As used in sections 173.14 to 173.26 of the	7189
Revised Code:	7190
(A)(1) Except as otherwise provided in division (A)(2) of	7191
this section, "long-term care facility" includes any residential	7192
facility that provides personal care services for more than	7193

twenty-four hours for two or more unrelated adults, including all 7194
of the following: 7195

(a) A "nursing home," "residential care facility," or "home 7196
for the aging" as defined in section 3721.01 of the Revised Code; 7197

(b) A facility authorized to provide extended care services 7198
under Title XVIII of the "Social Security Act," 49 Stat. 620 7199
(1935), 42 U.S.C. 301, as amended; 7200

(c) A county home or district home operated pursuant to 7201
Chapter 5155. of the Revised Code; 7202

(d) An "adult care facility" as defined in section 3722.01 of 7203
the Revised Code; 7204

(e) A facility approved by the veterans administration under 7205
section 104(a) of the "Veterans Health Care Amendments of 1983," 7206
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for 7207
the placement and care of veterans; 7208

(f) An adult foster home certified under section 173.36 of 7209
the Revised Code. 7210

(2) "Long-term care facility" does not include a "residential 7211
facility" as defined in section 5119.22 of the Revised Code or a 7212
"residential facility" as defined in section 5123.19 of the 7213
Revised Code. 7214

(B) "Resident" means a resident of a long-term care facility 7215
and, where appropriate, includes a prospective, previous, or 7216
deceased resident of a long-term care facility. 7217

(C) "Community-based long-term care services" means health 7218
and social services provided to persons ~~age sixty or older~~ in 7219
their own homes or in community care settings, and includes any of 7220
the following: 7221

(1) Case management; 7222

(2) Home health care; 7223

(3) Homemaker services;	7224
(4) Chore services;	7225
(5) Respite care;	7226
(6) Adult day care;	7227
(7) Home-delivered meals;	7228
(8) Personal care;	7229
(9) Physical, occupational, and speech therapy;	7230
(10) Any other health and social services provided to persons	7231
age sixty or older that allow them to retain their independence in	7232
their own homes or in community care settings.	7233
(D) "Recipient" means a recipient of community-based	7234
long-term care services and, where appropriate, includes a	7235
prospective, previous, or deceased recipient of community-based	7236
long-term care services.	7237
(E) "Sponsor" means an adult relative, friend, or guardian	7238
who has an interest in or responsibility for the welfare of a	7239
resident or a recipient.	7240
(F) "Personal care services" has the same meaning as in	7241
section 3721.01 of the Revised Code.	7242
(G) "Regional long-term care ombudsperson program" means an	7243
entity, either public or private and nonprofit, designated as a	7244
regional long-term care ombudsperson program by the state	7245
long-term care ombudsperson.	7246
(H) "Representative of the office of the state long-term care	7247
ombudsperson program" means the state long-term care ombudsperson	7248
or a member of the ombudsperson's staff, or a person certified as	7249
a representative of the office under section 173.21 of the Revised	7250
Code.	7251
(I) "Area agency on aging" means an area agency on aging	7252

established under the "Older Americans Act of 1965," 79 Stat. 219, 7253
42 U.S.C.A. 3001, as amended. 7254

Sec. 173.26. (A) Each of the following facilities shall 7255
annually pay to the department of aging ~~three~~ six dollars for each 7256
bed maintained by the facility for use by a resident during any 7257
part of the previous year: 7258

(1) Nursing homes, residential care facilities, and homes for 7259
the aging as defined in section 3721.01 of the Revised Code; 7260

(2) Facilities authorized to provide extended care services 7261
under Title XVIII of the "Social Security Act," 49 Stat. 620 7262
(1935), 42 U.S.C. 301, as amended; 7263

(3) County homes and district homes operated pursuant to 7264
Chapter 5155. of the Revised Code; 7265

(4) Adult care facilities as defined in section 3722.01 of 7266
the Revised Code; 7267

(5) ~~Adult foster homes certified under section 173.36 of the~~ 7268
~~Revised Code;~~ 7269

~~(6)~~ Facilities approved by the Veterans Administration under 7270
Section 104(a) of the "Veterans Health Care Amendments of 1983," 7271
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for 7272
the placement and care of veterans. 7273

The department shall, by rule adopted ~~under section 111.15 in~~ 7274
accordance with Chapter 119. of the Revised Code, establish 7275
deadlines for payments required by this section. 7276

(B) All money collected under this section shall be deposited 7277
in the state treasury to the credit of the office of the state 7278
long-term care ~~ombudsman~~ ombudsperson program fund, which is 7279
hereby created. Money credited to the fund shall be used solely to 7280
pay the costs of operating the regional long-term care ~~ombudsman~~ 7281
ombudsperson programs. 7282

(C) The state long-term care ~~ombudsman~~ ombudsperson and the 7283
regional programs may solicit and receive contributions to support 7284
the operation of the office or a regional program, except that no 7285
contribution shall be solicited or accepted that would interfere 7286
with the independence or objectivity of the office or program. 7287

Sec. 173.54. (A) Through the contract required under section 7288
173.47 of the Revised Code, the department of aging shall provide 7289
for customer satisfaction surveys for use in publishing the Ohio 7290
long-term care consumer guide. The department shall ensure that 7291
the customer satisfaction surveys are conducted as follows: 7292

(1) ~~The surveys~~ One survey shall be conducted ~~annually each~~ 7293
year. The survey shall alternate between a survey of nursing 7294
facility residents and a survey of families of nursing facility 7295
residents. 7296

(2) The surveys shall consist of standardized, statistically 7297
valid and reliable questionnaires for nursing facility residents 7298
~~and~~ or for families of nursing facility residents. Each 7299
questionnaire shall be structured in a manner that produces 7300
statistically tested valid and reliable responses, as specified in 7301
rules adopted by the department. Each questionnaire shall ask the 7302
resident's age and gender. The resident questionnaire shall ask 7303
who, if anyone, assisted the resident in completing the 7304
questionnaire. The family questionnaire shall ask the relationship 7305
of the person completing the questionnaire to the resident. 7306

(3) The resident survey shall be conducted in person, using a 7307
standardized survey protocol developed by the department in 7308
consultation with the long-term care consumer guide advisory 7309
council. The survey shall be conducted in a manner designed to 7310
preserve the resident's confidentiality as much as possible. 7311

(4) The family survey shall be conducted using anonymous 7312

questionnaires distributed to families and returned to a person 7313
other than the nursing facility, in accordance with a standardized 7314
survey protocol developed by the department in consultation with 7315
the long-term care consumer guide advisory council. 7316

(B) In addition to being used for the consumer guide, the 7317
results of the surveys conducted under this section shall be 7318
provided to the nursing facilities to which they pertain. Each 7319
nursing facility in this state shall participate as necessary for 7320
successful completion of the surveys. 7321

Sec. 175.03. (A)(1) The Ohio housing finance agency shall 7322
consist of eleven members. Nine of the members shall be appointed 7323
by the governor with the advice and consent of the senate. The 7324
director of commerce and the director of development, or their 7325
respective designees, shall also be voting members of the agency. 7326
Of the nine appointed members, at least one shall have experience 7327
in residential housing construction; at least one shall have 7328
experience in residential housing mortgage lending, loan 7329
servicing, or brokering; at least one shall have experience in the 7330
licensed residential housing brokerage business; at least one 7331
shall have experience with the housing needs of senior citizens; 7332
at least one shall be from a background in labor representation in 7333
the construction industry; at least one shall represent the 7334
interests of nonprofit multifamily housing development 7335
corporations; at least one shall represent the interests of 7336
for-profit multifamily housing development organizations; and two 7337
shall be public members. The governor shall receive 7338
recommendations from the Ohio housing council for appointees to 7339
represent the interests of nonprofit multifamily housing 7340
development corporations and for-profit multifamily housing 7341
development organizations. Each appointee representing multifamily 7342
housing interests currently shall be employed with an organization 7343
that is active in the area of affordable housing development or 7344

management. No more than six of the appointed members of the 7345
agency shall be of the same political party. Of the appointments 7346
made to the agency for the eighth and ninth appointed members in 7347
accordance with this amendment, one shall be for a term ending on 7348
January 31, 2005, and one shall be for a term ending on January 7349
31, 2006. Thereafter, each appointed member shall serve for a term 7350
ending on the thirty-first day of January which is six years 7351
following the date of termination of the term which it succeeds. 7352
Each member shall hold office from the date of the member's 7353
appointment until the end of the term for which the member was 7354
appointed. Any member appointed to fill a vacancy occurring prior 7355
to the expiration of the term for which the member's predecessor 7356
was appointed shall hold office for the remainder of such term. 7357
Any appointed member shall continue in office subsequent to the 7358
expiration date of the member's term until the member's successor 7359
takes office, or until a period of sixty days has elapsed, 7360
whichever occurs first. Each appointed member may be removed from 7361
office by the governor for misfeasance, nonfeasance, malfeasance 7362
in office, or for failure to attend in person three consecutive 7363
meetings of the agency. 7364

(2) The ~~director of development or the director's designee~~ 7365
governor shall ~~be~~ appoint the chairperson of the agency. The 7366
agency shall elect one of its ~~appointed~~ members as 7367
vice-chairperson and such other officers as it deems necessary, 7368
who need not be members of the agency. Each appointed member of 7369
the agency shall receive compensation at the rate of one hundred 7370
fifty dollars per agency meeting attended in person, not to exceed 7371
a maximum of three thousand dollars per year. All members shall be 7372
reimbursed for their actual and necessary expenses incurred in the 7373
discharge of their official duties. 7374

(3) Six members of the agency constitute a quorum, and the 7375
affirmative vote of six members shall be necessary for any action 7376

taken by the agency. No vacancy in membership of the agency 7377
impairs the right of a quorum to exercise all the rights and 7378
perform all the duties of the agency. Meetings of the agency may 7379
be held at any place within the state. Meetings of the agency, 7380
including notice of the place of meetings, shall comply with 7381
section 121.22 of the Revised Code. 7382

(B)(1) The appointed members of the agency are not subject to 7383
section 102.02 of the Revised Code. Each such appointed member 7384
shall file with the agency a signed written statement setting 7385
forth the general nature of sales of goods, property or services 7386
or of loans to the agency in which such member has a pecuniary 7387
interest or in which any member of the member's immediate family, 7388
as defined in section 102.01 of the Revised Code, or any 7389
corporation, partnership or enterprise of which the member is an 7390
officer, director, or partner, or of which the member or a member 7391
of the member's immediate family, as so defined, owns more than a 7392
five per cent interest, has a pecuniary interest, and of which 7393
sale, loan and interest such member has knowledge. The statement 7394
shall be supplemented from time to time to reflect changes in the 7395
general nature of any such sales or loans. No member shall 7396
participate in portions of agency meetings dealing with, or vote 7397
concerning, any such matter. 7398

(2) The requirements of this section pertaining to disclosure 7399
and prohibition from participation and voting do not apply to 7400
agency loans to lending institutions or contracts between the 7401
agency and lending institutions for the purchase, administration, 7402
or servicing of loans notwithstanding that such lending 7403
institution has a director, officer, employee, or owner who is a 7404
member of the agency, and no such loans or contracts shall be 7405
deemed to be prohibited or otherwise regulated by reason of any 7406
other law or rule. 7407

(3) The members of the agency representing multifamily 7408

housing interests are not in violation of division (A) of section 7409
2921.42, division (D) of section 102.03, or division (E) of 7410
section 102.03 of the Revised Code in regard to a contract the 7411
agency enters into if both of the following apply: 7412

(a) The contract is entered into for a loan, grant, or 7413
participation in a program administered or funded by the agency 7414
and the contract was awarded pursuant to rules or guidelines the 7415
agency adopted. 7416

(b) The member does not participate in the discussion or vote 7417
on the contract if the contract secured a grant or loan that would 7418
directly benefit the member, a family member, or a business 7419
associate of the member. 7420

Sec. 175.21. (A) The low- and moderate-income housing trust 7421
fund is hereby created in the state treasury. The fund shall 7422
consist of all appropriations, made to the fund, housing trust 7423
fund fees collected by county recorders pursuant to section 317.36 7424
of the Revised Code and deposited into the fund pursuant to 7425
section 319.63 of the Revised Code, and all grants, gifts, loan 7426
repayments, and contributions of money made from any source to the 7427
department of development for deposit in the fund. All investment 7428
earnings of the fund shall be credited to the fund. The director 7429
of development shall allocate a portion of the money in the fund 7430
to an account of the Ohio housing finance agency. The department 7431
shall administer the fund. The agency shall use money allocated to 7432
it in the fund for implementing and administering its programs and 7433
duties under sections 175.22 and 175.24 of the Revised Code, and 7434
the department shall use the remaining money in the fund for 7435
implementing and administering its programs and duties under 7436
sections 175.22 to 175.25 of the Revised Code. Use of all money in 7437
the fund is subject to the following restrictions: 7438

(1) Not more than six per cent of any current year 7439

appropriation authority for the fund shall be used for the 7440
transitional and permanent housing program to make grants to 7441
municipal corporations, counties, townships, and nonprofit 7442
organizations for the acquisition, rehabilitation, renovation, 7443
construction, conversion, operation, and cost of supportive 7444
services for new and existing transitional and permanent housing 7445
for homeless persons. 7446

(2)(a) Not more than five per cent of any current year 7447
appropriation authority for the fund shall be used for grants and 7448
loans to community development corporations and the Ohio community 7449
development finance fund, a private nonprofit corporation. 7450

(b) In any year in which the amount in the fund exceeds one 7451
hundred thousand dollars, not less than one hundred thousand 7452
dollars shall be used to provide training, technical assistance, 7453
and capacity building assistance to nonprofit development 7454
organizations in areas of the state the director designates as 7455
underserved. 7456

(c) For monies awarded in any fiscal year, priority shall be 7457
given to proposals submitted by nonprofit development 7458
organizations from areas of the state the director designates as 7459
underserved. 7460

(3) Not more than seven per cent of any current year 7461
appropriation authority for the fund shall be used for the 7462
emergency shelter housing grants program to make grants to 7463
private, nonprofit organizations and municipal corporations, 7464
counties, and townships for emergency shelter housing for the 7465
homeless. The grants shall be distributed pursuant to rules the 7466
director adopts and qualify as matching funds for funds obtained 7467
pursuant to the McKinney Act, 101 Stat. 85 (1987), 42 U.S.C.A. 7468
11371 to 11378. 7469

(4) In any fiscal year in which the amount in the fund 7470

exceeds the amount awarded pursuant to division (A)(2)(b) of this 7471
section by at least two hundred fifty thousand dollars, at least 7472
two hundred fifty thousand dollars from the fund shall be provided 7473
to the department of aging for the resident services coordinator 7474
program. 7475

(5) Of all money in the fund: 7476

(a) Not more than five per cent shall be used for 7477
administration. 7478

(b) Not less than forty-five per cent of the ~~amount of~~ funds 7479
awarded during any one fiscal year shall be ~~used to make for~~ 7480
grants and loans to nonprofit organizations under section 175.22 7481
of the Revised Code, ~~not.~~ 7482

(c) Not less than fifty per cent of the ~~amount of~~ funds 7483
awarded during any one fiscal year, excluding the amounts awarded 7484
pursuant to divisions (A)(1), (A)(2), and (A)(3) of this section, 7485
shall be ~~used to make for~~ grants and loans for activities that 7486
~~will~~ provide housing and housing assistance to families and 7487
individuals in rural areas and small cities that ~~would~~ are not be 7488
eligible to participate as a participating jurisdiction under the 7489
"HOME Investment Partnerships Act," 104 Stat. 4094 (1990), 42 7490
U.S.C. 12701 note, 12721, ~~no more than five per cent of the money~~ 7491
~~in the fund shall be used for administration, and no.~~ 7492

(d) No money in the fund shall be used to pay for any legal 7493
services other than the usual and customary legal services 7494
associated with the acquisition of housing. 7495

(6) Except as otherwise provided by the director under 7496
division (B) of this section, money in the fund may be used as 7497
matching money for federal funds received by the state, counties, 7498
municipal corporations, and townships for the activities listed in 7499
section 175.22 of the Revised Code. 7500

(B) If after the second quarter of any year it appears to the 7501

director that the full amount of the money in the ~~low~~ and 7502
~~moderate-income housing trust~~ fund designated in that year for 7503
activities that ~~will~~ provide housing and housing assistance to 7504
families and individuals in rural areas and small cities under 7505
division (A) of this section will not be ~~so~~ used for that purpose, 7506
the director may reallocate all or a portion of that amount for 7507
other housing activities. In determining whether or how to 7508
reallocate money under this division, the director may consult 7509
with and shall receive advice from the housing trust fund advisory 7510
committee. 7511

Sec. 175.22. (A) The department of development and the Ohio 7512
housing finance agency shall each develop programs under which, in 7513
accordance with rules adopted under this section, ~~it~~ they may make 7514
grants, loans, loan guarantees, and loan subsidies to counties, 7515
municipal corporations, townships, local housing authorities, and 7516
nonprofit organizations and may make loans, loan guarantees, and 7517
loan subsidies to private developers and private lenders to assist 7518
~~them~~ in activities that ~~will~~ provide housing and housing 7519
assistance for specifically targeted low- and moderate-income 7520
families and individuals. There ~~shall be~~ is no minimum housing 7521
project size for awards under this division for any project that 7522
is ~~being~~ developed for a special needs population and that is 7523
supported by a social service agency where the housing project 7524
~~will be~~ is located. Activities for which grants, loans, loan 7525
guarantees, and loan subsidies may be made under this section 7526
include all of the following: 7527

(1) Acquiring, financing, constructing, leasing, 7528
rehabilitating, remodeling, improving, and equipping publicly or 7529
privately owned housing; 7530

(2) Providing supportive services related to housing and the 7531
homeless, including housing counseling. Not more than twenty per 7532

cent of the current year appropriation authority for the low- and 7533
moderate-income housing trust fund that remains after the 7534
expenditures made pursuant to divisions (A)(1), (A)(2), and (A)(3) 7535
of section 175.21 of the Revised Code, shall be awarded in any 7536
fiscal year for ~~such~~ supportive services. 7537

(3) Providing rental assistance payments or other project 7538
operating subsidies that lower tenant rents. 7539

(B) Grants, loans, loan guarantees, and loan subsidies may be 7540
made to counties, municipal corporations, townships, and nonprofit 7541
organizations for the additional purposes of providing technical 7542
assistance, design and finance services and consultation, and 7543
payment of pre-development and administrative costs related to any 7544
of the activities listed above. 7545

(C) In developing programs under this section, the department 7546
and the agency shall invite, accept, and consider public comment, 7547
and recommendations from the housing trust fund advisory committee 7548
created under section 175.25 of the Revised Code, on how the 7549
programs should be designed to most effectively benefit low- and 7550
moderate-income families and individuals. The programs developed 7551
under this section shall respond collectively to housing and 7552
housing assistance needs of low- and moderate-income families and 7553
individuals statewide. 7554

(D) The department and the agency, in accordance with Chapter 7555
119. of the Revised Code, shall each adopt rules ~~under which it~~ 7556
~~shall to~~ administer programs developed ~~by it~~ under this section. 7557
The rules shall prescribe procedures and forms ~~whereby that~~ 7558
counties, municipal corporations, townships, local housing 7559
authorities, and nonprofit organizations ~~may apply~~ shall use in 7560
applying for grants, loans, loan guarantees, and loan subsidies 7561
and that private developers and private lenders ~~may apply~~ shall 7562
use in applying for loans, loan guarantees, and loan subsidies; 7563
eligibility criteria for the receipt of funds; procedures for 7564

reviewing and granting or denying applications; procedures for 7565
paying out funds; conditions on the use of funds; procedures for 7566
monitoring the use of funds; and procedures under which a 7567
recipient shall be required to repay funds that are improperly 7568
used. The rules ~~adopted by the department~~ shall do both of the 7569
following: 7570

(1) Require each recipient of a grant or loan made from the 7571
low- and moderate-income housing trust fund for activities that 7572
~~will~~ provide, or assist in providing, a rental housing project, to 7573
reasonably ensure that the rental housing project will ~~be~~ remain 7574
affordable to those families and individuals targeted for the 7575
rental housing project for the useful life of the rental housing 7576
project or for thirty years, whichever is longer; 7577

(2) Require each recipient of a grant or loan made from the 7578
low- and moderate-income housing trust fund for activities that 7579
~~will~~ provide, or assist in providing, a housing project to prepare 7580
and implement a plan to reasonably assist any families and 7581
individuals displaced by the housing project in obtaining decent 7582
affordable housing. 7583

(E) In prescribing eligibility criteria and conditions for 7584
the use of funds, neither the department nor the agency is limited 7585
to the criteria and conditions specified in this section and each 7586
may prescribe additional eligibility criteria and conditions that 7587
relate to the purposes for which grants, loans, loan guarantees, 7588
and loan subsidies may be made. However, the department and agency 7589
are limited by the following specifically targeted low- and 7590
moderate-income guidelines: 7591

(1) Not less than seventy-five per cent of the money granted 7592
and loaned under this section in any fiscal year shall be for 7593
activities that ~~will~~ provide affordable housing and housing 7594
assistance to families and individuals ~~in a county~~ whose incomes 7595
are equal to or less than fifty per cent of the median income for 7596

~~that~~ the county in which they live, as determined by the 7597
department under section 175.23 of the Revised Code. 7598

(2) ~~The remainder of the~~ Any money granted and loaned under 7599
this section in any fiscal year that is not granted or loaned 7600
pursuant to division (E)(1) of this section shall be for 7601
activities that ~~will~~ provide affordable housing and housing 7602
assistance to families and individuals ~~in a county~~ whose incomes 7603
are equal to or less than eighty per cent of the median income for 7604
~~that~~ the county in which they live, as determined by the 7605
department under section 175.23 of the Revised Code. 7606

(F) In making grants, loans, loan guarantees, and loan 7607
subsidies under this section, the department and the agency shall 7608
give preference to viable projects and activities that ~~will~~ 7609
benefit those families and individuals ~~in a county~~ whose incomes 7610
are equal to or less than thirty-five per cent of the median 7611
income for ~~that~~ the county in which they live, as determined by 7612
the department under section 175.23 of the Revised Code. 7613

(G) The department and the agency shall monitor the programs 7614
developed under this section to ensure that money granted and 7615
loaned under this section is not used in a manner that violates 7616
division (H) of section 4112.02 of the Revised Code or 7617
discriminates against families with children. 7618

Sec. 183.02. This section's references to years mean state 7619
fiscal years. 7620

All payments received by the state pursuant to the tobacco 7621
master settlement agreement shall be deposited into the state 7622
treasury to the credit of the tobacco master settlement agreement 7623
fund, which is hereby created. All investment earnings of the fund 7624
shall also be credited to the fund. Except as provided in division 7625
(K) of this section, payments and interest credited to the fund 7626
shall be transferred by the director of budget and management as 7627

follows: 7628

(A)(1) Of the first payment credited to the tobacco master 7629
settlement agreement fund in 2000 and the net amounts credited to 7630
the fund annually from 2000 to 2006 and in 2012, the following 7631
amount or percentage shall be transferred to the tobacco use 7632
prevention and cessation trust fund, created in section 183.03 of 7633
the Revised Code: 7634

YEAR	AMOUNT OR PERCENTAGE	7635
2000 (first payment 7636 credited)	\$104,855,222.85	
2000 (net amount credited)	70.30%	7637
2001	62.84	7638
2002	61.41	7639
2003	63.24	7640
2004	66.65	7641
2005	66.24	7642
2006	65.97	7643
2012	56.01	7644

(2) Of the net amounts credited to the tobacco master 7645
settlement agreement fund in 2013, the director shall transfer to 7646
the tobacco use prevention and cessation trust fund the amount not 7647
transferred to the tobacco use prevention and cessation trust fund 7648
from the net amounts credited to the tobacco master settlement 7649
agreement fund in 2002 due to Am. Sub. H.B. No. 405 and Am. Sub. 7650
S.B. No. 242 of the 124th general assembly. Of the net amounts 7651
credited to the tobacco master settlement agreement fund in 2014, 7652
the director shall transfer to the tobacco use prevention and 7653
cessation trust fund the amount not transferred to the tobacco use 7654
prevention and cessation trust fund from the net amounts credited 7655
to the tobacco master settlement agreement fund in 2003 due to Am. 7656
Sub. H.B. No. 405 and Am. Sub. S.B. No. 242 of the 124th general 7657
assembly. Of the net amounts credited to the tobacco master 7658

settlement agreement fund in 2015, the director shall transfer to 7659
the tobacco use prevention and cessation trust fund the amount not 7660
transferred to the tobacco use prevention and cessation trust fund 7661
from the net amounts credited to the tobacco master settlement 7662
agreement fund in 2004 due to Am. Sub. H.B. 95 of the 125th 7663
general assembly. 7664

(B) Of the first payment credited to the tobacco master 7665
settlement agreement fund in 2000 and the net amounts credited to 7666
the fund annually in 2000 and 2001, the following amount or 7667
percentage shall be transferred to the law enforcement 7668
improvements trust fund, created in section 183.10 of the Revised 7669
Code: 7670

YEAR	AMOUNT OR PERCENTAGE	
2000 (first payment	\$10,000,000	7672
credited)		
2000 (net amount credited)	5.41%	7673
2001	2.32	7674

(C)(1) Of the first payment credited to the tobacco master 7675
settlement agreement fund in 2000 and the net amounts credited to 7676
the fund annually from 2000 to 2011, the following percentages 7677
shall be transferred to the southern Ohio agricultural and 7678
community development trust fund, created in section 183.11 of the 7679
Revised Code: 7680

YEAR	PERCENTAGE	
2000 (first payment	5.00%	7682
credited)		
2000 (net amount credited)	8.73	7683
2001	8.12	7684
2002	9.18	7685
2003	8.91	7686
2004	7.84	7687
2005	7.79	7688

2006	7.76	7689
2007	17.39	7690
2008 through 2011	17.25	7691

(2) Of the net amounts credited to the tobacco master settlement agreement fund in 2013, the director shall transfer to the southern Ohio agricultural and community development trust fund the amount not transferred to the southern Ohio agricultural and community development trust fund from the net amounts credited to the tobacco master settlement agreement fund in 2002 due to Am. Sub. H.B. No. 405 and Am. Sub. S.B. No. 242 of the 124th general assembly. Of the net amounts credited to the tobacco master settlement agreement fund in 2014, the director shall transfer to the southern Ohio agricultural and community development trust fund the amount not transferred to the southern Ohio agricultural and community development trust fund from the net amounts credited to the tobacco master settlement agreement fund in 2003 due to Am. Sub. H.B. No. 405 and Am. Sub. S.B. No. 242 of the 124th general assembly.

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

YEAR	PERCENTAGE	
2000	5.41	7712
2001	6.68	7713
2002	6.79	7714
2003	6.90	7715
2004	7.82	7716
2005	8.18	7717
2006	8.56	7718
2007	19.83	7719
2008	19.66	7720

2009	20.48	7721
2010	21.30	7722
2011	22.12	7723
2012	10.47	7724

~~(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	7743
2001	14.03	7744
2002	13.29	7745
2003	12.73	7746
2004	13.78	7747
2005	14.31	7748
2006	14.66	7749
2007	49.57	7750
2008 to 2011	45.06	7751
2012	18.77	7752

(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	7758
2001	128,938,732.73	7759
2002	185,804,475.78	7760
2003	180,561,673.11	7761
2004	122,778,219.49	7762
2005	121,389,325.80	7763
2006	120,463,396.67	7764
2007	246,389,369.01	7765
2008 to 2011	267,531,291.85	7766
2012	110,954,545.28	7767

(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	7776
2014	33.36	7777
2015 to 2025	40.90	7778

(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	7784

2001	6.01	7785
2002	9.33	7786
2003	8.22	7787
2004	3.91	7788
2005	3.48	7789
2006	3.05	7790
2007	13.21	7791
2008	18.03	7792
2009	17.21	7793
2010	16.39	7794
2011	15.57	7795
2012	14.75	7796

(I) In each year from 2003 to 2025, after the transfers made 7797
under divisions (F) and (G) of this section but prior to the 7798
transfers made under divisions (A) to (E) of this section, the 7799
director of budget and management shall transfer to the tobacco 7800
settlement oversight, administration, and enforcement fund created 7801
in section 183.34 of the Revised Code such amount as the director 7802
determines necessary to pay the costs incurred by the attorney 7803
general in tobacco settlement oversight, administration, and 7804
enforcement. 7805

(J) In each year from 2003 to 2025, after the transfers made 7806
under divisions (F) and (G) of this section but prior to the 7807
transfers made under divisions (A) to (E) of this section, the 7808
director of budget and management shall transfer to the tobacco 7809
settlement enforcement fund created in section 183.35 of the 7810
Revised Code such amount as the director determines necessary to 7811
pay the costs incurred by the tax commissioner in the enforcement 7812
of divisions (F) and (G) of section 5743.03 of the Revised Code. 7813

(K) If in any year from 2001 to 2012 the payments and 7814
interest credited to the tobacco master settlement agreement fund 7815
during the year amount to less than the amounts required to be 7816

transferred to the education facilities trust fund and the 7817
education facilities endowment fund that year, the director of 7818
budget and management shall make none of the transfers required by 7819
divisions (A) to (J) of this section. 7820

(L) If in any year from 2000 to 2025 the payments credited to 7821
the tobacco master settlement agreement fund during the year 7822
exceed the following amounts, the director of budget and 7823
management shall transfer the excess to the income tax reduction 7824
fund, created in section 131.44 of the Revised Code: 7825

YEAR	AMOUNT	
2000	\$443,892,767.51	7827
2001	348,780,049.22	7828
2002	418,783,038.09	7829
2003	422,746,368.61	7830
2004	352,827,184.57	7831
2005	352,827,184.57	7832
2006	352,827,184.57	7833
2007	352,827,184.57	7834
2008 to 2017	383,779,323.15	7835
2018 to 2025	403,202,282.16	7836

Sec. 306.35. Upon the creation of a regional transit 7837
authority as provided by section 306.32 of the Revised Code, and 7838
upon the qualifying of its board of trustees and the election of a 7839
president and a vice-president, the authority shall exercise in 7840
its own name all the rights, powers, and duties vested in and 7841
conferred upon it by sections 306.30 to 306.53 of the Revised 7842
Code. Subject to any reservations, limitations, and qualifications 7843
that are set forth in those sections, the regional transit 7844
authority: 7845

(A) May sue or be sued in its corporate name; 7846

(B) May make contracts in the exercise of the rights, powers, 7847

and duties conferred upon it; 7848

(C) May adopt and at will alter a seal and use such seal by 7849
causing it to be impressed, affixed, reproduced, or otherwise 7850
used, but failure to affix the seal shall not affect the validity 7851
of any instrument; 7852

(D)(1) May adopt, amend, and repeal bylaws for the 7853
administration of its affairs and rules for the control of the 7854
administration and operation of transit facilities under its 7855
jurisdiction, and for the exercise of all of its rights of 7856
ownership in those transit facilities; 7857

(2) The regional transit authority also may adopt bylaws and 7858
rules for the following purposes: 7859

(a) To prohibit selling, giving away, or using any beer or 7860
intoxicating liquor on transit vehicles or transit property; 7861

(b) For the preservation of good order within or on transit 7862
vehicles or transit property; 7863

(c) To provide for the protection and preservation of all 7864
property and life within or on transit vehicles or transit 7865
property; 7866

(d) To regulate and enforce the collection of fares. 7867

(3) Before a bylaw or rule adopted under division (D)(2) of 7868
this section takes effect, the regional transit authority shall 7869
provide for a notice of its adoption to be published once a week 7870
for two consecutive weeks in a newspaper of general circulation 7871
within the territorial boundaries of the regional transit 7872
authority. 7873

(4) No person shall violate any bylaw or rule of a regional 7874
transit authority adopted under division (D)(2) of this section. 7875

(E) May fix, alter, and collect fares, rates, and rentals and 7876
other charges for the use of transit facilities under its 7877

jurisdiction to be determined exclusively by it for the purpose of 7878
providing for the payment of the expenses of the regional transit 7879
authority, the acquisition, construction, improvement, extension, 7880
repair, maintenance, and operation of transit facilities under its 7881
jurisdiction, the payment of principal and interest on its 7882
obligations, and to fulfill the terms of any agreements made with 7883
purchasers or holders of any such obligations, or with any person 7884
or political subdivision; 7885

(F) Shall have jurisdiction, control, possession, and 7886
supervision of all property, rights, easements, licenses, moneys, 7887
contracts, accounts, liens, books, records, maps, or other 7888
property rights and interests conveyed, delivered, transferred, or 7889
assigned to it; 7890

(G) May acquire, construct, improve, extend, repair, lease, 7891
operate, maintain, or manage transit facilities within or without 7892
its territorial boundaries, considered necessary to accomplish the 7893
purposes of its organization and make charges for the use of 7894
transit facilities; 7895

(H) May levy and collect taxes as provided in sections 306.40 7896
and 306.49 of the Revised Code; 7897

(I) May issue bonds secured by its general credit as provided 7898
in section 306.40 of the Revised Code; 7899

(J) May hold, encumber, control, acquire by donation, by 7900
purchase for cash or by installment payments, by lease-purchase 7901
agreement, by lease with option to purchase, or by condemnation, 7902
and may construct, own, lease as lessee or lessor, use, and sell, 7903
real and personal property, or any interest or right in real and 7904
personal property, within or without its territorial boundaries, 7905
for the location or protection of transit facilities and 7906
improvements and access to transit facilities and improvements, 7907
the relocation of buildings, structures, and improvements situated 7908

on lands acquired by the regional transit authority, or for any 7909
other necessary purpose, or for obtaining or storing materials to 7910
be used in constructing, maintaining, and improving transit 7911
facilities under its jurisdiction; 7912

(K) May exercise the power of eminent domain to acquire 7913
property or any interest in property, within or without its 7914
territorial boundaries, that is necessary or proper for the 7915
construction or efficient operation of any transit facility or 7916
access to any transit facility under its jurisdiction in 7917
accordance with section 306.36 of the Revised Code; 7918

(L) May provide by agreement with any county, including the 7919
counties within its territorial boundaries, or any municipal 7920
corporation or any combination of counties or municipal 7921
corporations for the making of necessary surveys, appraisals, and 7922
examinations preliminary to the acquisition or construction of any 7923
transit facility and the amount of the expense for the surveys, 7924
appraisals, and examinations to be paid by each such county or 7925
municipal corporation; 7926

(M) May provide by agreement with any county, including the 7927
counties within its territorial boundaries, or any municipal 7928
corporation or any combination of those counties or municipal 7929
corporations for the acquisition, construction, improvement, 7930
extension, maintenance, or operation of any transit facility owned 7931
or to be owned and operated by it or owned or to be owned and 7932
operated by any such county or municipal corporation and the terms 7933
on which it shall be acquired, leased, constructed, maintained, or 7934
operated, and the amount of the cost and expense of the 7935
acquisition, lease, construction, maintenance, or operation to be 7936
paid by each such county or municipal corporation; 7937

(N) May issue revenue bonds for the purpose of acquiring, 7938
replacing, improving, extending, enlarging, or constructing any 7939
facility or permanent improvement that it is authorized to 7940

acquire, replace, improve, extend, enlarge, or construct, 7941
including all costs in connection with and incidental to the 7942
acquisition, replacement, improvement, extension, enlargement, or 7943
construction, and their financing, as provided by section 306.37 7944
of the Revised Code; 7945

(O) May enter into and supervise franchise agreements for the 7946
operation of a transit system; 7947

(P) May accept the assignment of and supervise an existing 7948
franchise agreement for the operation of a transit system; 7949

(Q) May exercise a right to purchase a transit system in 7950
accordance with the acquisition terms of an existing franchise 7951
agreement; and in connection with the purchase the regional 7952
transit authority may issue revenue bonds as provided by section 7953
306.37 of the Revised Code or issue bonds secured by its general 7954
credit as provided in section 306.40 of the Revised Code; 7955

(R) May apply for and accept grants or loans from the United 7956
States, the state, or any other public body for the purpose of 7957
providing for the development or improvement of transit 7958
facilities, mass transportation facilities, equipment, techniques, 7959
methods, or services, and grants or loans needed to exercise a 7960
right to purchase a transit system pursuant to agreement with the 7961
owner of those transit facilities, or for providing lawful 7962
financial assistance to existing transit systems; and may provide 7963
any consideration that may be required in order to obtain those 7964
grants or loans from the United States, the state, or other public 7965
body, either of which grants or loans may be evidenced by the 7966
issuance of revenue bonds as provided by section 306.37 of the 7967
Revised Code or general obligation bonds as provided by section 7968
306.40 of the Revised Code; 7969

(S) May employ and fix the compensation of consulting 7970
engineers, superintendents, managers, and such other engineering, 7971

construction, accounting and financial experts, attorneys, and 7972
other employees and agents necessary for the accomplishment of its 7973
purposes; 7974

(T) May procure insurance against loss to it by reason of 7975
damages to its properties resulting from fire, theft, accident, or 7976
other casualties or by reason of its liability for any damages to 7977
persons or property occurring in the construction or operation of 7978
transit facilities under its jurisdiction or the conduct of its 7979
activities; 7980

(U) May maintain funds that it considers necessary for the 7981
efficient performance of its duties; 7982

(V) May direct its agents or employees, when properly 7983
identified in writing, after at least five days' written notice, 7984
to enter upon lands within or without its territorial boundaries 7985
in order to make surveys and examinations preliminary to the 7986
location and construction of transit facilities, without liability 7987
to it or its agents or employees except for actual damage done; 7988

(W) On its own motion, may request the appropriate zoning 7989
board, as defined in section 4563.03 of the Revised Code, to 7990
establish and enforce zoning regulations pertaining to any transit 7991
facility under its jurisdiction in the manner prescribed by 7992
sections 4563.01 to 4563.21 of the Revised Code; 7993

(X) If it acquires any existing transit system, shall assume 7994
all the employer's obligations under any existing labor contract 7995
between the employees and management of the system. If the board 7996
acquires, constructs, controls, or operates any such facilities, 7997
it shall negotiate arrangements to protect the interests of 7998
employees affected by the acquisition, construction, control, or 7999
operation. The arrangements shall include, but are not limited to: 8000

(1) The preservation of rights, privileges, and benefits 8001
under existing collective bargaining agreements or otherwise, the 8002

preservation of rights and benefits under any existing pension	8003
plans covering prior service, and continued participation in	8004
social security in addition to participation in the public	8005
employees retirement system as required in Chapter 145. of the	8006
Revised Code;	8007
(2) The continuation of collective bargaining rights;	8008
(3) The protection of individual employees against a	8009
worsening of their positions with respect to their employment;	8010
(4) Assurances of employment to employees of those transit	8011
systems and priority reemployment of employees terminated or laid	8012
off;	8013
(5) Paid training or retraining programs;	8014
(6) Signed written labor agreements.	8015
The arrangements may include provisions for the submission of	8016
labor disputes to final and binding arbitration.	8017
(Y) May provide for and maintain security operations,	8018
including a transit police department, subject to section 306.352	8019
of the Revised Code. Regional transit authority police officers	8020
shall have the power and duty to act as peace officers within	8021
transit facilities owned, operated, or leased by the transit	8022
authority to protect the transit authority's property and the	8023
person and property of passengers, to preserve the peace, and to	8024
enforce all laws of the state and ordinances and regulations of	8025
political subdivisions in which the transit authority operates.	8026
Regional transit authority police officers also shall have the	8027
power and duty to act as peace officers when they render emergency	8028
assistance outside their jurisdiction to any other peace officer	8029
who is not a regional transit authority police officer and who has	8030
arrest authority under section 2935.03 of the Revised Code.	8031
Regional transit authority police officers may render emergency	8032
assistance if there is a threat of imminent physical danger to the	8033

peace officer, a threat of physical harm to another person, or any 8034
other serious emergency situation and if either the peace officer 8035
who is assisted requests emergency assistance or it appears that 8036
the peace officer who is assisted is unable to request emergency 8037
assistance and the circumstances observed by the regional transit 8038
authority police officer reasonably indicate that emergency 8039
assistance is appropriate. 8040

Before exercising powers of arrest and the other powers and 8041
duties of a peace officer, each regional transit authority police 8042
officer shall take an oath and give bond to the state in a sum 8043
that the board of trustees prescribes for the proper performance 8044
of the officer's duties. 8045

Persons employed as regional transit authority police 8046
officers shall complete training for the position to which they 8047
have been appointed as required by the Ohio peace officer training 8048
commission as authorized in section 109.77 of the Revised Code, or 8049
be otherwise qualified. The cost of the training shall be provided 8050
by the regional transit authority. 8051

(Z) May procure a policy or policies insuring members of its 8052
board of trustees against liability on account of damages or 8053
injury to persons and property resulting from any act or omission 8054
of a member in the member's official capacity as a member of the 8055
board or resulting solely out of the member's membership on the 8056
board; 8057

(AA) May enter into any agreement for the sale and leaseback 8058
or lease and leaseback of transit facilities, which agreement may 8059
contain all necessary covenants for the security and protection of 8060
any lessor or the regional transit authority including, but not 8061
limited to, indemnification of the lessor against the loss of 8062
anticipated tax benefits arising from acts, omissions, or 8063
misrepresentations of the regional transit authority. In 8064
connection with that transaction, the regional transit authority 8065

may contract for insurance and letters of credit and pay any 8066
premiums or other charges for the insurance and letters of credit. 8067
The fiscal officer shall not be required to furnish any 8068
certificate under section 5705.41 of the Revised Code in 8069
connection with the execution of any such agreement. 8070

(BB) In regard to any contract entered into on or after March 8071
19, 1993, for the rendering of services or the supplying of 8072
materials or for the construction, demolition, alteration, repair, 8073
or reconstruction of transit facilities in which a bond is 8074
required for the faithful performance of the contract, may permit 8075
the person awarded the contract to utilize a letter of credit 8076
issued by a bank or other financial institution in lieu of the 8077
bond; 8078

(CC) May enter into agreements with municipal corporations 8079
located within the territorial jurisdiction of the regional 8080
transit authority permitting regional transit authority police 8081
officers employed under division (Y) of this section to exercise 8082
full arrest powers, as provided in section 2935.03 of the Revised 8083
Code, for the purpose of preserving the peace and enforcing all 8084
laws of the state and ordinances and regulations of the municipal 8085
corporation within the areas that may be agreed to by the regional 8086
transit authority and the municipal corporation. 8087

Sec. 306.99. (A) No person shall violate any rule or 8088
regulation adopted pursuant to division (N) of section 306.04 of 8089
the Revised Code and whoever violates such a rule or regulation 8090
shall be fined not more than one thousand dollars or imprisoned 8091
not more than ninety days or both. 8092

(B) Whoever violates division (D)(4) of section 306.35 of the 8093
Revised Code shall be fined not more than one hundred dollars on a 8094
first offense and not more than five hundred dollars on each 8095
subsequent offense. 8096

Fines levied and collected for such violations shall be paid 8097
into the treasury of the regional transit authority. The regional 8098
transit authority may use such fine money for any purpose that is 8099
not inconsistent with sections 306.30 to 306.54 of the Revised 8100
Code. 8101

Sec. 307.86. Anything to be purchased, leased, leased with an 8102
option or agreement to purchase, or constructed, including, but 8103
not limited to, any product, structure, construction, 8104
reconstruction, improvement, maintenance, repair, or service, 8105
except the services of an accountant, architect, attorney at law, 8106
physician, professional engineer, construction project manager, 8107
consultant, surveyor, or appraiser, by or on behalf of the county 8108
or contracting authority, as defined in section 307.92 of the 8109
Revised Code, at a cost in excess of ~~fifteen~~ twenty-five thousand 8110
dollars, except as otherwise provided in division (D) of section 8111
713.23 and in sections 125.04, 307.022, 307.041, 307.861, 339.05, 8112
340.03, 340.033, 4115.31 to 4115.35, 5119.16, 5513.01, 5543.19, 8113
5713.01, and 6137.05 of the Revised Code, shall be obtained 8114
through competitive bidding. However, competitive bidding is not 8115
required when any of the following applies: 8116

(A) The board of county commissioners, by a unanimous vote of 8117
its members, makes a determination that a real and present 8118
emergency exists, and that determination and the reasons for it 8119
are entered in the minutes of the proceedings of the board, when 8120
either of the following applies: 8121

(1) The estimated cost is less than fifty thousand dollars. 8122

(2) There is actual physical disaster to structures, radio 8123
communications equipment, or computers. 8124

For purposes of this division, "unanimous vote" means all 8125
three members of a board of county commissioners when all three 8126

members are present, or two members of the board if only two 8127
members, constituting a quorum, are present. 8128

Whenever a contract of purchase, lease, or construction is 8129
exempted from competitive bidding under division (A)(1) of this 8130
section because the estimated cost is less than fifty thousand 8131
dollars, but the estimated cost is ~~fifteen~~ twenty-five thousand 8132
dollars or more, the county or contracting authority shall solicit 8133
informal estimates from no fewer than three persons who could 8134
perform the contract, before awarding the contract. With regard to 8135
each such contract, the county or contracting authority shall 8136
maintain a record of such estimates, including the name of each 8137
person from whom an estimate is solicited. The county or 8138
contracting authority shall maintain the record for the longer of 8139
at least one year after the contract is awarded or the amount of 8140
time the federal government requires. 8141

(B)(1) The purchase consists of supplies or a replacement or 8142
supplemental part or parts for a product or equipment owned or 8143
leased by the county, and the only source of supply for the 8144
supplies, part, or parts is limited to a single supplier. 8145

(2) The purchase consists of services related to information 8146
technology, such as programming services, that are proprietary or 8147
limited to a single source. 8148

(C) The purchase is from the federal government, the state, 8149
another county or contracting authority of another county, or a 8150
board of education, township, or municipal corporation. 8151

(D) ~~Public~~ The purchase is made by a county department of job 8152
and family services under section 329.04 of the Revised Code and 8153
consists of family services duties or workforce development 8154
activities ~~are purchased for provision by the county department of 8155
job and family services under section 329.04 of the Revised Code,~~ 8156
or is made by a county board of mental retardation and 8157

developmental disabilities under section 5126.05 of the Revised 8158
Code and consists of program services, such as direct and 8159
ancillary client services, child day-care, case management 8160
services, residential services, and family resource services, ~~are~~ 8161
~~purchased for provision by a county board of mental retardation~~ 8162
~~and developmental disabilities under section 5126.05 of the~~ 8163
~~Revised Code.~~ 8164

(E) The purchase consists of criminal justice services, 8165
social services programs, family services, or workforce 8166
development activities by the board of county commissioners from 8167
nonprofit corporations or associations under programs funded by 8168
the federal government or by state grants. 8169

(F) The purchase consists of any form of an insurance policy 8170
or contract authorized to be issued under Title XXXIX of the 8171
Revised Code or any form of health care plan authorized to be 8172
issued under Chapter 1751. of the Revised Code, or any combination 8173
of such policies, contracts, or plans that the contracting 8174
authority is authorized to purchase, and the contracting authority 8175
does all of the following: 8176

(1) Determines that compliance with the requirements of this 8177
section would increase, rather than decrease, the cost of the 8178
purchase; 8179

(2) Employs a competent consultant to assist the contracting 8180
authority in procuring appropriate coverages at the best and 8181
lowest prices; 8182

(3) Requests issuers of the policies, contracts, or plans to 8183
submit proposals to the contracting authority, in a form 8184
prescribed by the contracting authority, setting forth the 8185
coverage and cost of the policies, contracts, or plans as the 8186
contracting authority desires to purchase; 8187

(4) Negotiates with the issuers for the purpose of purchasing 8188

the policies, contracts, or plans at the best and lowest price 8189
reasonably possible. 8190

(G) The purchase consists of computer hardware, software, or 8191
consulting services that are necessary to implement a computerized 8192
case management automation project administered by the Ohio 8193
prosecuting attorneys association and funded by a grant from the 8194
federal government. 8195

(H) Child day-care services are purchased for provision to 8196
county employees. 8197

(I)(1) Property, including land, buildings, and other real 8198
property, is leased for offices, storage, parking, or other 8199
purposes, and all of the following apply: 8200

(a) The contracting authority is authorized by the Revised 8201
Code to lease the property. 8202

(b) The contracting authority develops requests for proposals 8203
for leasing the property, specifying the criteria that will be 8204
considered prior to leasing the property, including the desired 8205
size and geographic location of the property. 8206

(c) The contracting authority receives responses from 8207
prospective lessors with property meeting the criteria specified 8208
in the requests for proposals by giving notice in a manner 8209
substantially similar to the procedures established for giving 8210
notice under section 307.87 of the Revised Code. 8211

(d) The contracting authority negotiates with the prospective 8212
lessors to obtain a lease at the best and lowest price reasonably 8213
possible considering the fair market value of the property and any 8214
relocation and operational costs that may be incurred during the 8215
period the lease is in effect. 8216

(2) The contracting authority may use the services of a real 8217
estate appraiser to obtain advice, consultations, or other 8218

recommendations regarding the lease of property under this 8219
division. 8220

(J) The purchase is made pursuant to section 5139.34 or 8221
sections 5139.41 to 5139.46 of the Revised Code and is of programs 8222
or services that provide case management, treatment, or prevention 8223
services to any felony or misdemeanor delinquent, unruly youth, 8224
or status offender under the supervision of the juvenile court, 8225
including, but not limited to, community residential care, day 8226
treatment, services to children in their home, or electronic 8227
monitoring. 8228

(K) The purchase is made by a public children services agency 8229
pursuant to section 307.92 or 5153.16 of the Revised Code and 8230
consists of family services, programs, or ancillary services that 8231
provide case management, prevention, or treatment services for 8232
children at risk of being or alleged to be abused, neglected, or 8233
dependent children. 8234

Any issuer of policies, contracts, or plans listed in 8235
division (F) of this section and any prospective lessor under 8236
division (I) of this section may have the issuer's or prospective 8237
lessor's name and address, or the name and address of an agent, 8238
placed on a special notification list to be kept by the 8239
contracting authority, by sending the contracting authority that 8240
name and address. The contracting authority shall send notice to 8241
all persons listed on the special notification list. Notices shall 8242
state the deadline and place for submitting proposals. The 8243
contracting authority shall mail the notices at least six weeks 8244
prior to the deadline set by the contracting authority for 8245
submitting proposals. Every five years the contracting authority 8246
may review this list and remove any person from the list after 8247
mailing the person notification of that action. 8248

Any contracting authority that negotiates a contract under 8249
division (F) of this section shall request proposals and 8250

renegotiate with issuers in accordance with that division at least 8251
every three years from the date of the signing of such a contract. 8252

Any consultant employed pursuant to division (F) of this 8253
section and any real estate appraiser employed pursuant to 8254
division (I) of this section shall disclose any fees or 8255
compensation received from any source in connection with that 8256
employment. 8257

Sec. 307.87. Where competitive bidding is required by section 8258
307.86 of the Revised Code, notice thereof shall be given in the 8259
following manner: 8260

(A) Notice shall be published once a week for not less than 8261
two consecutive weeks preceding the day of the opening of bids in 8262
a newspaper of general circulation within the county for any 8263
purchase, lease, lease with option or agreement to purchase, or 8264
construction contract in excess of ~~ten~~ twenty-five thousand 8265
dollars. The contracting authority may also cause notice to be 8266
inserted in trade papers or other publications designated by it or 8267
to be distributed by electronic means, including posting the 8268
notice on the contracting authority's internet site on the world 8269
wide web. If the contracting authority posts the notice on that 8270
location on the world wide web, it may eliminate the second notice 8271
otherwise required to be published in a newspaper of general 8272
circulation within the county, provided that the first notice 8273
published in such a newspaper meets all of the following 8274
requirements: 8275

(1) It is published at least two weeks before the opening of 8276
bids. 8277

(2) It includes a statement that the notice is posted on the 8278
contracting authority's internet site on the world wide web. 8279

(3) It includes the internet address of the contracting 8280

<u>authority's internet site on the world wide web.</u>	8281
<u>(4) It includes instructions describing how the notice may be</u>	8282
<u>accessed on the contracting authority's internet site on the world</u>	8283
<u>wide web.</u>	8284
<u>(B) Notices shall state all of the following:</u>	8285
(1) A general description of the subject of the proposed	8286
contract and the time and place where the plans and specifications	8287
or itemized list of supplies, facilities, or equipment and	8288
estimated quantities can be obtained or examined;	8289
(2) The time and place where bids will be opened;	8290
(3) The time and place for filing bids;	8291
(4) The terms of the proposed purchase;	8292
(5) Conditions under which bids will be received;	8293
(6) The existence of a system of preference, if any, for	8294
products mined and produced in Ohio and the United States adopted	8295
pursuant to section 307.90 of the Revised Code.	8296
(B) (C) The contracting authority shall also maintain in a	8297
public place in its office or other suitable public place a	8298
bulletin board upon which it shall post and maintain a copy of	8299
such notice for at least two weeks preceding the day of the	8300
opening of the bids.	8301
Sec. 307.93. (A) The boards of county commissioners of two or	8302
more adjacent counties may contract for the joint establishment of	8303
a multicounty correctional center, and the board of county	8304
commissioners of a county or the boards of two or more counties	8305
may contract with any municipal corporation or municipal	8306
corporations located in that county or those counties for the	8307
joint establishment of a municipal-county or multicounty-municipal	8308
correctional center. The center shall augment county and, where	8309

applicable, municipal jail programs and facilities by providing 8310
custody and rehabilitative programs for those persons under the 8311
charge of the sheriff of any of the contracting counties or of the 8312
officer or officers of the contracting municipal corporation or 8313
municipal corporations having charge of persons incarcerated in 8314
the municipal jail, workhouse, or other correctional facility who, 8315
in the opinion of the sentencing court, need programs of custody 8316
and rehabilitation not available at the county or municipal jail 8317
and by providing custody and rehabilitative programs in accordance 8318
with division (C) of this section, if applicable. The contract may 8319
include, but need not be limited to, provisions regarding the 8320
acquisition, construction, maintenance, repair, termination of 8321
operations, and administration of the center. The contract shall 8322
prescribe the manner of funding of, and debt assumption for, the 8323
center and the standards and procedures to be followed in the 8324
operation of the center. Except as provided in division (H) of 8325
this section, the contracting counties and municipal corporations 8326
shall form a corrections commission to oversee the administration 8327
of the center. Members of the commission shall consist of the 8328
sheriff of each participating county, the president of the board 8329
of county commissioners of each participating county, the 8330
presiding judge of the court of common pleas of each participating 8331
county, or, if the court of common pleas of a participating county 8332
has only one judge, then that judge, the chief of police of each 8333
participating municipal corporation, the mayor or city manager of 8334
each participating municipal corporation, and the presiding judge 8335
or the sole judge of the municipal court of each participating 8336
municipal corporation. Any of the foregoing officers may appoint a 8337
designee to serve in the officer's place on the corrections 8338
commission. The standards and procedures shall be formulated and 8339
agreed to by the commission and may be amended at any time during 8340
the life of the contract by agreement of the parties to the 8341
contract upon the advice of the commission. The standards and 8342

procedures formulated by the commission shall include, but need 8343
not be limited to, designation of the person in charge of the 8344
center, the categories of employees to be employed at the center, 8345
the appointing authority of the center, and the standards of 8346
treatment and security to be maintained at the center. The person 8347
in charge of, and all persons employed to work at, the center 8348
shall have all the powers of police officers that are necessary 8349
for the proper performance of the duties relating to their 8350
positions at the center. 8351

(B) Each board of county commissioners that enters a contract 8352
under division (A) of this section may appoint a building 8353
commission pursuant to section 153.21 of the Revised Code. If any 8354
commissions are appointed, they shall function jointly in the 8355
construction of a multicounty or multicounty-municipal 8356
correctional center with all the powers and duties authorized by 8357
law. 8358

(C) Prior to the acceptance for custody and rehabilitation 8359
into a center established under this section of any persons who 8360
are designated by the department of rehabilitation and correction, 8361
who plead guilty to or are convicted of a felony of the fourth or 8362
fifth degree, and who satisfy the other requirements listed in 8363
section 5120.161 of the Revised Code, the corrections commission 8364
of a center established under this section shall enter into an 8365
agreement with the department of rehabilitation and correction 8366
under section 5120.161 of the Revised Code for the custody and 8367
rehabilitation in the center of persons who are designated by the 8368
department, who plead guilty to or are convicted of a felony of 8369
the fourth or fifth degree, and who satisfy the other requirements 8370
listed in that section, in exchange for a per diem fee per person. 8371
Persons incarcerated in the center pursuant to an agreement 8372
entered into under this division shall be subject to supervision 8373
and control in the manner described in section 5120.161 of the 8374

Revised Code. This division does not affect the authority of a 8375
court to directly sentence a person who is convicted of or pleads 8376
guilty to a felony to the center in accordance with section 8377
2929.16 of the Revised Code. 8378

(D) Pursuant to section 2929.37 of the Revised Code, each 8379
board of county commissioners and the legislative authority of 8380
each municipal corporation that enters into a contract under 8381
division (A) of this section may require a person who was 8382
convicted of an offense, who is under the charge of the sheriff of 8383
their county or of the officer or officers of the contracting 8384
municipal corporation or municipal corporations having charge of 8385
persons incarcerated in the municipal jail, workhouse, or other 8386
correctional facility, and who is confined in the multicounty, 8387
municipal-county, or multicounty-municipal correctional center as 8388
provided in that division, to reimburse the applicable county or 8389
municipal corporation for its expenses incurred by reason of the 8390
person's confinement in the center. 8391

(E) Notwithstanding any contrary provision in this section or 8392
section 2929.18, 2929.21, 2929.36, or 2929.37 of the Revised Code, 8393
the corrections commission of a center may establish a policy that 8394
complies with section 2929.38 of the Revised Code and that 8395
requires any person who is not indigent and who is confined in the 8396
multicounty, municipal-county, or multicounty-municipal 8397
correctional center to pay a reception fee, a fee for medical 8398
treatment or service requested by and provided to that person, or 8399
the fee for a random drug test assessed under division (E) of 8400
section 341.26 of the Revised Code. 8401

(F)(1) The corrections commission of a center established 8402
under this section may establish a commissary for the center. The 8403
commissary may be established either in-house or by another 8404
arrangement. If a commissary is established, all persons 8405
incarcerated in the center shall receive commissary privileges. A 8406

person's purchases from the commissary shall be deducted from the 8407
person's account record in the center's business office. The 8408
commissary shall provide for the distribution to indigent persons 8409
incarcerated in the center of necessary hygiene articles and 8410
writing materials. 8411

(2) If a commissary is established, the corrections 8412
commission of a center established under this section shall 8413
establish a commissary fund for the center. The management of 8414
funds in the commissary fund shall be strictly controlled in 8415
accordance with procedures adopted by the auditor of state. 8416
Commissary fund revenue over and above operating costs and reserve 8417
shall be considered profits. All profits from the commissary fund 8418
shall be used to purchase supplies and equipment for the benefit 8419
of persons incarcerated in the center and to pay salary and 8420
benefits for employees of the center, or for any other persons, 8421
who work in or are employed for the sole purpose of providing 8422
service to the commissary. The corrections commission shall adopt 8423
rules and regulations for the operation of any commissary fund it 8424
establishes. 8425

(G) In lieu of forming a corrections commission to administer 8426
a multicounty correctional center or a municipal-county or 8427
multicounty-municipal correctional center, the boards of county 8428
commissioners and the legislative authorities of the municipal 8429
corporations contracting to establish the center may also agree to 8430
contract for the private operation and management of the center as 8431
provided in section 9.06 of the Revised Code, but only if the 8432
center houses only misdemeanor inmates. In order to enter into a 8433
contract under section 9.06 of the Revised Code, all the boards 8434
and legislative authorities establishing the center shall approve 8435
and be parties to the contract. 8436

(H) If a person who is convicted of or pleads guilty to an 8437
offense is sentenced to a term in a multicounty correctional 8438

center or a municipal-county or multicounty-municipal correctional 8439
center or is incarcerated in the center in the manner described in 8440
division (C) of this section, or if a person who is arrested for 8441
an offense, and who has been denied bail or has had bail set and 8442
has not been released on bail is confined in a multicounty 8443
correctional center or a municipal-county or multicounty-municipal 8444
correctional center pending trial, at the time of reception and at 8445
other times the officer, officers, or other person in charge of 8446
the operation of the center determines to be appropriate, the 8447
officer, officers, or other person in charge of the operation of 8448
the center may cause the convicted or accused offender to be 8449
examined and tested for tuberculosis, HIV infection, hepatitis, 8450
including but not limited to hepatitis A, B, and C, and other 8451
contagious diseases. The officer, officers, or other person in 8452
charge of the operation of the center may cause a convicted or 8453
accused offender in the center who refuses to be tested or treated 8454
for tuberculosis, HIV infection, hepatitis, including but not 8455
limited to hepatitis A, B, and C, or another contagious disease to 8456
be tested and treated involuntarily. 8457

(I) As used in this section, "multicounty-municipal" means 8458
more than one county and a municipal corporation, or more than one 8459
municipal corporation and a county, or more than one municipal 8460
corporation and more than one county. 8461

Sec. 307.98. ~~Each board~~ Boards of county commissioners shall 8462
may enter into a one or more written ~~partnership agreement~~ fiscal 8463
agreements with the director of job and family services in 8464
accordance with section 5101.21 of the Revised Code. ~~Prior to~~ 8465
~~entering into or substantially amending the agreement, the board~~ 8466
~~shall conduct a public hearing and consult with the county family~~ 8467
~~services planning committee established under section 329.06 of~~ 8468
~~the Revised Code. Through the hearing and consultation, the board~~ 8469
~~shall obtain comments and recommendations concerning what would be~~ 8470

~~the county's obligations and responsibilities under the agreement 8471
or amendment. As evidence that the board consulted with the county 8472
family services planning committee, the committee's chair shall 8473
sign a letter confirming that the consultation occurred, which 8474
shall be attached to the partnership agreement and any substantial 8475
amendments to the agreement. If a board enters into a fiscal 8476
agreement, the board shall enter into the agreement on behalf of 8477
the county family services agencies, other than a county family 8478
services agency that is a county signer as defined in section 8479
5101.21 of the Revised Code. 8480~~

Sec. 307.981. (A)(1) As used in the Revised Code: 8481

(a) "County family services agency" means all of the 8482
following: 8483

(i) A child support enforcement agency; 8484

(ii) A county department of job and family services; 8485

(iii) A public children services agency. 8486

(b) "Family services duty" means a duty state law requires or 8487
allows a county family services agency to assume, including 8488
financial and general administrative duties. "Family services 8489
duty" does not include a duty funded by the United States 8490
department of labor. 8491

(2) As used in sections 307.981 to 307.989 of the Revised 8492
Code, "private entity" means an entity other than a government 8493
entity. 8494

(B) To the extent permitted by federal law, including, when 8495
applicable, subpart F of 5 C.F.R. part 900, and subject to any 8496
limitations established by the Revised Code, including division 8497
(H) of this section, a board of county commissioners may designate 8498
any private or government entity within this state to serve as any 8499
of the following: 8500

- (1) A child support enforcement agency; 8501
- (2) A county department of job and family services; 8502
- (3) A public children services agency; 8503
- (4) A county department of job and family services and one 8504
other of those county family services agencies; 8505
- (5) All three of those county family services agencies; 8506
- ~~(6) A workforce development agency; 8507~~
- ~~(7) A workforce development agency and a county department of 8508
job and family services; 8509~~
- ~~(8) A workforce development agency and a county department of 8510
job and family services and one or two of the other county family 8511
services agencies. 8512~~
- (C) To the extent permitted by federal law, including, when 8513
applicable, subpart F of 5 C.F.R. part 900, and subject to any 8514
limitations of the Revised Code, including division (H) of this 8515
section, a board of county commissioners may change the 8516
designation it makes under division (B) of this section by 8517
designating another private or government entity. 8518
- (D) ~~If the director of job and family services determines~~ 8519
~~that~~ a designation under division (B) or (C) of this section 8520
constitutes a ~~substantial~~ change from ~~what is~~ the designation in 8521
~~the current partnership~~ a fiscal agreement between the director of 8522
job and family services and the board ~~of county commissioners~~ 8523
~~under section 5101.21 of the Revised Code, the director may~~ 8524
require that the director and board amend the ~~partnership~~ fiscal 8525
agreement and that the board provide the director written 8526
assurances that the newly designated private or government entity 8527
will meet or exceed all requirements of the family services duties 8528
~~or workforce development activities~~ the entity is to assume. 8529
- (E) Not less than sixty days before a board of county 8530

commissioners designates an entity under division (B) or (C) of 8531
this section, the board shall notify the director of job and 8532
family services and publish notice in a newspaper of general 8533
circulation in the county of the board's intention to make the 8534
designation and reasons for the designation. 8535

(F) A board of county commissioners shall enter into a 8536
written contract with each entity it designates under division (B) 8537
or (C) of this section specifying the entity's responsibilities 8538
and standards the entity is required to meet. 8539

(G) This section does not require a board of county 8540
commissioners to abolish the child support enforcement agency, 8541
county department of job and family services, or public children 8542
services agency serving the county on October 1, 1997, and 8543
designate a different private or government entity to serve as the 8544
county's child support enforcement agency, county department of 8545
job and family services, or public children services agency. 8546

(H) If a county children services board appointed under 8547
section 5153.03 of the Revised Code serves as a public children 8548
services agency for a county, the board of county commissioners 8549
may not redesignate the public children services agency unless the 8550
board of county commissioners does all of the following: 8551

(1) Notifies the county children services board of its intent 8552
to redesignate the public children services agency. In its 8553
notification, the board of county commissioners shall provide the 8554
county children services board a written explanation of the 8555
administrative, fiscal, or performance considerations causing the 8556
board of county commissioners to seek to redesignate the public 8557
children services agency. 8558

(2) Provides the county children services board an 8559
opportunity to comment on the proposed redesignation before the 8560
redesignation occurs; 8561

(3) If the county children services board, not more than 8562
sixty days after receiving the notice under division (H)(1) of 8563
this section, notifies the board of county commissioners that the 8564
county children services board has voted to oppose the 8565
redesignation, votes unanimously to proceed with the 8566
redesignation. 8567

Sec. 307.987. To the extent federal ~~statutes and regulations~~ 8568
and state law permit, ~~a partnership agreement entered into under~~ 8569
~~section 307.98~~, a contract entered into under section 307.981 or 8570
307.982, a plan of cooperation entered into under section 307.983, 8571
a regional plan of cooperation entered into under section 307.984, 8572
a transportation work plan developed under section 307.985, and 8573
procedures established under section 307.986 of the Revised Code 8574
shall permit the exchange of information needed to improve 8575
services and assistance to individuals and families and the 8576
protection of children. A private or government entity that 8577
receives information pursuant to ~~an agreement~~, a contract, plan, 8578
or procedures is bound by the same standards of confidentiality as 8579
the entity that provides the information. 8580

~~An agreement~~, A contract, plan, or procedures shall: 8581

(A) Be coordinated and not conflict with another ~~agreement~~, 8582
contract, plan, or procedures or an agreement entered into under 8583
section 329.05 of the Revised Code; 8584

(B) Prohibit discrimination in hiring and promotion against 8585
applicants for and participants of the Ohio works first program 8586
established under Chapter 5107. of the Revised Code and the 8587
prevention, retention, and contingency program established under 8588
Chapter 5108. of the Revised Code; 8589

(C) Comply with federal ~~statutes and regulations~~ and state 8590
law; 8591

(D) Be adopted by resolution of a board of county commissioners;	8592 8593
(E) Specify how the agreement , contract, plan, or procedures may be amended.	8594 8595
Sec. 311.17. For the services specified in this section, the sheriff shall charge the following fees, which the court or <u>its</u> clerk thereof shall tax in the bill of costs against the judgment debtor or those legally liable therefor <u>for the judgment</u> :	8596 8597 8598 8599
(A) For the service and return of the following writs and orders:	8600 8601
(1) Execution:	8602
(a) When money is paid without levy or when no property is found, five <u>twenty</u> dollars;	8603 8604
(b) When levy is made on real property, for the first tract, twenty <u>twenty-five</u> dollars, and for each additional tract, five <u>ten</u> dollars;	8605 8606 8607
(c) When levy is made on goods and chattels, including inventory, twenty-five <u>fifty</u> dollars ; .	8608 8609
(2) Writ of attachment of property, except for purpose of garnishment, twenty <u>forty</u> dollars;	8610 8611
(3) Writ of attachment for the purpose of garnishment, five <u>ten</u> dollars;	8612 8613
(4) Writ of replevin, twenty <u>forty</u> dollars;	8614
(5) Warrant to arrest, for each person named in the writ, five <u>ten</u> dollars;	8615 8616
(6) Attachment for contempt, for each person named in the writ, three <u>six</u> dollars;	8617 8618
(7) Writ of possession or restitution, twenty <u>sixty</u> dollars;	8619

(8) Subpoena, for each person named in the writ, if in either	8620
a civil <u>or criminal</u> case three, six dollars, if in a criminal case	8621
one dollar ;	8622
(9) Venire, for each person named in the writ, if in either	8623
a civil <u>or criminal</u> case three, six dollars, if in a criminal case	8624
one dollar ;	8625
(10) Summoning each juror, other than on venire, if in either	8626
a civil <u>or criminal</u> case three, six dollars, if in a criminal case	8627
one dollar ;	8628
(11) Writ of partition, fifteen <u>twenty-five</u> dollars;	8629
(12) Order of sale on partition, for the first tract,	8630
twenty-five <u>fifty</u> dollars, and for each additional tract, five	8631
<u>twenty-five</u> dollars;	8632
(13) Other order of sale of real property, for the first	8633
tract, twenty <u>fifty</u> dollars, and for each additional tract, five	8634
<u>twenty-five</u> dollars;	8635
(14) Administering oath to appraisers, one dollar and fifty	8636
cents <u>three dollars</u> each;	8637
(15) Furnishing copies for advertisements, fifty cents <u>one</u>	8638
<u>dollar</u> for each hundred words;	8639
(16) Copy of indictment, for each defendant, two <u>five</u>	8640
dollars;	8641
(17) All summons, writs, orders, or notices, for the first	8642
name, three <u>six</u> dollars, and for each additional name, fifty cents	8643
<u>one dollar</u> .	8644
(B) In addition to the fee for service and return, the	8645
sheriff may charge :	8646
(1) On each summons, writ, order, or notice, a fee of fifty	8647
cents <u>one dollar</u> per mile for the first mile, and twenty <u>fifty</u>	8648

cents per mile for each additional mile, going and returning, 8649
actual mileage to be charged on each additional name; 8650

(2) Taking bail bond, ~~one dollar~~ three dollars; 8651

(3) Jail fees, as follows: 8652

(a) For receiving a prisoner, ~~four~~ five dollars each time a 8653
prisoner is received, and for discharging or surrendering a 8654
prisoner, ~~four~~ five dollars; each time a prisoner is discharged or 8655
surrendered. The departure or return of a prisoner from or to a 8656
jail in connection with a program established under section 8657
5147.28 of the Revised Code is not a receipt, discharge, or 8658
surrender of the prisoner for purposes of this division. 8659

(b) Taking a prisoner before a judge or court, per day, ~~three~~ 8660
five dollars; 8661

(c) Calling action, ~~fifty cents~~ one dollar; 8662

(d) Calling jury, ~~one dollar~~ three dollars; 8663

(e) Calling each witness, ~~one dollar~~ three dollars; 8664

(f) Bringing prisoner before court on habeas corpus, ~~four~~ six 8665
dollars; 8666

(4) Poundage on all moneys actually made and paid to the 8667
sheriff on execution, decree, or sale of real estate, one and 8668
one-half per cent; 8669

(5) Making and executing a deed of land sold on execution, 8670
decree, or order of the court, to be paid by the purchaser, 8671
~~twenty-five~~ fifty dollars. 8672

When any of the ~~foregoing~~ services described in division (A) 8673
or (B) of this section are rendered by an officer or employee, 8674
whose salary or per diem compensation is paid by the county, the 8675
applicable legal fees and any other extraordinary expenses, 8676
including overtime, provided for such the service in this section 8677
shall be taxed in the costs in the case, and, when ~~such fees are~~ 8678

collected ~~they~~, shall be paid into the general fund of the county. 8679

The sheriff shall charge the same fees for the execution of 8680
process issued in any other state as ~~he~~ the sheriff charges for 8681
the execution of process of a substantively similar nature that is 8682
issued in this state. 8683

Sec. 317.32. The county recorder shall charge and collect the 8684
following fees, to include base fees for the recorder's services 8685
and housing trust fund fees, collected pursuant to section 317.36 8686
of the Revised Code: 8687

(A) For recording and indexing an instrument when the 8688
photocopy or any similar process is employed, a base fee of 8689
fourteen dollars for the first two pages and a housing trust fund 8690
fee of fourteen dollars, and a base fee of four dollars and a 8691
housing trust fund fee of four dollars for each subsequent page, 8692
size eight and one-half inches by fourteen inches, or fraction of 8693
a page, including the caption page, of such instrument; 8694

(B) For certifying a photocopy from the record previously 8695
recorded, a base fee of one dollar and a housing trust fund fee of 8696
one dollar per page, size eight and one-half inches by fourteen 8697
inches, or fraction of a page; for each certification where the 8698
recorder's seal is required, except as to instruments issued by 8699
the armed forces of the United States, a base fee of fifty cents 8700
and a housing trust fund fee of fifty cents; 8701

(C) For manual or typewritten recording of assignment or 8702
satisfaction of mortgage or lease or any other marginal entry, a 8703
base fee of four dollars and a housing trust fund fee of four 8704
dollars; 8705

(D) For entering any marginal reference by separate recorded 8706
instrument, a base fee of two dollars and a housing trust fund fee 8707
of two dollars for each marginal reference set out in that 8708

instrument, in addition to the ~~recording fee~~ fees set forth in 8709
division (A) of this section; 8710

(E) For indexing in the real estate mortgage records, 8711
pursuant to section 1309.519 of the Revised Code, financing 8712
statements covering crops growing or to be grown, timber to be 8713
cut, minerals or the like, including oil and gas, accounts subject 8714
to section 1309.301 of the Revised Code, or fixture filings made 8715
pursuant to section 1309.334 of the Revised Code, a base fee of 8716
two dollars and a housing trust fund fee of two dollars for each 8717
name indexed; 8718

(F) For recording manually any plat not exceeding six lines, 8719
a base fee of two dollars and a housing trust fund fee of two 8720
dollars, and for each additional line, a base fee of ten cents and 8721
a housing trust fund fee of ten cents; 8722

(G) For filing zoning resolutions, including text and maps, 8723
in the office of the recorder as required under sections 303.11 8724
and 519.11 of the Revised Code, a base fee of fifty dollars and a 8725
housing trust fund fee of fifty dollars, regardless of the size or 8726
length of the resolutions; 8727

(H) For filing zoning amendments, including text and maps, in 8728
the office of the recorder as required under sections 303.12 and 8729
519.12 of the Revised Code, a base fee of ten dollars and a 8730
housing trust fund fee of ten dollars for the first page and a 8731
base fee of four dollars and a housing trust fund fee of four 8732
dollars for each additional page; 8733

(I) For photocopying a document, other than at the time of 8734
recording and indexing as provided for in division (A) of this 8735
section, a base fee of one dollar and a housing trust fund fee of 8736
one dollar per page, size eight and one-half inches by fourteen 8737
inches, or fraction thereof; 8738

(J) For local facsimile transmission of a document, a base 8739

fee of one dollar and a housing trust fund fee of one dollar per 8740
page, size eight and one-half inches by fourteen inches, or 8741
fraction thereof; for long distance facsimile transmission of a 8742
document, a base fee of two dollars and a housing trust fund fee 8743
of two dollars per page, size eight and one-half inches by 8744
fourteen inches, or fraction thereof; 8745

(K) For recording a declaration executed pursuant to section 8746
2133.02 of the Revised Code or a durable power of attorney for 8747
health care executed pursuant to section 1337.12 of the Revised 8748
Code, or both a declaration and a durable power of attorney for 8749
health care, a base fee of at least fourteen dollars but not more 8750
than twenty dollars and a housing trust fund fee of at least 8751
fourteen dollars but not more than twenty dollars. 8752

In any county in which the recorder employs the photostatic 8753
or any similar process for recording maps, plats, or prints the 8754
recorder shall determine, charge, and collect for the recording or 8755
rerecording of any map, plat, or print, a base fee of five cents 8756
and a housing trust fund fee of five cents per square inch, for 8757
each square inch of the map, plat, or print filed for that 8758
recording or rerecording, with a minimum base fee of twenty 8759
dollars and a minimum housing trust fund fee of twenty dollars; 8760
for certifying a copy from the record, a base fee of two cents and 8761
a housing trust fund fee of two cents per square inch of the 8762
record, with a minimum base fee of two dollars and a minimum 8763
housing trust fund fee of two dollars. 8764

The fees provided in this section shall be paid upon the 8765
presentation of the instruments for record or upon the application 8766
for any certified copy of the record, except that the payment of 8767
fees associated with the filing and recording of, or the copying 8768
of, notices of internal revenue tax liens and notices of other 8769
liens in favor of the United States as described in division (A) 8770
of section 317.09 of the Revised Code and certificates of 8771

discharge or release of those liens, shall be governed by section 8772
317.09 of the Revised Code, and the payment of fees for providing 8773
copies of instruments conveying or extinguishing agricultural 8774
easements to the office of farmland preservation in the department 8775
of agriculture under division ~~(G)~~(H) of section 5301.691 of the 8776
Revised Code shall be governed by that division. 8777

Sec. 317.36. (A) The county recorder shall collect the low- 8778
and moderate-income housing trust fund fee as specified in 8779
sections 317.32, 1563.42, 1702.59, 2505.13, 4141.23, 4509.60, 8780
5111.021, 5310.15, 5719.07, 5727.56, 5733.18, 5733.22, 6101.09, 8781
and 6115.09 of the Revised Code. The amount of any housing trust 8782
fund fee the recorder is authorized to collect is equal to the 8783
amount of any base fee the recorder is authorized to collect for 8784
services. The housing trust fund fee shall be collected in 8785
addition to the base fee. 8786

(B) The recorder shall certify the amounts collected as 8787
housing trust fund fees pursuant to division (A) of this section 8788
into the county treasury as housing trust fund fees to be paid to 8789
the treasurer of state pursuant to section 319.63 of the Revised 8790
Code. 8791

Sec. 319.63. (A) During the first thirty days of each 8792
calendar quarter, the county auditor shall pay to the treasurer of 8793
state all amounts that the county recorder collected as housing 8794
trust fund fees pursuant to section 317.36 of the Revised Code 8795
during the previous calendar quarter. If payment is made to the 8796
treasurer of state within the first thirty days of the quarter, 8797
the county auditor may retain an administrative fee of one per 8798
cent of the amount of the trust fund fees collected during the 8799
previous calendar quarter. 8800

(B) The treasurer of state shall deposit the first fifty 8801

million dollars of housing trust fund fees received each year 8802
pursuant to this section into the low- and moderate-income housing 8803
trust fund, created under section 175.21 of the Revised Code, and 8804
shall deposit any amounts received each year in excess of fifty 8805
million dollars into the state general revenue fund. 8806

(C) The county auditor shall deposit the administrative fee 8807
that the auditor is permitted to retain pursuant to division (A) 8808
of this section into the county general fund for the county 8809
recorder to use in administering the trust fund fee. 8810

Sec. 321.24. (A) On or before the fifteenth day of February, 8811
in each year, the county treasurer shall settle with the county 8812
auditor for all taxes and assessments that the treasurer has 8813
collected on the general duplicate of real and public utility 8814
property at the time of making the settlement. 8815

(B) On or before the thirtieth day of June, in each year, the 8816
treasurer shall settle with the auditor for all advance payments 8817
of general personal and classified property taxes that the 8818
treasurer has received at the time of making the settlement. 8819

(C) On or before the tenth day of August, in each year, the 8820
treasurer shall settle with the auditor for all taxes and 8821
assessments that the treasurer has collected on the general 8822
duplicates of real and public utility property at the time of 8823
making such settlement, not included in the preceding February 8824
settlement. 8825

(D) On or before the thirty-first day of October, in each 8826
year, the treasurer shall settle with the auditor for all taxes 8827
that the treasurer has collected on the general personal and 8828
classified property duplicates, and for all advance payments of 8829
general personal and classified property taxes, not included in 8830
the preceding June settlement, that the treasurer has received at 8831
the time of making such settlement. 8832

(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 authorized to receive had such section not been in effect and that amount had been levied and collected as taxes. The county auditor shall distribute the amount remaining among the various taxing districts in the county as if it had been levied, collected, and settled as real property taxes. The amount distributed to each taxing district shall be reduced by the total of the amounts

computed for the district under divisions (A), (B), and (C) of 8865
section 5703.80 of the Revised Code, but the reduction shall not 8866
exceed the amount that otherwise would be distributed to the 8867
taxing district under this division. The tax commissioner shall 8868
make available to taxing districts such information as is 8869
sufficient for a taxing district to be able to determine the 8870
amount of the reduction in its distribution under this section. 8871

(G)(1) Within thirty days after the day of the settlement 8872
required in division (D) of this section, the county treasurer 8873
shall ~~certify to~~ notify the tax commissioner that the settlement 8874
has been completed. Upon receipt of that ~~certification~~ 8875
notification, the commissioner shall provide for payment to the 8876
county treasurer from the general revenue fund of an amount equal 8877
to the amount certified under former section 319.311 of the 8878
Revised Code ~~in the current year and paid in the state's fiscal~~ 8879
year 2003 multiplied by the percentage specified in division 8880
(G)(2) of this section. The payment shall be credited upon receipt 8881
to the county's undivided income tax fund, and the county auditor 8882
shall distribute the amount thereof among the various taxing 8883
districts of the county as if it had been levied, collected, and 8884
settled as personal property taxes. The amount received by a 8885
taxing district under this division shall be apportioned among its 8886
funds in the same proportion as the current year's personal 8887
property taxes are apportioned. 8888

(2) Payments required under division (G)(1) of this section 8889
shall be made at the following percentages of the amount certified 8890
under former section 319.311 of the Revised Code and paid under 8891
division (G)(1) of this section in the state's fiscal year 2003: 8892

(a) In fiscal year 2004, ninety per cent; 8893

(b) In fiscal year 2005, eighty per cent; 8894

(c) In fiscal year 2006, seventy per cent; 8895

<u>(d) In fiscal year 2007, sixty per cent;</u>	8896
<u>(e) In fiscal year 2008, fifty per cent;</u>	8897
<u>(f) In fiscal year 2009, forty per cent;</u>	8898
<u>(g) In fiscal year 2010, thirty per cent;</u>	8899
<u>(h) In fiscal year 2011, twenty per cent;</u>	8900
<u>(i) In fiscal year 2012, ten per cent.</u>	8901
<u>After fiscal year 2012, no payments shall be made under</u>	8902
<u>division (G)(1) of this section.</u>	8903
(H)(1) On or before the fifteenth day of April each year, the	8904
county treasurer shall settle with the county auditor for all	8905
manufactured home taxes that the county treasurer has collected on	8906
the manufactured home tax duplicate at the time of making the	8907
settlement.	8908
(2) On or before the fifteenth day of September each year,	8909
the county treasurer shall settle with the county auditor for all	8910
remaining manufactured home taxes that the county treasurer has	8911
collected on the manufactured home tax duplicate at the time of	8912
making the settlement.	8913
(3) If the time for payment of such taxes is extended under	8914
section 4503.06 of the Revised Code, the time for making the	8915
settlement as prescribed by divisions (H)(1) and (2) of this	8916
section is extended for a like period of time.	8917
Sec. 323.01. Except as otherwise provided, as used in Chapter	8918
323. of the Revised Code:	8919
(A) "Subdivision" means any county, township, school	8920
district, or municipal corporation.	8921
(B) "Municipal corporation" includes charter municipalities.	8922
(C) "Taxes" means the total amount of all charges against an	8923

entry appearing on a tax list and the duplicate thereof that was 8924
prepared and certified in accordance with section 319.28 of the 8925
Revised Code, including taxes levied against real estate; taxes on 8926
property whose value is certified pursuant to section 5727.23 of 8927
the Revised Code; recoupment charges applied pursuant to section 8928
5713.35 of the Revised Code; all assessments; penalties and 8929
interest charged pursuant to section 323.121 of the Revised Code; 8930
charges added pursuant to section 319.35 of the Revised Code; and 8931
all of such charges which remain unpaid from any previous tax 8932
year. 8933

(D) "Current taxes" means all taxes charged against an entry 8934
on the general tax list and duplicate of real and public utility 8935
property that have not appeared on such list and duplicate for any 8936
prior tax year and any penalty thereon charged by division (A) of 8937
section 323.121 of the Revised Code. Current taxes, whether or not 8938
they have been certified delinquent, become delinquent taxes if 8939
they remain unpaid after the last day prescribed for payment of 8940
the second installment of current taxes without penalty. 8941

(E) "Delinquent taxes" means: 8942

(1) Any taxes charged against an entry on the general tax 8943
list and duplicate of real and public utility property that were 8944
charged against an entry on such list and duplicate for a prior 8945
tax year and any penalties and interest charged against such 8946
taxes. 8947

(2) Any current taxes charged on the general tax list and 8948
duplicate of real and public utility property that remain unpaid 8949
after the last day prescribed for payment of the second 8950
installment of such taxes without penalty, whether or not they 8951
have been certified delinquent, and any penalties and interest 8952
charged against such taxes. 8953

(F) "Current tax year" means, with respect to particular 8954

taxes, the calendar year in which the first installment of taxes 8955
is due prior to any extension granted under section 323.17 of the 8956
Revised Code. 8957

(G) "Liquidated claim" means: 8958

(1) Any sum of money due and payable, upon a written 8959
contractual obligation executed between the subdivision and the 8960
taxpayer, but excluding any amount due on general and special 8961
assessment bonds and notes; 8962

(2) Any sum of money due and payable, for disability 8963
financial assistance or disability medical assistance provided 8964
under Chapter 5115. of the Revised Code that is furnished to or in 8965
behalf of a subdivision, provided that such claim is recognized by 8966
a resolution or ordinance of the legislative body of such 8967
subdivision; 8968

(3) Any sum of money advanced and paid to or received and 8969
used by a subdivision, pursuant to a resolution or ordinance of 8970
such subdivision or its predecessor in interest, and the moral 8971
obligation to repay which sum, when in funds, shall be recognized 8972
by resolution or ordinance by the subdivision. 8973

Sec. 323.13. Except as provided in section 323.134 of the 8974
Revised Code, immediately upon receipt of any tax duplicate from 8975
the county auditor, but not less than twenty days prior to the 8976
last date on which the first one-half taxes may be paid without 8977
penalty as prescribed in section 323.12 or 323.17 of the Revised 8978
Code, the county treasurer shall cause to be prepared and mailed 8979
or delivered to each person charged on such duplicate with taxes 8980
or to an agent designated by such person, the tax bill prescribed 8981
by the commissioner of tax equalization under section 323.131 of 8982
the Revised Code. When taxes are paid by installments, the county 8983
treasurer shall mail or deliver to each person charged on such 8984
duplicate or the agent designated by such person, a second tax 8985

bill showing the amount due at the time of the second tax 8986
collection. The second half tax bill shall be mailed or delivered 8987
at least twenty days prior to the close of the second half tax 8988
collection period. 8989

After delivery of the delinquent land duplicate as prescribed 8990
in section 5721.011 of the Revised Code, the county treasurer may 8991
prepare and mail to each person in whose name property therein is 8992
listed an additional tax bill showing the total amount of 8993
delinquent taxes appearing on such duplicate against such 8994
property. The tax bill shall include a notice that the interest 8995
charge prescribed by division (B) of section 323.121 of the 8996
Revised Code has begun to accrue. 8997

A change in the mailing address of any tax bill shall be made 8998
in writing to the county treasurer. 8999

Upon certification by the county auditor of the apportionment 9000
of taxes following the transfer of a part of a tract or lot of 9001
real estate, and upon request by the owner of any transferred or 9002
remaining part of such tract or parcel, the treasurer shall cause 9003
to be prepared and mailed or delivered to such owner a tax bill 9004
for the taxes allocated to ~~his~~ the owner's part, together with the 9005
penalties, interest, and other charges. 9006

Failure to receive any bill required by this section does not 9007
excuse failure or delay to pay any taxes shown on such bill or, 9008
except as provided in division ~~(A)~~(B)(1) of section 5715.39 of the 9009
Revised Code, avoid any penalty, interest, or charge for such 9010
delay. 9011

Sec. 325.31. (A) On the first business day of each month, and 9012
at the end of the officer's term of office, each officer named in 9013
section 325.27 of the Revised Code shall pay into the county 9014
treasury, to the credit of the general county fund, on the warrant 9015
of the county auditor, all fees, costs, penalties, percentages, 9016

allowances, and perquisites collected by the officer's office 9017
during the preceding month or part thereof for official services, 9018
except the fees allowed the county auditor by division (B) of 9019
section 319.54 of the Revised Code, which shall be paid into the 9020
county treasury to the credit of the real estate assessment fund 9021
hereby created. 9022

(B) Moneys to the credit of the real estate assessment fund 9023
may be expended, upon appropriation by the board of county 9024
commissioners, for the purpose of defraying ~~the~~ one or more of the 9025
following: 9026

(1) The cost incurred by the county auditor in assessing real 9027
estate pursuant to Chapter 5713. of the Revised Code and 9028
manufactured and mobile homes pursuant to Chapter 4503. of the 9029
Revised Code, ~~and, at;~~ 9030

(2) At the county auditor's discretion, costs and expenses 9031
incurred by the county auditor in preparing the list of real and 9032
public utility property, in administering laws related to the 9033
taxation of real property and the levying of special assessments 9034
on real property, including administering reductions under 9035
Chapters 319. and 323. and section 4503.065 of the Revised Code, 9036
and to support assessments of real property in any administrative 9037
or judicial proceeding; 9038

(3) At the county auditor's discretion, the expenses incurred 9039
by the county board of revision under Chapter 5715. of the Revised 9040
Code. ~~Any;~~ 9041

(4) At the county auditor's discretion, the expenses incurred 9042
by the county auditor for geographic information systems, mapping 9043
programs, and technological advances in those or similar systems 9044
or programs; 9045

(5) At the county auditor's discretion, expenses incurred by 9046
the county auditor in compiling the general tax list of tangible 9047

personal property and administering tangible personal property 9048
taxes under Chapters 5711. and 5719. of the Revised Code; 9049

(6) At the county auditor's discretion, costs, expenses, and 9050
fees incurred by the county auditor in the administration of 9051
estate taxes under Chapter 5731. of the Revised Code. 9052

Any expenditures made from the real estate assessment fund 9053
shall comply with rules that the tax commissioner adopts under 9054
division (0) of section 5703.05 of the Revised Code. Those rules 9055
shall include a requirement that a copy of any appraisal plans, 9056
progress of work reports, contracts, or other documents required 9057
to be filed with the tax commissioner shall be filed also with the 9058
board of county commissioners. 9059

The board of county commissioners shall not transfer moneys 9060
required to be deposited in the real estate assessment fund to any 9061
other fund. Following an assessment of real property pursuant to 9062
Chapter 5713. of the Revised Code, or an assessment of a 9063
manufactured or mobile home pursuant to Chapter 4503. of the 9064
Revised Code, any moneys not expended for the purpose of defraying 9065
the cost incurred in assessing real estate or manufactured or 9066
mobile homes or for the purpose of defraying the expenses ~~of the~~ 9067
~~county board of revision~~ described in divisions (B)(2), (3), (4), 9068
(5), and (6) of this section, and thereby remaining to the credit 9069
of the real estate assessment fund, shall be apportioned ratably 9070
and distributed to those taxing authorities that contributed to 9071
the fund. However, no such distribution shall be made if the 9072
amount of such unexpended moneys remaining to the credit of the 9073
real estate assessment fund does not exceed five thousand dollars. 9074

(C) None of the officers named in section 325.27 of the 9075
Revised Code shall collect any fees from the county. Each of such 9076
officers shall, at the end of each calendar year, make and file a 9077
sworn statement with the board of county commissioners of all such 9078
fees, costs, penalties, percentages, allowances, and perquisites 9079

which have been due in the officer's office and unpaid for more 9080
than one year prior to the date such statement is required to be 9081
made. 9082

Sec. 329.03. (A) As used in this section: 9083

(1) "Applicant" or "recipient" means an applicant for or 9084
participant in the Ohio works first program established under 9085
Chapter 5107. of the Revised Code or an applicant for or recipient 9086
of disability financial assistance under Chapter 5115. of the 9087
Revised Code. 9088

(2) "Voluntary direct deposit" means a system established 9089
pursuant to this section under which cash assistance payments to 9090
recipients who agree to direct deposit are made by direct deposit 9091
by electronic transfer to an account in a financial institution 9092
designated under this section. 9093

(3) "Mandatory direct deposit" means a system established 9094
pursuant to this section under which cash assistance payments to 9095
all participants in the Ohio works first program or recipients of 9096
disability financial assistance, other than those exempt under 9097
division (E) of this section, are made by direct deposit by 9098
electronic transfer to an account in a financial institution 9099
designated under this section. 9100

(B) A board of county commissioners may by adoption of a 9101
resolution require the county department of job and family 9102
services to establish a direct deposit system for distributing 9103
cash assistance payments under Ohio works first, disability 9104
financial assistance, or both, unless the director of job and 9105
family services has provided for those payments to be made by 9106
electronic benefit transfer pursuant to section 5101.33 of the 9107
Revised Code. Voluntary or mandatory direct deposit may be applied 9108
to either of the programs. The resolution shall specify for each 9109
program for which direct deposit is to be established whether 9110

direct deposit is voluntary or mandatory. The board may require 9111
the department to change or terminate direct deposit by adopting a 9112
resolution to change or terminate it. Within ninety days after 9113
adopting a resolution under this division, the board shall certify 9114
one copy of the resolution to the director of job and family 9115
services and one copy to the office of budget and management. The 9116
director of job and family services may adopt rules governing 9117
establishment of direct deposit by county departments of job and 9118
family services. 9119

The county department of job and family services shall 9120
determine what type of account will be used for direct deposit and 9121
negotiate with financial institutions to determine the charges, if 9122
any, to be imposed by a financial institution for establishing and 9123
maintaining such accounts. Under voluntary direct deposit, the 9124
county department of job and family services may pay all charges 9125
imposed by a financial institution for establishing and 9126
maintaining an account in which direct deposits are made for a 9127
recipient. Under mandatory direct deposit, the county department 9128
of job and family services shall pay all charges imposed by a 9129
financial institution for establishing and maintaining such an 9130
account. No financial institution shall impose any charge for such 9131
an account that the institution does not impose on its other 9132
customers for the same type of account. Direct deposit does not 9133
affect the exemption of Ohio works first and disability financial 9134
assistance from attachment, garnishment, or other like process 9135
afforded by sections 5107.75 and ~~5115.07~~ 5115.06 of the Revised 9136
Code. 9137

(C) The county department of job and family services shall, 9138
within sixty days after a resolution requiring the establishment 9139
of direct deposit is adopted, establish procedures governing 9140
direct deposit. 9141

Within one hundred eighty days after the resolution is 9142

adopted, the county department shall: 9143

(1) Inform each applicant or recipient of the procedures 9144
governing direct deposit, including in the case of voluntary 9145
direct deposit those that prescribe the conditions under which a 9146
recipient may change from one method of payment to another; 9147

(2) Obtain from each applicant or recipient an authorization 9148
form to designate a financial institution equipped for and 9149
authorized by law to accept direct deposits by electronic transfer 9150
and the account into which the applicant or recipient wishes the 9151
payments to be made, or in the case of voluntary direct deposit 9152
states the applicant's or recipient's election to receive such 9153
payments in the form of a paper warrant. 9154

The department may require a recipient to complete a new 9155
authorization form whenever the department considers it necessary. 9156

A recipient's designation of a financial institution and 9157
account shall remain in effect until withdrawn in writing or 9158
dishonored by the financial institution, except that no change may 9159
be made in the authorization form until the next eligibility 9160
redetermination of the recipient unless the department feels that 9161
good grounds exist for an earlier change. 9162

(D) An applicant or recipient without an account who either 9163
agrees or is required to receive payments by direct deposit shall 9164
have ten days after receiving the authorization form to designate 9165
an account suitable for direct deposit. If within the required 9166
time the applicant or recipient does not make the designation or 9167
requests that the department make the designation, the department 9168
shall designate a financial institution and help the recipient to 9169
open an account. 9170

(E) At the time of giving an applicant or recipient the 9171
authorization form, the county department of job and family 9172
services of a county with mandatory direct deposit shall inform 9173

each applicant or recipient of the basis for exemption and the 9174
right to request exemption from direct deposit. 9175

Under mandatory direct deposit, an applicant or recipient who 9176
wishes to receive payments in the form of a paper warrant shall 9177
record on the authorization form a request for exemption under 9178
this division and the basis for the exemption. 9179

The department shall exempt from mandatory direct deposit any 9180
recipient who requests exemption and is any of the following: 9181

(1) Over age sixty-five; 9182

(2) Blind or disabled; 9183

(3) Likely, in the judgment of the department, to be caused 9184
personal hardship by direct deposit. 9185

A recipient granted an exemption under this division shall 9186
receive payments for which the recipient is eligible in the form 9187
of paper warrants. 9188

(F) The county department of job and family services shall 9189
bear the full cost of the amount of any replacement warrant issued 9190
to a recipient for whom an authorization form as provided in this 9191
section has not been obtained within one hundred eighty days after 9192
the later of the date the board of county commissioners adopts a 9193
resolution requiring payments of financial assistance by direct 9194
deposit to accounts of recipients of Ohio works first or 9195
disability financial assistance or the date the recipient made 9196
application for assistance, and shall not be reimbursed by the 9197
state for any part of the cost. Thereafter, the county department 9198
of job and family services shall continue to bear the full cost of 9199
each replacement warrant issued until the board of county 9200
commissioners requires the county department of job and family 9201
services to obtain from each such recipient the authorization 9202
forms as provided in this section. 9203

Sec. 329.04. (A) The county department of job and family 9204
services shall have, exercise, and perform the following powers 9205
and duties: 9206

(1) Perform any duties assigned by the state department of 9207
job and family services regarding the provision of public family 9208
services, including the provision of the following services to 9209
prevent or reduce economic or personal dependency and to 9210
strengthen family life: 9211

(a) Services authorized by a Title IV-A program, as defined 9212
in section 5101.80 of the Revised Code; 9213

(b) Social services authorized by Title XX of the "Social 9214
Security Act" and provided for by section 5101.46 of the Revised 9215
Code; 9216

(c) If the county department is designated as the child 9217
support enforcement agency, services authorized by Title IV-D of 9218
the "Social Security Act" and provided for by Chapter 3125. of the 9219
Revised Code. The county department may perform the services 9220
itself or contract with other government entities, and, pursuant 9221
to division (C) of section 2301.35 and section 2301.42 of the 9222
Revised Code, private entities, to perform the Title IV-D 9223
services. 9224

(2) Administer disability financial assistance ~~under Chapter~~ 9225
~~5115. of the Revised Code,~~ as required by the state department of 9226
job and family services under section 5115.03 of the Revised Code; 9227

(3) Administer disability medical assistance, as required by 9228
the state department of job and family services under section 9229
5115.13 of the Revised Code; 9230

~~(3)~~(4) Administer burials insofar as the administration of 9231
burials was, prior to September 12, 1947, imposed upon the board 9232
of county commissioners and if otherwise required by state law; 9233

~~(4)~~(5) Cooperate with state and federal authorities in any matter relating to family services and to act as the agent of such authorities;

~~(5)~~(6) Submit an annual account of its work and expenses to the board of county commissioners and to the state department of job and family services at the close of each fiscal year;

~~(6)~~(7) Exercise any powers and duties relating to family services duties 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;

~~(7)~~(8) Determine the eligibility for medical assistance of recipients of aid under Title XVI of the "Social Security Act";

~~(8)~~(9) If assigned by the state director of job and family services under section 5101.515 of the Revised Code, determine applicants' eligibility for health assistance under the children's health insurance program part II;

~~(9)~~(10) Enter into a plan of cooperation with the board of county commissioners under section 307.983, consult with the board in the development of the transportation work plan developed under section 307.985, establish with the board procedures under section 307.986 for providing services to children whose families relocate frequently, and comply with the contracts the board enters into under sections 307.981 and 307.982 of the Revised Code that affect the county department;

~~(10)~~(11) For the purpose of complying with a ~~partnership~~ fiscal agreement the board of county commissioners enters into under section 307.98 of the Revised Code, exercise the powers and perform the duties the ~~partnership~~ fiscal agreement assigns to the county department;

~~(11)~~(12) If the county department is designated as the 9265
workforce development agency, provide the workforce development 9266
activities specified in the contract required by section 330.05 of 9267
the Revised Code. 9268

(B) The powers and duties of a county department of job and 9269
family services are, and shall be exercised and performed, under 9270
the control and direction of the board of county commissioners. 9271
The board may assign to the county department any power or duty of 9272
the board regarding family services duties and workforce 9273
development activities. If the new power or duty necessitates the 9274
state department of job and family services changing its federal 9275
cost allocation plan, the county department may not implement the 9276
power or duty unless the United States department of health and 9277
human services approves the changes. 9278

Sec. 329.05. The county department of job and family services 9279
may administer or assist in administering any state or local 9280
family services ~~activity~~ duty in addition to those mentioned in 9281
section 329.04 of the Revised Code, supported wholly or in part by 9282
public funds from any source provided by agreement between the 9283
board of county commissioners and the officer, department, board, 9284
or agency in which the administration of such activity is vested. 9285
Such officer, department, board, or agency may enter into such 9286
agreement and confer upon the county department of job and family 9287
services, to the extent and in particulars specified in the 9288
agreement, the performance of any duties and the exercise of any 9289
powers imposed upon or vested in such officer, board, department, 9290
or agency, with respect to the administration of such activity. 9291
Such agreement shall be in the form of a resolution of the board 9292
of county commissioners, accepted in writing by the other party to 9293
the agreement, and filed in the office of the county auditor, and 9294
when so filed, shall have the effect of transferring the exercise 9295

of the powers and duties to which the agreement relates and shall 9296
exempt the other party from all further responsibility for the 9297
exercise of the powers and duties so transferred, during the life 9298
of the agreement. 9299

Such agreement shall be coordinated and not conflict with a 9300
~~partnership~~ fiscal agreement entered into under section 307.98, a 9301
contract entered into under section 307.981 or 307.982, a plan of 9302
cooperation entered into under section 307.983, a regional plan of 9303
cooperation entered into under section 307.984, a transportation 9304
work plan developed under section 307.985, or procedures for 9305
providing services to children whose families relocate frequently 9306
established under section 307.986 of the Revised Code. It may be 9307
revoked at the option of either party, by a resolution or order of 9308
the revoking party filed in the office of the auditor. Such 9309
revocation shall become effective at the end of the fiscal year 9310
occurring at least six months following the filing of the 9311
resolution or order. In the absence of such an express revocation 9312
so filed, the agreement shall continue indefinitely. 9313

This section does not permit a county department of job and 9314
family services to manage or control hospitals, humane societies, 9315
detention facilities, jails or probation departments of courts, or 9316
veterans service commissions. 9317

Sec. 329.051. The county department of job and family 9318
services shall make voter registration applications as prescribed 9319
by the secretary of state under section 3503.10 of the Revised 9320
Code available to persons who are applying for, receiving 9321
assistance from, or participating in any of the following: 9322

(A) The disability financial assistance program established 9323
under Chapter 5115. of the Revised Code; 9324

(B) The disability medical assistance program established 9325
under Chapter 5115. of the Revised Code; 9326

<u>(C)</u> The medical assistance program established under Chapter 5111. of the Revised Code;	9327 9328
(C) <u>(D)</u> The Ohio works first program established under Chapter 5107. of the Revised Code;	9329 9330
(D) <u>(E)</u> The prevention, retention, and contingency program established under Chapter 5108. of the Revised Code.	9331 9332
Sec. 329.06. (A) Except as provided in division (C) of this section and section 6301.08 of the Revised Code, the board of county commissioners shall establish a county family services planning committee. The board shall appoint a member to represent the county department of job and family services; an employee in the classified civil service of the county department of job and family services, if there are any such employees; and a member to represent the public. The board shall appoint other individuals to the committee in such a manner that the committee's membership is broadly representative of the groups of individuals and the public and private entities that have an interest in the family services provided in the county. The board shall make appointments in a manner that reflects the ethnic and racial composition of the county. The following groups and entities may be represented on the committee:	9333 9334 9335 9336 9337 9338 9339 9340 9341 9342 9343 9344 9345 9346 9347
(1) Consumers of family services;	9348
(2) The public children services agency;	9349
(3) The child support enforcement agency;	9350
(4) The county family and children first council;	9351
(5) Public and private colleges and universities;	9352
(6) Public entities that provide family services, including boards of health, boards of education, the county board of mental retardation and developmental disabilities, and the board of	9353 9354 9355

alcohol, drug addiction, and mental health services that serves 9356
the county; 9357

(7) Private nonprofit and for-profit entities that provide 9358
family services in the county or that advocate for consumers of 9359
family services in the county, including entities that provide 9360
services to or advocate for victims of domestic violence; 9361

(8) Labor organizations; 9362

(9) Any other group or entity that has an interest in the 9363
family services provided in the county, including groups or 9364
entities that represent any of the county's business, urban, and 9365
rural sectors. 9366

(B) The county family services planning committee shall do 9367
all of the following: 9368

(1) Serve as an advisory body to the board of county 9369
commissioners with regard to the family services provided in the 9370
county, including assistance under Chapters 5107. and 5108. of the 9371
Revised Code, publicly funded child day-care under Chapter 5104. 9372
of the Revised Code, and social services provided under section 9373
5101.46 of the Revised Code; 9374

(2) At least once a year, review and analyze the county 9375
department of job and family services' implementation of the 9376
programs established under Chapters 5107. and 5108. of the Revised 9377
Code. In its review, the committee shall use information available 9378
to it to examine all of the following: 9379

(a) Return of assistance groups to participation in either 9380
program after ceasing to participate; 9381

(b) Teen pregnancy rates among the programs' participants; 9382

(c) The other types of assistance the programs' participants 9383
receive, including medical assistance under Chapter 5111. of the 9384
Revised Code, publicly funded child day-care under Chapter 5104. 9385

of the Revised Code, food stamp benefits under section 5101.54 of 9386
the Revised Code, and energy assistance under Chapter 5117. of the 9387
Revised Code; 9388

(d) Other issues the committee considers appropriate. 9389

The committee shall make recommendations to the board of 9390
county commissioners and county department of job and family 9391
services regarding the committee's findings. 9392

~~(3) Provide comments and recommendations to the board prior 9393
to the board's entering into or substantially amending a 9394
partnership agreement with the director of job and family services 9395
under section 307.98 of the Revised Code; 9396~~

~~(4) Conduct public hearings on proposed county profiles for 9397
the provision of social services under section 5101.46 of the 9398
Revised Code; 9399~~

~~(5)~~(4) At the request of the board, make recommendations and 9400
provide assistance regarding the family services provided in the 9401
county; 9402

~~(6)~~(5) At any other time the committee considers appropriate, 9403
consult with the board and make recommendations regarding the 9404
family services provided in the county. The committee's 9405
recommendations may address the following: 9406

(a) Implementation and administration of family service 9407
programs; 9408

(b) Use of federal, state, and local funds available for 9409
family service programs; 9410

(c) Establishment of goals to be achieved by family service 9411
programs; 9412

(d) Evaluation of the outcomes of family service programs; 9413

(e) Any other matter the board considers relevant to the 9414
provision of family services. 9415

(C) If there is a committee in existence in a county on 9416
October 1, 1997, that the board of county commissioners determines 9417
is capable of fulfilling the responsibilities of a county family 9418
services planning committee, the board may designate the committee 9419
as the county's family services planning committee and the 9420
committee shall serve in that capacity. 9421

Sec. 340.021. (A) In an alcohol, drug addiction, and mental 9422
health service district comprised of a county with a population of 9423
two hundred fifty thousand or more on ~~the effective date of this~~ 9424
~~section~~ October 10, 1989, the board of county commissioners shall, 9425
within thirty days of ~~the effective date of this section~~ October 9426
10, 1989, establish an alcohol and drug addiction services board 9427
as the entity responsible for providing alcohol and drug addiction 9428
services in the county, unless, prior to that date, the board 9429
adopts a resolution providing that the entity responsible for 9430
providing the services is a board of alcohol, drug addiction, and 9431
mental health services. If the board of county commissioners 9432
establishes an alcohol and drug addiction services board, the 9433
community mental health board established under former section 9434
340.02 of the Revised Code shall serve as the entity responsible 9435
for providing mental health services in the county. A community 9436
mental health board has all the powers, duties, and obligations of 9437
a board of alcohol, drug addiction, and mental health services 9438
with regard to mental health services. An alcohol and drug 9439
addiction services board has all the powers, duties, and 9440
obligations of a board of alcohol, drug addiction, and mental 9441
health services with regard to alcohol and drug addiction 9442
services. Any provision of the Revised Code that refers to a board 9443
of alcohol, drug addiction, and mental health services with regard 9444
to mental health services also refers to a community mental health 9445
board and any provision that refers to a board of alcohol, drug 9446
addiction, and mental health services with regard to alcohol and 9447

drug addiction services also refers to an alcohol and drug 9448
addiction services board. 9449

An alcohol and drug addiction services board shall consist of 9450
eighteen members, six of whom shall be appointed by the director 9451
of alcohol and drug addiction services and twelve of whom shall be 9452
appointed by the board of county commissioners. Of the members 9453
appointed by the director, one shall be a person who has received 9454
or is receiving services for alcohol or drug addiction, one shall 9455
be a parent or relative of such a person, one shall be a 9456
professional in the field of alcohol or drug addiction services, 9457
and one shall be an advocate for persons receiving treatment for 9458
alcohol or drug addiction. The membership of the board shall, as 9459
nearly as possible, reflect the composition of the population of 9460
the service district as to race and sex. Members shall be 9461
residents of the service district and shall be interested in 9462
alcohol and drug addiction services. Requirements for membership, 9463
including prohibitions against certain family and business 9464
relationships, and terms of office shall be the same as those for 9465
members of boards of alcohol, drug addiction, and mental health 9466
services. 9467

~~(B)~~ A community mental health board shall consist of eighteen 9468
members, six of whom shall be appointed by the director of mental 9469
health and twelve of whom shall be appointed by the board of 9470
county commissioners. Of the members appointed by the director, 9471
one shall be a person who has received or is receiving mental 9472
health services, one shall be a parent or relative of such a 9473
person, one shall be a psychiatrist or a physician, and one shall 9474
be a mental health professional. The membership of the board as 9475
nearly as possible shall reflect the composition of the population 9476
of the service district as to race and sex. Members shall be 9477
residents of the service district and shall be interested in 9478
mental health services. Requirements for membership, including 9479

prohibitions against certain family and business relationships, 9480
and terms of office shall be the same as those for members of 9481
boards of alcohol, drug addiction, and mental health services. 9482

(B) If a board of county commissioners subject to division 9483
(A) of this section did not adopt a resolution providing for a 9484
board of alcohol, drug addiction, and mental health services, the 9485
board of county commissioners may adopt a resolution providing for 9486
such a board, subject to both of the following: 9487

(1) The resolution shall be adopted not later than January 1, 9488
2004. 9489

(2) Before adopting the resolution, the board of county 9490
commissioners shall provide notice of the proposed resolution to 9491
the alcohol and drug services board and the community mental 9492
health board and shall provide both boards an opportunity to 9493
comment on the proposed resolution. 9494

Sec. 340.03. (A) Subject to rules issued by the director of 9495
mental health after consultation with relevant constituencies as 9496
required by division (A)(11) of section 5119.06 of the Revised 9497
Code, with regard to mental health services, the board of alcohol, 9498
drug addiction, and mental health services shall: 9499

(1) Serve as the community mental health planning agency for 9500
the county or counties under its jurisdiction, and in so doing it 9501
shall: 9502

(a) Evaluate the need for facilities and community mental 9503
health services; 9504

(b) In cooperation with other local and regional planning and 9505
funding bodies and with relevant ethnic organizations, assess the 9506
community mental health needs, set priorities, and develop plans 9507
for the operation of facilities and community mental health 9508
services; 9509

(c) In accordance with guidelines issued by the director of 9510
mental health after consultation with board representatives, 9511
develop and submit to the department of mental health, no later 9512
than six months prior to the conclusion of the fiscal year in 9513
which the board's current plan is scheduled to expire, a community 9514
mental health plan listing community mental health needs, 9515
including the needs of all residents of the district now residing 9516
in state mental institutions and severely mentally disabled 9517
adults, children, and adolescents; all children subject to a 9518
determination made pursuant to section 121.38 of the Revised Code; 9519
and all the facilities and community mental health services that 9520
are or will be in operation or provided during the period for 9521
which the plan will be in operation in the service district to 9522
meet such needs. 9523

The plan shall include, but not be limited to, a statement of 9524
which of the services listed in section 340.09 of the Revised Code 9525
the board intends to provide or purchase, an explanation of how 9526
the board intends to make any payments that it may be required to 9527
pay under section 5119.62 of the Revised Code, a statement of the 9528
inpatient and community-based services the board proposes that the 9529
department operate, an assessment of the number and types of 9530
residential facilities needed, and such other information as the 9531
department requests, and a budget for moneys the board expects to 9532
receive. The board shall also submit an allocation request for 9533
state and federal funds. Within sixty days after the department's 9534
determination that the plan and allocation request are complete, 9535
the department shall approve or disapprove the plan and request, 9536
in whole or in part, according to the criteria developed pursuant 9537
to section 5119.61 of the Revised Code. The department's statement 9538
of approval or disapproval shall specify the inpatient and the 9539
community-based services that the department will operate for the 9540
board. Eligibility for financial support shall be contingent upon 9541

an approved plan or relevant part of a plan. 9542

If the director disapproves all or part of any plan, the 9543
director shall inform the board of the reasons for the disapproval 9544
and of the criteria that must be met before the plan may be 9545
approved. The director shall provide the board an opportunity to 9546
present its case on behalf of the plan. The director shall give 9547
the board a reasonable time in which to meet the criteria, and 9548
shall offer the board technical assistance to help it meet the 9549
criteria. 9550

If the approval of a plan remains in dispute thirty days 9551
prior to the conclusion of the fiscal year in which the board's 9552
current plan is scheduled to expire, the board or the director may 9553
request that the dispute be submitted to a mutually agreed upon 9554
third-party mediator with the cost to be shared by the board and 9555
the department. The mediator shall issue to the board and the 9556
department recommendations for resolution of the dispute. Prior to 9557
the conclusion of the fiscal year in which the current plan is 9558
scheduled to expire, the director, taking into consideration the 9559
recommendations of the mediator, shall make a final determination 9560
and approve or disapprove the plan, in whole or in part. 9561

If a board determines that it is necessary to amend a plan or 9562
an allocation request that has been approved under division 9563
(A)(1)(c) of this section, the board shall submit a proposed 9564
amendment to the director. The director may approve or disapprove 9565
all or part of the amendment. If the director does not approve all 9566
or part of the amendment within thirty days after it is submitted, 9567
the amendment or part of it shall be considered to have been 9568
approved. The director shall inform the board of the reasons for 9569
disapproval of all or part of an amendment and of the criteria 9570
that must be met before the amendment may be approved. The 9571
director shall provide the board an opportunity to present its 9572
case on behalf of the amendment. The director shall give the board 9573

a reasonable time in which to meet the criteria, and shall offer 9574
the board technical assistance to help it meet the criteria. 9575

The board shall implement the plan approved by the 9576
department. 9577

(d) Receive, compile, and transmit to the department of 9578
mental health applications for state reimbursement; 9579

(e) Promote, arrange, and implement working agreements with 9580
social agencies, both public and private, and with judicial 9581
agencies. 9582

(2) Investigate, or request another agency to investigate, 9583
any complaint alleging abuse or neglect of any person receiving 9584
services from a community mental health agency as defined in 9585
section 5122.01 of the Revised Code, or from a residential 9586
facility licensed under section 5119.22 of the Revised Code. If 9587
the investigation substantiates the charge of abuse or neglect, 9588
the board shall take whatever action it determines is necessary to 9589
correct the situation, including notification of the appropriate 9590
authorities. Upon request, the board shall provide information 9591
about such investigations to the department. 9592

(3) For the purpose of section 5119.611 of the Revised Code, 9593
cooperate with the director of mental health in visiting and 9594
evaluating whether the services of a community mental health 9595
agency satisfy the certification standards established by rules 9596
adopted under that section; 9597

(4) In accordance with criteria established under division 9598
(G) of section 5119.61 of the Revised Code, review and evaluate 9599
the quality, effectiveness, and efficiency of services provided 9600
through its community mental health plan and submit its findings 9601
and recommendations to the department of mental health; 9602

(5) In accordance with section 5119.22 of the Revised Code, 9603
review applications for residential facility licenses and 9604

recommend to the department of mental health approval or 9605
disapproval of applications; 9606

(6) Audit, in accordance with rules adopted by the auditor of 9607
state pursuant to section 117.20 of the Revised Code, at least 9608
annually all programs and services provided under contract with 9609
the board. In so doing, the board may contract for or employ the 9610
services of private auditors. A copy of the fiscal audit report 9611
shall be provided to the director of mental health, the auditor of 9612
state, and the county auditor of each county in the board's 9613
district. 9614

(7) Recruit and promote local financial support for mental 9615
health programs from private and public sources; 9616

(8)(a) Enter into contracts with public and private 9617
facilities for the operation of facility services included in the 9618
board's community mental health plan and enter into contracts with 9619
public and private community mental health agencies for the 9620
provision of community mental health services listed in section 9621
340.09 of the Revised Code and included in the board's community 9622
mental health plan. Contracts with community mental health 9623
agencies are subject to section 5119.611 of the Revised Code. 9624
Section 307.86 of the Revised Code does not apply to contracts 9625
entered into under this division. In contracting with a community 9626
mental health agency, a board shall consider the cost 9627
effectiveness of services provided by that agency and the quality 9628
and continuity of care, and may review cost elements, including 9629
salary costs, of the services to be provided. A utilization review 9630
process shall be established as part of the contract for services 9631
entered into between a board and a community mental health agency. 9632
The board may establish this process in a way that is most 9633
effective and efficient in meeting local needs. In the case of a 9634
contract with a community mental health facility ~~described, as~~ 9635
defined in ~~division (B) of~~ section 5111.022 of the Revised Code, 9636

to provide services ~~established by~~ listed in division ~~(A)~~(B) of 9637
that section, the contract shall provide for the facility to be 9638
paid in accordance with the contract entered into between the 9639
departments of job and family services and mental health under 9640
~~division (E) of that~~ section 5111.91 of the Revised Code and any 9641
rules adopted under division (A) of section 5119.61 of the Revised 9642
Code. 9643

If either the board or a facility or community mental health 9644
agency with which the board contracts under division (A)(8)(a) of 9645
this section proposes not to renew the contract or proposes 9646
substantial changes in contract terms, the other party shall be 9647
given written notice at least one hundred twenty days before the 9648
expiration date of the contract. During the first sixty days of 9649
this one hundred twenty-day period, both parties shall attempt to 9650
resolve any dispute through good faith collaboration and 9651
negotiation in order to continue to provide services to persons in 9652
need. If the dispute has not been resolved sixty days before the 9653
expiration date of the contract, either party may notify the 9654
department of mental health of the unresolved dispute. The 9655
director may require both parties to submit the dispute to a third 9656
party with the cost to be shared by the board and the facility or 9657
community mental health agency. The third party shall issue to the 9658
board, the facility or agency, and the department recommendations 9659
on how the dispute may be resolved twenty days prior to the 9660
expiration date of the contract, unless both parties agree to a 9661
time extension. The director shall adopt rules establishing the 9662
procedures of this dispute resolution process. 9663

(b) With the prior approval of the director of mental health, 9664
a board may operate a facility or provide a community mental 9665
health service as follows, if there is no other qualified private 9666
or public facility or community mental health agency that is 9667
immediately available and willing to operate such a facility or 9668

provide the service: 9669

(i) In an emergency situation, any board may operate a 9670
facility or provide a community mental health service in order to 9671
provide essential services for the duration of the emergency; 9672

(ii) In a service district with a population of at least one 9673
hundred thousand but less than five hundred thousand, a board may 9674
operate a facility or provide a community mental health service 9675
for no longer than one year; 9676

(iii) In a service district with a population of less than 9677
one hundred thousand, a board may operate a facility or provide a 9678
community mental health service for no longer than one year, 9679
except that such a board may operate a facility or provide a 9680
community mental health service for more than one year with the 9681
prior approval of the director and the prior approval of the board 9682
of county commissioners, or of a majority of the boards of county 9683
commissioners if the district is a joint-county district. 9684

The director shall not give a board approval to operate a 9685
facility or provide a community mental health service under 9686
division (A)(8)(b)(ii) or (iii) of this section unless the 9687
director determines that it is not feasible to have the department 9688
operate the facility or provide the service. 9689

The director shall not give a board approval to operate a 9690
facility or provide a community mental health service under 9691
division (A)(8)(b)(iii) of this section unless the director 9692
determines that the board will provide greater administrative 9693
efficiency and more or better services than would be available if 9694
the board contracted with a private or public facility or 9695
community mental health agency. 9696

The director shall not give a board approval to operate a 9697
facility previously operated by a person or other government 9698
entity unless the board has established to the director's 9699

satisfaction that the person or other government entity cannot 9700
effectively operate the facility or that the person or other 9701
government entity has requested the board to take over operation 9702
of the facility. The director shall not give a board approval to 9703
provide a community mental health service previously provided by a 9704
community mental health agency unless the board has established to 9705
the director's satisfaction that the agency cannot effectively 9706
provide the service or that the agency has requested the board 9707
take over providing the service. 9708

The director shall review and evaluate a board's operation of 9709
a facility and provision of community mental health service under 9710
division (A)(8)(b) of this section. 9711

Nothing in division (A)(8)(b) of this section authorizes a 9712
board to administer or direct the daily operation of any facility 9713
or community mental health agency, but a facility or agency may 9714
contract with a board to receive administrative services or staff 9715
direction from the board under the direction of the governing body 9716
of the facility or agency. 9717

(9) Approve fee schedules and related charges or adopt a unit 9718
cost schedule or other methods of payment for contract services 9719
provided by community mental health agencies in accordance with 9720
guidelines issued by the department as necessary to comply with 9721
state and federal laws pertaining to financial assistance; 9722

(10) Submit to the director and the county commissioners of 9723
the county or counties served by the board, and make available to 9724
the public, an annual report of the programs under the 9725
jurisdiction of the board, including a fiscal accounting; 9726

(11) Establish, to the extent resources are available, a 9727
community support system, which provides for treatment, support, 9728
and rehabilitation services and opportunities. The essential 9729
elements of the system include, but are not limited to, the 9730

following components in accordance with section 5119.06 of the	9731
Revised Code:	9732
(a) To locate persons in need of mental health services to	9733
inform them of available services and benefits mechanisms;	9734
(b) Assistance for clients to obtain services necessary to	9735
meet basic human needs for food, clothing, shelter, medical care,	9736
personal safety, and income;	9737
(c) Mental health care, including, but not limited to,	9738
outpatient, partial hospitalization, and, where appropriate,	9739
inpatient care;	9740
(d) Emergency services and crisis intervention;	9741
(e) Assistance for clients to obtain vocational services and	9742
opportunities for jobs;	9743
(f) The provision of services designed to develop social,	9744
community, and personal living skills;	9745
(g) Access to a wide range of housing and the provision of	9746
residential treatment and support;	9747
(h) Support, assistance, consultation, and education for	9748
families, friends, consumers of mental health services, and	9749
others;	9750
(i) Recognition and encouragement of families, friends,	9751
neighborhood networks, especially networks that include racial and	9752
ethnic minorities, churches, community organizations, and	9753
meaningful employment as natural supports for consumers of mental	9754
health services;	9755
(j) Grievance procedures and protection of the rights of	9756
consumers of mental health services;	9757
(k) Case management, which includes continual individualized	9758
assistance and advocacy to ensure that needed services are offered	9759
and procured.	9760

(12) Designate the treatment program, agency, or facility for 9761
each person involuntarily committed to the board pursuant to 9762
Chapter 5122. of the Revised Code and authorize payment for such 9763
treatment. The board shall provide the least restrictive and most 9764
appropriate alternative that is available for any person 9765
involuntarily committed to it and shall assure that the services 9766
listed in section 340.09 of the Revised Code are available to 9767
severely mentally disabled persons residing within its service 9768
district. The board shall establish the procedure for authorizing 9769
payment for services, which may include prior authorization in 9770
appropriate circumstances. The board may provide for services 9771
directly to a severely mentally disabled person when life or 9772
safety is endangered and when no community mental health agency is 9773
available to provide the service. 9774

(13) Establish a method for evaluating referrals for 9775
involuntary commitment and affidavits filed pursuant to section 9776
5122.11 of the Revised Code in order to assist the probate 9777
division of the court of common pleas in determining whether there 9778
is probable cause that a respondent is subject to involuntary 9779
hospitalization and what alternative treatment is available and 9780
appropriate, if any; 9781

(14) Ensure that apartments or rooms built, subsidized, 9782
renovated, rented, owned, or leased by the board or a community 9783
mental health agency have been approved as meeting minimum fire 9784
safety standards and that persons residing in the rooms or 9785
apartments are receiving appropriate and necessary services, 9786
including culturally relevant services, from a community mental 9787
health agency. This division does not apply to residential 9788
facilities licensed pursuant to section 5119.22 of the Revised 9789
Code. 9790

(15) Establish a mechanism for involvement of consumer 9791
recommendation and advice on matters pertaining to mental health 9792

services in the alcohol, drug addiction, and mental health service 9793
district; 9794

(16) Perform the duties under section 3722.18 of the Revised 9795
Code required by rules adopted under section 5119.61 of the 9796
Revised Code regarding referrals by the board or mental health 9797
agencies under contract with the board of individuals with mental 9798
illness or severe mental disability to adult care facilities and 9799
effective arrangements for ongoing mental health services for the 9800
individuals. The board is accountable in the manner specified in 9801
the rules for ensuring that the ongoing mental health services are 9802
effectively arranged for the individuals. 9803

(B) The board shall establish such rules, operating 9804
procedures, standards, and bylaws, and perform such other duties 9805
as may be necessary or proper to carry out the purposes of this 9806
chapter. 9807

(C) A board of alcohol, drug addiction, and mental health 9808
services may receive by gift, grant, devise, or bequest any 9809
moneys, lands, or property for the benefit of the purposes for 9810
which the board is established, and may hold and apply it 9811
according to the terms of the gift, grant, or bequest. All money 9812
received, including accrued interest, by gift, grant, or bequest 9813
shall be deposited in the treasury of the county, the treasurer of 9814
which is custodian of the alcohol, drug addiction, and mental 9815
health services funds to the credit of the board and shall be 9816
available for use by the board for purposes stated by the donor or 9817
grantor. 9818

(D) No board member or employee of a board of alcohol, drug 9819
addiction, and mental health services shall be liable for injury 9820
or damages caused by any action or inaction taken within the scope 9821
of the board member's official duties or the employee's 9822
employment, whether or not such action or inaction is expressly 9823
authorized by this section, section 340.033, or any other section 9824

of the Revised Code, unless such action or inaction constitutes 9825
willful or wanton misconduct. Chapter 2744. of the Revised Code 9826
applies to any action or inaction by a board member or employee of 9827
a board taken within the scope of the board member's official 9828
duties or employee's employment. For the purposes of this 9829
division, the conduct of a board member or employee shall not be 9830
considered willful or wanton misconduct if the board member or 9831
employee acted in good faith and in a manner that the board member 9832
or employee reasonably believed was in or was not opposed to the 9833
best interests of the board and, with respect to any criminal 9834
action or proceeding, had no reasonable cause to believe the 9835
conduct was unlawful. 9836

(E) The meetings held by any committee established by a board 9837
of alcohol, drug addiction, and mental health services shall be 9838
considered to be meetings of a public body subject to section 9839
121.22 of the Revised Code. 9840

Sec. 341.05. (A) The sheriff shall assign sufficient staff to 9841
ensure the safe and secure operation of the county jail, but staff 9842
shall be assigned only to the extent such staff can be provided 9843
with funds appropriated to the sheriff at the discretion of the 9844
board of county commissioners. The staff may include any of the 9845
following: 9846

(1) An administrator for the jail; 9847

(2) Jail officers, including civilian jail officers who are 9848
not sheriff's deputies, to conduct security duties; 9849

(3) Other necessary employees to assist in the operation of 9850
the county jail. 9851

(B) The sheriff shall employ a sufficient number of female 9852
staff to be available to perform all reception and release 9853
procedures for female prisoners. These female employees shall be 9854

on duty for the duration of the confinement of the female 9855
prisoners. 9856

(C) The jail administrator and civilian jail officers 9857
appointed by the sheriff shall have all the powers of police 9858
officers on the jail grounds as are necessary for the proper 9859
performance of the duties relating to their positions at the jail 9860
and as are consistent with their level of training. 9861

(D) The sheriff may authorize civilian jail officers to wear 9862
a standard uniform consistent with their prescribed authority, in 9863
accordance with section 311.281 of the Revised Code. Civilian jail 9864
officer uniforms shall be differentiated clearly from the uniforms 9865
worn by sheriff's deputies. 9866

(E) The Except as provided in division (B) of section 341.25 9867
of the Revised Code, the compensation of jail staff shall be 9868
payable from the general fund of the county, upon the warrant of 9869
the auditor, in accordance with standard county payroll 9870
procedures. 9871

Sec. 341.25. (A) The sheriff may establish a commissary for 9872
the jail. The commissary may be established either in-house or by 9873
another arrangement. If a commissary is established, all persons 9874
incarcerated in the jail shall receive commissary privileges. A 9875
person's purchases from the commissary shall be deducted from the 9876
person's account record in the jail's business office. The 9877
commissary shall provide for the distribution to indigent persons 9878
incarcerated in the jail necessary hygiene articles and writing 9879
materials. 9880

(B) If a commissary is established, the sheriff shall 9881
establish a commissary fund for the jail. The management of funds 9882
in the commissary fund shall be strictly controlled in accordance 9883
with procedures adopted by the auditor of state. Commissary fund 9884
revenue over and above operating costs and reserve shall be 9885

considered profits. All profits from the commissary fund shall be 9886
used to purchase supplies and equipment, and to provide life 9887
skills training and education or treatment services, or both, for 9888
the benefit of persons incarcerated in the jail, and to pay salary 9889
and benefits for employees of the sheriff who work in or are 9890
employed for the purpose of providing service to the commissary. 9891
The sheriff shall adopt rules for the operation of any commissary 9892
fund the sheriff establishes. 9893

Sec. 504.03. (A)(1) If a limited home rule government is 9894
adopted pursuant to section 504.02 of the Revised Code, it shall 9895
remain in effect for at least three years except as otherwise 9896
provided in division (B) of this section. At the end of that 9897
period, if the board of township trustees determines that that 9898
government is not in the best interests of the township, it may 9899
adopt a resolution causing the board of elections to submit to the 9900
electors of the unincorporated area of the township the question 9901
of whether the township should continue the limited home rule 9902
government. The question shall be voted upon at the next general 9903
election occurring at least seventy-five days after the 9904
certification of the resolution to the board of elections. After 9905
certification of the resolution, the board of elections shall 9906
submit the question to the electors of the unincorporated area of 9907
the township, and the ballot language shall be substantially as 9908
follows: 9909

"Shall the township of (name) continue the 9910
limited home rule government under which it is operating? 9911
..... For continuation of the limited home rule government 9912
..... Against continuation of the limited home rule government" 9913

(2) At least forty-five days before the election on the 9914
question of continuing the limited home rule government, the board 9915
of township trustees shall have notice of the election published 9916

in a newspaper of general circulation in the township for three 9917
consecutive weeks and have the notice posted in five conspicuous 9918
places in the unincorporated area of the township. 9919

(B) The electors of a township that has adopted a limited 9920
home rule government may propose at any time by initiative 9921
petition, in accordance with section 504.14 of the Revised Code, a 9922
resolution submitting to the electors in the unincorporated area 9923
of the township, in an election, the question set forth in 9924
division (A)(1) of this section. 9925

(C) If a majority of the votes cast under division (A) or (B) 9926
of this section on the proposition of continuing the limited home 9927
rule government is in the negative, that government is terminated 9928
effective on the first day of January immediately following the 9929
election, and a limited home rule government shall not be adopted 9930
in the unincorporated area of the township pursuant to section 9931
504.02 of the Revised Code for at least three years after that 9932
date. 9933

(D) If a limited home rule government is terminated under 9934
this section, the board of township trustees immediately shall 9935
adopt a resolution repealing all resolutions adopted pursuant to 9936
this chapter that are not authorized by any other section of the 9937
Revised Code outside this chapter, effective on the first day of 9938
January immediately following the election described in division 9939
(A) or (B) of this section. However, no resolution adopted under 9940
this division shall affect or impair the obligations of the 9941
township under any security issued or contracts entered into by 9942
the township in connection with the financing of any water supply 9943
facility or sewer improvement under sections 504.18 to 504.20 of 9944
the Revised Code or the authority of the township to collect or 9945
enforce any assessments or other revenues constituting security 9946
for or source of payments of debt service charges of those 9947
securities. 9948

(E) Upon the termination of a limited home rule government 9949
under this section, if the township had converted its board of 9950
township trustees to a five-member board ~~under section 504.21 of~~ 9951
~~the Revised Code~~ before the effective date of this amendment, the 9952
current board member who received the lowest number of votes of 9953
the current board members who were elected at the most recent 9954
election for township trustees, and the current board member who 9955
received the lowest number of votes of the current board members 9956
who were elected at the second most recent election for township 9957
trustees, shall cease to be township trustees on the date that the 9958
limited home rule government terminates. Their offices likewise 9959
shall cease to exist at that time, and the board shall continue as 9960
a three-member board as provided in section 505.01 of the Revised 9961
Code. 9962

Sec. 504.04. (A) A township that adopts a limited home rule 9963
government may do all of the following by resolution, provided 9964
that any of these resolutions, other than a resolution to supply 9965
water or sewer services in accordance with sections 504.18 to 9966
504.20 of the Revised Code, may be enforced only by the imposition 9967
of civil fines as authorized in this chapter: 9968

(1) Exercise all powers of local self-government within the 9969
unincorporated area of the township, other than powers that are in 9970
conflict with general laws, except that the township shall comply 9971
with the requirements and prohibitions of this chapter, and shall 9972
enact no taxes other than those authorized by general law, and 9973
except that no resolution adopted pursuant to this chapter shall 9974
encroach upon the powers, duties, and privileges of elected 9975
township officers or change, alter, combine, eliminate, or 9976
otherwise modify the form or structure of the township government 9977
unless the change is required or permitted by this chapter; 9978

(2) Adopt and enforce within the unincorporated area of the 9979

township local police, sanitary, and other similar regulations	9980
that are not in conflict with general laws or otherwise prohibited	9981
by division (B) of this section;	9982
(3) Supply water and sewer services to users within the	9983
unincorporated area of the township in accordance with sections	9984
504.18 to 504.20 of the Revised Code.	9985
(B) No resolution adopted pursuant to this chapter shall do	9986
any of the following:	9987
(1) Create a criminal offense or impose criminal penalties,	9988
except as authorized by division (A) of this section;	9989
(2) Impose civil fines other than as authorized by this	9990
chapter;	9991
(3) Establish or revise subdivision regulations, road	9992
construction standards, urban sediment rules, or storm water and	9993
drainage regulations;	9994
(4) Establish or revise building standards, building codes,	9995
and other standard codes except as provided in section 504.13 of	9996
the Revised Code;	9997
(5) Increase, decrease, or otherwise alter the powers or	9998
duties of a township under any other chapter of the Revised Code	9999
pertaining to agriculture or the conservation or development of	10000
natural resources;	10001
(6) Establish regulations affecting hunting, trapping,	10002
fishing, or the possession, use, or sale of firearms;	10003
(7) Establish or revise water or sewer regulations, except in	10004
accordance with sections 504.18 and 504.19 of the Revised Code.	10005
Nothing in this chapter shall be construed as affecting the	10006
powers of counties with regard to the subjects listed in divisions	10007
(B)(3) to (5) of this section.	10008
(C) Under a limited home rule government, all officers shall	10009

have the qualifications, and be nominated, elected, or appointed, 10010
as provided in Chapter 505. of the Revised Code, except that the 10011
board of township trustees shall appoint a full-time or part-time 10012
law director pursuant to section 504.15 of the Revised Code, and 10013
except that ~~section 504.21 of the Revised Code also shall apply if~~ 10014
a five-member board of township trustees ~~is~~ approved for the 10015
township before the effective date of this amendment shall 10016
continue to serve as the legislative authority with successive 10017
members serving for four-year terms of office until a termination 10018
of a limited home rule government under section 504.03 of the 10019
Revised Code. 10020

(D) In case of conflict between resolutions enacted by a 10021
board of township trustees and municipal ordinances or 10022
resolutions, the ordinance or resolution enacted by the municipal 10023
corporation prevails. In case of conflict between resolutions 10024
enacted by a board of township trustees and any county resolution, 10025
the resolution enacted by the board of township trustees prevails. 10026

Sec. 505.376. When any expenditure of a fire and ambulance 10027
district, other than for the compensation of district employees, 10028
exceeds ~~ten~~ twenty-five thousand dollars, the contract for the 10029
expenditure shall be in writing and made with the lowest and best 10030
bidder after advertising for not less than two nor more than four 10031
consecutive weeks in a newspaper of general circulation within the 10032
district. The bids shall be opened and shall be publicly read by 10033
the clerk of the district, or the clerk's designee, at the time, 10034
date, and place specified in the advertisement to bidders or the 10035
specifications. The time, date, and place of bid openings may be 10036
extended to a later date by the board of trustees of the district, 10037
provided that written or oral notice of the change shall be given 10038
to all persons who have received or requested specifications no 10039
later than ninety-six hours prior to the original time and date 10040
fixed for the opening. 10041

Each bid on any contract shall contain the full name of every person interested in the bid. If the bid is for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, it shall meet the requirements of section 153.54 of the Revised Code. If the bid is for any other contract, it shall be accompanied by a sufficient bond or certified check, cashier's check, or money order on a solvent bank or savings and loan association that, if the bid is accepted, a contract will be entered into and the performance of it will be properly secured. If the bid for work embraces both labor and material, it shall be separately stated, with the price ~~thereof~~ of the labor and the material. The board may reject any and all bids. The contract shall be between the district and the bidder, and the district shall pay the contract price in cash. When a bonus is offered for completion of a contract prior to a specified date, the board may exact a prorated penalty in like sum for each day of delay beyond the specified date. When there is reason to believe there is collusion or combination among bidders, the bids of those concerned ~~therein~~ shall be rejected.

Sec. 507.09. (A) Except as otherwise provided in division (D) of this section, the township clerk shall be entitled to compensation as follows:

(1) In townships having a budget of fifty thousand dollars or less, three thousand five hundred dollars;

(2) In townships having a budget of more than fifty thousand but not more than one hundred thousand dollars, five thousand five hundred dollars;

(3) In townships having a budget of more than one hundred thousand but not more than two hundred fifty thousand dollars, seven thousand seven hundred dollars;

(4) In townships having a budget of more than two hundred	10072
fifty thousand but not more than five hundred thousand dollars,	10073
nine thousand nine hundred dollars;	10074
(5) In townships having a budget of more than five hundred	10075
thousand but not more than seven hundred fifty thousand dollars,	10076
eleven thousand dollars;	10077
(6) In townships having a budget of more than seven hundred	10078
fifty thousand but not more than one million five hundred thousand	10079
dollars, thirteen thousand two hundred dollars;	10080
(7) In townships having a budget of more than one million	10081
five hundred thousand but not more than three million five hundred	10082
thousand dollars, fifteen thousand four hundred dollars;	10083
(8) In townships having a budget of more than three million	10084
five hundred thousand dollars but not more than six million	10085
dollars, sixteen thousand five hundred dollars;	10086
(9) In townships having a budget of more than six million	10087
dollars, seventeen thousand six hundred dollars.	10088
(B) Any township clerk may elect to receive less than the	10089
compensation the clerk is entitled to under division (A) of this	10090
section. Any clerk electing to do this shall so notify the board	10091
of township trustees in writing, and the board shall include this	10092
notice in the minutes of its next board meeting.	10093
(C) The compensation of the township clerk shall be paid in	10094
equal monthly payments. If the office of clerk is held by more	10095
than one person during any calendar year, each person holding the	10096
office shall receive payments for only those months, and any	10097
fractions of those months, during which the person holds the	10098
office.	10099
(D) Beginning in calendar year 1999, the township clerk shall	10100
be entitled to compensation as follows:	10101

(1) In calendar year 1999, the compensation specified in	10102
division (A) of this section increased by three per cent;	10103
(2) In calendar year 2000, the compensation determined under	10104
division (D)(1) of this section increased by three per cent;	10105
(3) In calendar year 2001, the compensation determined under	10106
division (D)(2) of this section increased by three per cent;	10107
(4) In calendar year 2002, except in townships having a	10108
budget of more than six million dollars, the compensation	10109
determined under division (D)(3) of this section increased by	10110
three per cent; in townships having a budget of more than six	10111
million but not more than ten million dollars, nineteen thousand	10112
eight hundred ten dollars; and in townships having a budget of	10113
more than ten million dollars, twenty thousand nine hundred	10114
dollars;	10115
(5) <u>In calendar year 2003, the compensation determined under</u>	10116
<u>division (D)(4) of this section increased by three per cent or the</u>	10117
<u>percentage increase in the consumer price index as described in</u>	10118
<u>division (D)(7)(b) of this section, whichever percentage is lower;</u>	10119
(6) <u>In calendar year 2004, except in townships having a</u>	10120
<u>budget of more than six million dollars, the compensation</u>	10121
<u>determined under division (D)(5) of this section for the calendar</u>	10122
<u>year 2003 increased by three per cent or the percentage increase</u>	10123
<u>in the consumer price index as described in division (D)(7)(b) of</u>	10124
<u>this section, whichever percentage is lower; in townships having a</u>	10125
<u>budget of more than six million but not more than ten million</u>	10126
<u>dollars, twenty-two thousand eighty-seven dollars; and in</u>	10127
<u>townships having a budget of more than ten million dollars,</u>	10128
<u>twenty-five thousand five hundred fifty-three dollars;</u>	10129
(7) In calendar years 2003 <u>2005</u> through 2008, the	10130
compensation determined under division (D) of this section for the	10131
immediately preceding calendar year increased by the lesser of the	10132

following:	10133
(a) Three per cent;	10134
(b) The percentage increase, if any, in the consumer price index over the twelve-month period that ends on the thirtieth day of September of the immediately preceding calendar year, rounded to the nearest one-tenth of one per cent;	10135 10136 10137 10138
(6) <u>(8)</u> In calendar year 2009 and thereafter, the amount determined under division (D) of this section for calendar year 2008.	10139 10140 10141
As used in this division, "consumer price index" has the same meaning as in section 325.18 of the Revised Code.	10142 10143
Sec. 511.12. The board of township trustees may prepare plans and specifications and make contracts for the construction and erection of a memorial building, monument, statue, or memorial, for the purposes specified and within the amount authorized by section 511.08 of the Revised Code. If the total estimated cost of the construction and erection exceeds fifteen <u>twenty-five</u> thousand dollars, the contract shall be let by competitive bidding. If the estimated cost is fifteen <u>twenty-five</u> thousand dollars or less, competitive bidding may be required at the board's discretion. In making contracts under this section, the board shall be governed as follows:	10144 10145 10146 10147 10148 10149 10150 10151 10152 10153 10154
(A) Contracts for construction when competitive bidding is required shall be based upon detailed plans, specifications, forms of bids, and estimates of cost, adopted by the board.	10155 10156 10157
(B) Contracts shall be made in writing upon concurrence of a majority of the members of the board, and shall be signed by at least two of such <u>the</u> members and by the contractor. If competitive bidding is required, no contract shall be made or signed until an advertisement has been placed in two newspapers,	10158 10159 10160 10161 10162

published or of general circulation in the township, for a period 10163
of thirty days. 10164

(C) No contract shall be let by competitive bidding except to 10165
the lowest and best bidder, who shall meet the requirements of 10166
section 153.54 of the Revised Code. 10167

(D) When, in the opinion of the board, it becomes necessary 10168
in the prosecution of such work to make alterations or 10169
modifications in any contract, ~~such~~ the alterations or 10170
modifications shall be made only by order of the board, and ~~such~~ 10171
that order shall be of no effect until the price to be paid for 10172
the work or materials under ~~such~~ the altered or modified contract 10173
has been agreed upon in writing and signed by the contractor and 10174
at least two members of the board. 10175

(E) No contract or alteration or modification ~~thereof~~ of it 10176
shall be valid unless made in the manner provided in this section. 10177

Sec. 511.181. If the board of park commissioners of a 10178
township park district created before 1955 is appointed by the 10179
board of township trustees, the board of township trustees may 10180
adopt a resolution to convert the parks owned and operated by the 10181
park district into parks owned and operated by the township if the 10182
township has a population of less than thirty-five thousand and a 10183
geographical area of less than fifteen square miles. Upon the 10184
adoption of that resolution, the township park district shall 10185
cease to exist, all real and personal property owned by the park 10186
district shall be transferred to the township, and the township 10187
shall assume liability with respect to all contracts and debts of 10188
the park district. All employees of the township park district 10189
whose parks are so converted into township parks shall become 10190
township employees, and the board of township trustees may retain 10191
the former park commissioners, on the terms that the trustees 10192
consider appropriate, to operate the property formerly owned by 10193

the township park district. 10194

The township shall continue to collect any taxes levied 10195
within the former township park district, and the taxes shall be 10196
deposited into the township treasury as funds to be used for the 10197
park purposes for which they were levied. 10198

Within fifteen days after the adoption of a township park 10199
district conversion resolution under this section, the clerk of 10200
the board of township trustees shall certify a copy of that 10201
resolution to the county auditor. 10202

Sec. 515.01. The board of township trustees may provide 10203
artificial lights for any road, highway, public place, or building 10204
under its supervision or control, or for any territory within the 10205
township and outside the boundaries of any municipal corporation, 10206
when the board determines that the public safety or welfare 10207
requires that ~~such~~ the road, highway, public place, building, or 10208
territory shall be lighted. ~~Such~~ The lighting may be procured 10209
either by the township installing a lighting system or by 10210
contracting with any person or corporation to furnish lights. 10211

If lights are furnished under contract, ~~such~~ the contract may 10212
provide that the equipment employed may be owned by the township 10213
or by the person or corporation supplying it. 10214

If the board determines to procure ~~such~~ lighting by contract 10215
and the total estimated cost of the contract exceeds ~~fifteen~~ 10216
twenty-five thousand dollars, the board shall prepare plans and 10217
specifications for the lighting equipment and shall, for two 10218
weeks, advertise for bids for furnishing ~~such~~ the lighting 10219
equipment, either by posting ~~such~~ the advertisement in three 10220
conspicuous places in the township or by publication ~~thereof~~ of 10221
the advertisement once a week, for two consecutive weeks, in a 10222
newspaper of general circulation in the township. Any such 10223
contract for lighting shall be made with the lowest and best 10224

bidder. 10225

No lighting contract awarded by the board shall be made to 10226
cover a period of more than ten years. The cost of installing and 10227
operating any lighting system or any light furnished under 10228
contract shall be paid from the general fund of the township 10229
treasury. 10230

Sec. 515.07. If the total estimated cost of any lighting 10231
improvement provided for in section 515.06 of the Revised Code is 10232
~~fifteen~~ twenty-five thousand dollars or less, the contract may be 10233
let without competitive bidding. When competitive bidding is 10234
required, the board of township trustees shall post, in three of 10235
the most conspicuous public places in the district, a notice 10236
specifying the number, candle power, and location of lights, and 10237
the kind of supports ~~therefore~~ for the lights as provided by 10238
section 515.06 of the Revised Code, as well as the time, which 10239
shall not be less than thirty days from the posting of the 10240
notices, and the place the board will receive bids to furnish ~~such~~ 10241
the lights. The board shall accept the lowest and best bid, if the 10242
successful bidder meets the requirements of section 153.54 of the 10243
Revised Code. The board may reject all bids. 10244

Sec. 521.05. (A) If the total estimated cost of any 10245
improvement provided for in section 521.04 of the Revised Code is 10246
~~ten~~ twenty-five thousand dollars or less, the contract may be let 10247
without competitive bidding. When competitive bidding is required, 10248
the board of township trustees shall post, in three of the most 10249
conspicuous public places in the township, a notice specifying the 10250
improvement to be made and the time, which shall be at least 10251
thirty days after the posting of the notices, and the place the 10252
board will receive bids to make the improvement. The board shall 10253
accept the lowest and best bid, if the successful bidder meets the 10254
requirements of section 153.54 of the Revised Code. The board may 10255

reject all bids. 10256

(B) On accepting a bid, the board shall enter into a contract 10257
with the successful bidder for making the improvement according to 10258
specifications. The contract shall not be for a term longer than 10259
ten years. 10260

Sec. 715.013. (A) Except as otherwise expressly authorized by 10261
the Revised Code, no municipal corporation shall levy a tax that 10262
is the same as or similar to a tax levied under Chapter 322., 10263
3734., 3769., 4123., 4141., 4301., 4303., 4305., 4307., 4309., 10264
5707., 5725., 5727., 5728., 5729., 5731., 5735., 5737., 5739., 10265
5741., 5743., or 5749. of the Revised Code. 10266

(B) This section does not prohibit a municipal corporation 10267
from levying a tax on ~~amounts~~ any of the following: 10268

(1) Amounts received for admission to any place ~~or, on and~~ 10269
~~after January 1, 2002, on the;~~ 10270

(2) The income of an electric company or combined company, as 10271
defined in section 5727.01 of the Revised Code; 10272

(3) On and after January 1, 2004, the income of a telephone 10273
company, as defined in section 5727.01 of the Revised Code. 10274

Sec. 718.01. (A) As used in this chapter: 10275

(1) "Adjusted federal taxable income" means a C corporation's 10276
federal taxable income before net operating losses and special 10277
deductions as determined under the Internal Revenue Code, adjusted 10278
as follows: 10279

(a) Deduct intangible income to the extent included in 10280
federal taxable income. The deduction shall be allowed regardless 10281
of whether the intangible income relates to assets used in a trade 10282
or business or assets held for the production of income. 10283

(b) Add an amount equal to five per cent of intangible income 10284

deducted under division (A)(1)(a) of this section, but excluding 10285
that portion of intangible income directly related to the sale, 10286
exchange, or other disposition of property described in section 10287
1221 of the Internal Revenue Code; 10288

(c) Add any losses allowed as a deduction in the computation 10289
of federal taxable income if the losses directly relate to the 10290
sale, exchange, or other disposition of an asset described in 10291
section 1221 or 1231 of the Internal Revenue Code; 10292

(d)(i) Except as provided in division (A)(1)(d)(ii) of this 10293
section, deduct income and gain included in federal taxable income 10294
to the extent the income and gain directly relate to the sale, 10295
exchange, or other disposition of an asset described in section 10296
1221 or 1231 of the Internal Revenue Code; 10297

(ii) Division (A)(1)(d)(i) of this section does not apply to 10298
the extent the income or gain is income or gain described in 10299
section 1245 or 1250 of the Internal Revenue Code. 10300

(e) Add taxes on or measured by net income allowed as a 10301
deduction in the computation of federal taxable income; 10302

(f) In the case of a real estate investment trust and 10303
regulated investment company, add all amounts with respect to 10304
dividends to, distributions to, or amounts set aside for or 10305
credited to the benefit of investors and allowed as a deduction in 10306
the computation of federal taxable income; 10307

(g) If the taxpayer is not a C corporation and is not an 10308
individual, the taxpayer shall compute adjusted federal taxable 10309
income as if the taxpayer were a C corporation, except: 10310

(i) Guaranteed payments and other similar amounts paid or 10311
accrued to a partner, former partner, member, or former member 10312
shall not be allowed as a deductible expense; and 10313

(ii) Amounts paid or accrued to a qualified self-employed 10314

retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction. 10315
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Nothing in division (A)(1) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax. 10320
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A tax administrator may examine or audit a taxpayer to ascertain if the taxpayer has properly reported adjusted federal taxable income or net profit required to be reported on Schedule C, Schedule E, or Schedule F. If the tax administrator determines that the taxpayer has not properly reported adjusted federal taxable income or net profit, the tax administrator may make all corrections and adjustments as are necessary to properly determine such amount. 10325
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(2) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. 10333
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~~(2)~~(3) "Schedule C" means internal revenue service schedule C filed by a taxpayer pursuant to the Internal Revenue Code. 10335
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~~(3)~~(4) "Form 2106" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code. 10337
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~~(4)~~(5) "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. of the Revised Code, and patents, copyrights, trademarks, tradenames, investments in real 10339
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estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance. 10346
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(5)(6) "S corporation" 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. 10351
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(7) For taxable years beginning on or after January 1, 2004, "net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit required to be reported on schedule C, schedule E, or schedule F. 10354
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(8) "Taxpayer" means a person subject to a tax on income levied by a municipal corporation. "Taxpayer" does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary. 10359
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(9) "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code. 10365
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(10) "Tax administrator" means the individual charged with direct responsibility for administration of a tax on income levied by a municipal corporation and includes: 10368
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(a) The central collection agency and the regional income tax agency and their successors in interest, and other entities organized to perform functions similar to those performed by the central collection agency and the regional income tax agency; 10371
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(b) A municipal corporation acting as the agent of another municipal corporation; and 10375
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(c) Persons retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis. 10377
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(11) "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity. 10381
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(12) "Schedule E" means internal revenue service schedule E filed by a taxpayer pursuant to the Internal Revenue Code. 10385
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(13) "Schedule F" means internal revenue service schedule F filed by a taxpayer pursuant to the Internal Revenue Code. 10387
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(B) No municipal corporation ~~with respect to that income that it may tax~~ shall tax ~~such~~ income at other than a uniform rate. 10389
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(C) No municipal corporation shall levy a tax on income at a rate in excess of one per cent without having obtained the approval of the excess by a majority of the electors of the municipality voting on the question at a general, primary, or special election. The legislative authority of the municipal corporation shall file with the board of elections at least seventy-five days before the day of the election a copy of the ordinance together with a resolution specifying the date the election is to be held and directing the board of elections to conduct the election. The ballot shall be in the following form: 10391
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"Shall the Ordinance providing for a ... per cent levy on income for (Brief description of the purpose of the proposed levy) be passed? 10401
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FOR THE INCOME TAX 10404

AGAINST THE INCOME TAX" 10405

In the event of an affirmative vote, the proceeds of the levy 10406

may be used only for the specified purpose. 10407

(D)(1) Except as ~~otherwise~~ provided in division ~~(D)(2) or~~ 10408
~~(F)(9)(E) or (F)~~ of this section, no municipal corporation shall 10409
exempt from a tax on income, compensation for personal services of 10410
individuals over eighteen years of age or the net profit from a 10411
business or profession. 10412

~~(2) The legislative authority of a municipal corporation may,~~ 10413
~~by ordinance or resolution, exempt from a tax on income any~~ 10414
~~compensation arising from the grant, sale, exchange, or other~~ 10415
~~disposition of a stock option; the exercise of a stock option; or~~ 10416
~~the sale, exchange, or other disposition of stock purchased under~~ 10417
~~a stock option. (a) For taxable years beginning on or after~~ 10418
January 1, 2004, no municipal corporation shall tax the net profit 10419
from a business or profession using any base other than the 10420
taxpayer's adjusted federal taxable income. 10421

(b) Division (D)(2)(a) of this section does not apply to any 10422
taxpayer required to file a return under section 5745.03 of the 10423
Revised Code or to the net profit from a sole proprietorship. 10424

~~(E) Nothing in this section shall prevent a municipal~~ 10425
~~corporation from permitting lawful deductions as prescribed by~~ 10426
~~ordinance. If a taxpayer's~~ The legislative authority of a 10427
municipal corporation may, by ordinance or resolution, exempt from 10428
withholding and from a tax on income the following: 10429

(1) Compensation arising from the sale, exchange, or other 10430
disposition of a stock option, the exercise of a stock option, or 10431
the sale, exchange, or other disposition of stock purchased under 10432
a stock option; or 10433

(2) Compensation attributable to a nonqualified deferred 10434
compensation plan or program described in section 3121(v)(2)(C) of 10435
the Internal Revenue Code. 10436

If an individual's taxable income includes income against 10437

which the taxpayer has taken a deduction for federal income tax 10438
purposes as reportable on the taxpayer's form 2106, and against 10439
which a like deduction has not been allowed by the municipal 10440
corporation, the municipal corporation shall deduct from the 10441
taxpayer's taxable income an amount equal to the deduction shown 10442
on such form allowable against such income, to the extent not 10443
otherwise so allowed as a deduction by the municipal corporation. 10444
~~In~~ 10445

In the case of a taxpayer who has a net profit from a 10446
business or profession that is operated as a sole proprietorship, 10447
no municipal corporation may tax or use as the base for 10448
determining the amount of the net profit that shall be considered 10449
as having a taxable situs in the municipal corporation, ~~a greater~~ 10450
~~amount than the net profit reported by the taxpayer on schedule C~~ 10451
~~filed in reference to the year in question as taxable income from~~ 10452
~~such sole proprietorship, except as otherwise specifically~~ 10453
~~provided by ordinance or regulation~~ an amount other than the net 10454
profit required to be reported by the taxpayer on schedule C or F 10455
from such sole proprietorship for the taxable year. 10456

In the case of a taxpayer who has a net profit from rental 10457
activity required to be reported on schedule E, no municipal 10458
corporation may tax or use as the base for determining the amount 10459
of the net profit that shall be considered as having a taxable 10460
situs in the municipal corporation, an amount other than the net 10461
profit from rental activities required to be reported by the 10462
taxpayer on schedule E for the taxable year. 10463

(F) A municipal corporation shall not tax any of the 10464
following: 10465

(1) The military pay or allowances of members of the armed 10466
forces of the United States and of members of their reserve 10467
components, including the Ohio national guard; 10468

(2) The income of religious, fraternal, charitable, 10469
scientific, literary, or educational institutions to the extent 10470
that such income is derived from tax-exempt real estate, 10471
tax-exempt tangible or intangible property, or tax-exempt 10472
activities; 10473

(3) Except as otherwise provided in division (G) of this 10474
section, intangible income; 10475

(4) Compensation paid under section 3501.28 or 3501.36 of the 10476
Revised Code to a person serving as a precinct election official, 10477
to the extent that such compensation does not exceed one thousand 10478
dollars annually. Such compensation in excess of one thousand 10479
dollars may be subjected to taxation by a municipal corporation. A 10480
municipal corporation shall not require the payer of such 10481
compensation to withhold any tax from that compensation. 10482

(5) Compensation paid to an employee of a transit authority, 10483
regional transit authority, or regional transit commission created 10484
under Chapter 306. of the Revised Code for operating a transit bus 10485
or other motor vehicle for the authority or commission in or 10486
through the municipal corporation, unless the bus or vehicle is 10487
operated on a regularly scheduled route, the operator is subject 10488
to such a tax by reason of residence or domicile in the municipal 10489
corporation, or the headquarters of the authority or commission is 10490
located within the municipal corporation; 10491

(6) The income of a public utility, when that public utility 10492
is subject to the tax levied under section 5727.24 or 5727.30 of 10493
the Revised Code, ~~except starting January 1, 2002, the income of~~ 10494
~~an electric company or combined company, as defined in section~~ 10495
~~5727.01 of the Revised Code, may be taxed by~~ a municipal 10496
corporation may tax the following, subject to Chapter 5745. of the 10497
Revised Code; 10498

(a) Beginning January 1, 2002, the income of an electric 10499

<u>company or combined company;</u>	10500
<u>(b) Beginning January 1, 2004, the income of a telephone company.</u>	10501
	10502
<u>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.</u>	10503
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	10505
(7) On and after January 1, 2003, items excluded from federal gross income pursuant to section 107 of the Internal Revenue Code;	10506
	10507
(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;	10508
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(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;	10511
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<u>(10) Employee compensation that is not "qualifying wages" as defined in section 718.03 of the Revised Code.</u>	10522
	10523
(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	10524
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held on November 8, 1988. 10531

(H) Any municipal corporation that, on December 6, 2002, 10532
taxes an S corporation shareholder's distributive share of net 10533
profits of the S corporation to any greater extent than that 10534
permitted under division (F)(9) of this section may continue after 10535
2002 to tax such distributive shares to such greater extent only 10536
if a majority of the electors of the municipal corporation voting 10537
on the question of such continuation vote in favor thereof at an 10538
election held on November 4, 2003. ~~If a majority of electors vote~~ 10539
~~in favor of that question, then, for purposes of section 718.14 of~~ 10540
~~the Revised Code, "pass through entity" includes S corporations,~~ 10541
~~"income from a pass through entity" includes distributive shares~~ 10542
~~from an S corporation, and "owner" includes a shareholder of an S~~ 10543
~~corporation, notwithstanding that section to the contrary.~~ 10544

(I) Nothing in this section or section 718.02 of the Revised 10545
Code shall authorize the levy of any tax on income that a 10546
municipal corporation is not authorized to levy under existing 10547
laws or shall require a municipal corporation to allow a deduction 10548
from taxable income for losses incurred from a sole proprietorship 10549
or partnership. 10550

(J)(1) Nothing in this chapter prohibits a municipal 10551
corporation from allowing, by resolution or ordinance, a net 10552
operating loss carryforward. 10553

(2) Nothing in this chapter requires a municipal corporation 10554
to allow a net operating loss carryforward. 10555

(K) Except as otherwise provided, nothing in this chapter 10556
prohibits a municipal corporation from imposing its municipal 10557
income tax on compensation reported on internal revenue service 10558
form 1099. 10559

Sec. 718.02. This section does not apply to electric 10560

~~companies or combined companies, or to electric light companies~~ 10561
~~for which an election made under section 5745.031 taxpayers that~~ 10562
~~are subject to and required to file reports under Chapter 5745. of~~ 10563
~~the Revised Code is in effect.~~ 10564

(A) ~~In the taxation of income that is subject to municipal~~ 10565
~~income taxes, if the books and records of a taxpayer conducting a~~ 10566
~~business or profession both within and without the boundaries of a~~ 10567
~~municipal corporation disclose with reasonable accuracy what~~ 10568
~~portion of its net profit is attributable to that part of the~~ 10569
~~business or profession conducted within the boundaries of the~~ 10570
~~municipal corporation, then only such portion shall be considered~~ 10571
~~as having a taxable situs in such municipal corporation for~~ 10572
~~purposes of municipal income taxation. In the absence of such~~ 10573
~~records~~ Except as otherwise provided in division (D) of this 10574
section, net profit from a business or profession conducted both 10575
within and without the boundaries of a municipal corporation shall 10576
be considered as having a taxable situs in such municipal 10577
corporation for purposes of municipal income taxation in the same 10578
proportion as the average ratio of the following: 10579

(1) The average ~~net book value~~ original cost of the real and 10580
tangible personal property owned or used by the taxpayer in the 10581
business or profession in such municipal corporation during the 10582
taxable period to the average ~~net book value~~ original cost of all 10583
of the real and tangible personal property owned or used by the 10584
taxpayer in the business or profession during the same period, 10585
wherever situated. 10586

As used in the preceding paragraph, real property shall 10587
include property rented or leased by the taxpayer and the value of 10588
such property shall be determined by multiplying the annual rental 10589
thereon by eight; 10590

(2) Wages, salaries, and other compensation paid during the 10591
taxable period to persons employed in the business or profession 10592

for services performed in such municipal corporation to wages, 10593
salaries, and other compensation paid during the same period to 10594
persons employed in the business or profession, wherever their 10595
services are performed, excluding compensation that is not taxable 10596
by the municipal corporation under section 718.011 of the Revised 10597
Code; 10598

(3) Gross receipts of the business or profession from sales 10599
made and services performed during the taxable period in such 10600
municipal corporation to gross receipts of the business or 10601
profession during the same period from sales and services, 10602
wherever made or performed. 10603

If the foregoing ~~allocation~~ apportionment formula does not 10604
produce an equitable result, another basis may be substituted, 10605
under uniform regulations, so as to produce an equitable result. 10606

(B) As used in division (A) of this section, "sales made in a 10607
municipal corporation" mean: 10608

(1) All sales of tangible personal property delivered within 10609
such municipal corporation regardless of where title passes if 10610
shipped or delivered from a stock of goods within such municipal 10611
corporation; 10612

(2) All sales of tangible personal property delivered within 10613
such municipal corporation regardless of where title passes even 10614
though transported from a point outside such municipal corporation 10615
if the taxpayer is regularly engaged through its own employees in 10616
the solicitation or promotion of sales within such municipal 10617
corporation and the sales result from such solicitation or 10618
promotion; 10619

(3) All sales of tangible personal property shipped from a 10620
place within such municipal corporation to purchasers outside such 10621
municipal corporation regardless of where title passes if the 10622
taxpayer is not, through its own employees, regularly engaged in 10623

the solicitation or promotion of sales at the place where delivery 10624
is made. 10625

(C) Except as otherwise provided in division (D) of this 10626
section, net profit from rental activity not constituting a 10627
business or profession shall be subject to tax only by the 10628
municipal corporation in which the property generating the net 10629
profit is located. 10630

(D) This section does not apply to individuals who are 10631
residents of the municipal corporation and, except as otherwise 10632
provided in section 718.01 of the Revised Code, a municipal 10633
corporation may impose a tax on all income earned by residents of 10634
the municipal corporation to the extent allowed by the United 10635
States Constitution. 10636

Sec. 718.021. (A) As used in this section: 10637

(1) "Nonqualified deferred compensation plan" means a 10638
compensation plan described in section 3121(v)(2)(C) of the 10639
Internal Revenue Code. 10640

(2)(a) Except as provided in division (A)(2)(b) of this 10641
section, "qualifying loss" means the excess, if any, of the total 10642
amount of compensation the payment of which is deferred pursuant 10643
to a nonqualified deferred compensation plan over the total amount 10644
of income the taxpayer has recognized for federal income tax 10645
purposes for all taxable years on a cumulative basis as 10646
compensation with respect to the taxpayer's receipt of money and 10647
property attributable to distributions in connection with the 10648
nonqualified deferred compensation plan. 10649

(b) If, for one or more taxable years, the taxpayer has not 10650
paid to one or more municipal corporations income tax imposed on 10651
the entire amount of compensation the payment of which is deferred 10652
pursuant to a nonqualified deferred compensation plan, then the 10653

"qualifying loss" is the product of the amount resulting from the 10654
calculation described in division (A)(2)(a) of this section 10655
computed without regard to division (A)(2)(b) of this section and 10656
a fraction the numerator of which is the portion of such 10657
compensation on which the taxpayer has paid income tax to one or 10658
more municipal corporations and the denominator of which is the 10659
total amount of compensation the payment of which is deferred 10660
pursuant to a nonqualified deferred compensation plan. 10661

(c) With respect to a nonqualified deferred compensation 10662
plan, the taxpayer sustains a qualifying loss only in the taxable 10663
year in which the taxpayer receives the final distribution of 10664
money and property pursuant to that nonqualified deferred 10665
compensation plan. 10666

(3) "Qualifying tax rate" means the applicable tax rate for 10667
the taxable year for the which the taxpayer paid income tax to a 10668
municipal corporation with respect to any portion of the total 10669
amount of compensation the payment of which is deferred pursuant 10670
to a nonqualified deferred compensation plan. If different tax 10671
rates applied for different taxable years, then the "qualifying 10672
tax rate" is a weighted average of those different tax rates. The 10673
weighted average shall be based upon the tax paid to the municipal 10674
corporation each year with respect to the nonqualified deferred 10675
compensation plan. 10676

(B)(1) Except as provided in division (D) of this section, a 10677
refundable credit shall be allowed against the income tax imposed 10678
by a municipal corporation for each qualifying loss sustained by a 10679
taxpayer during the taxable year. The amount of the credit shall 10680
be equal to the product of the qualifying loss and the qualifying 10681
tax rate. 10682

(2) A taxpayer shall claim the credit allowed under this 10683
section from each municipal corporation to which the taxpayer paid 10684
municipal income tax with respect to the nonqualified deferred 10685

compensation plan in one or more taxable years. 10686

(3) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan. 10687
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(4) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan. 10695
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(C)(1) For purposes of this section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan. 10699
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(2) Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer. 10704
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(D) The credit allowed under this section is allowed only to the extent the taxpayer's qualifying loss is attributable to: 10708
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(1) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or 10710
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(2) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation. 10712
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Sec. 718.03. (A) As used in this section: 10715

(1) "Other payer" means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual. 10716
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(2) "Qualifying wages" means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows: 10720
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(a) Deduct any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code. 10723
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(b) Add the following amounts: 10726

(i) Any amount not included in wages solely because the employee was employed by the employer prior to April 1, 1986; 10727
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(ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option and the municipal corporation has not, by resolution or ordinance, exempted the amount from withholding and tax. Division (A)(2)(b)(ii) of this section applies only to those amounts constituting ordinary income. 10729
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(iii) Any amount not included in wages if the amount is an amount described in section 401(k) or 457 of the Internal Revenue Code. Division (A)(2)(b)(iii) of this section applies only to employee contributions and employee deferrals. 10737
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(iv) Any amount that is supplemental employment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages. 10741
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10743

(c) Deduct any amount attributable to a nonqualified deferred compensation plan or program described in section 3121(v)(2)(C) of 10744
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the Internal Revenue Code if the compensation is included in wages 10746
and has, by resolution or ordinance, been exempted from taxation 10747
by the municipal corporation. 10748

(d) Deduct any amount included in wages if the amount arises 10749
from the sale, exchange, or other disposition of a stock option, 10750
the exercise of a stock option, or the sale, exchange, or other 10751
disposition of stock purchased under a stock option and the 10752
municipal corporation has, by resolution or ordinance, exempted 10753
the amount from withholding and tax. 10754

(B) For taxable years beginning after 2003, no municipal 10755
corporation shall require any employer or any agent of any 10756
employer or any other payer, to withhold tax with respect to any 10757
amount other than qualifying wages. Nothing in this section 10758
prohibits an employer from withholding tax on a basis greater than 10759
qualifying wages. 10760

(C) An employer is not required to make any withholding with 10761
respect to an individual's disqualifying disposition of an 10762
incentive stock option if, at the time of the disqualifying 10763
disposition, the individual is not an employee of the corporation 10764
with respect to whose stock the option has been issued. 10765

(D)(1) An employee is not relieved from liability for a tax 10766
by the failure of the employer to withhold the tax as required by 10767
a municipal corporation or by the employer's exemption from the 10768
requirement to withhold the tax. 10769

(2) The failure of an employer to remit to the municipal 10770
corporation the tax withheld relieves the employee from liability 10771
for that tax unless the employee colluded with the employer in 10772
connection with the failure to remit the tax withheld. 10773

(D) Notwithstanding any agreement, settlement, or contract to 10774
the contrary, compensation deferred before the effective date of 10775
this amendment is not subject to any municipal corporation income 10776

tax or municipal income tax withholding requirement to the extent 10777
the deferred compensation does not constitute qualifying wages at 10778
the time the deferred compensation is paid or distributed. 10779

Sec. 718.05. (A) As used in this section: 10780

(1) "Generic form" means an electronic or paper form designed 10781
for reporting estimated municipal income taxes and annual 10782
municipal income tax liability or for filing a refund claim that 10783
is not prescribed by a particular municipal corporation for the 10784
reporting of that municipal corporation's tax on income. 10785

(2) "Return preparer" means any person other than a taxpayer 10786
that is authorized by a taxpayer to complete or file an income tax 10787
return, report, or other document for or on behalf of the 10788
taxpayer. 10789

(B) A municipal corporation shall not require a taxpayer to 10790
file an annual income tax return or report prior to the filing 10791
date for the corresponding tax reporting period as prescribed for 10792
such a taxpayer under the Internal Revenue Code. For taxable years 10793
beginning after 2003, except as otherwise provided in section 10794
718.051 of the Revised Code and division (D) of this section, a 10795
municipal corporation shall not require a taxpayer to file an 10796
annual income tax return or report on any date other than the 10797
fifteenth day of the fourth month following the end of the 10798
taxpayer's taxable year. 10799

(C) On and after January 1, 2001, any municipal corporation 10800
that requires taxpayers to file income tax returns, reports, or 10801
other documents shall accept for filing a generic form of such a 10802
return, report, or document if the generic form, once completed 10803
and filed, contains all of the information required to be 10804
submitted with the municipal corporation's prescribed returns, 10805
reports, or documents, and if the taxpayer or return preparer 10806
filing the generic form otherwise complies with rules or 10807

ordinances of the municipal corporation governing the filing of 10808
returns, reports, or documents. 10809

(D) ~~Beginning~~ Except as otherwise provided in section 718.051 10810
of the Revised Code, beginning January 1, 2001, any taxpayer that 10811
has requested an extension for filing a federal income tax return 10812
may request an extension for the filing of a municipal income tax 10813
return. The taxpayer shall make the request by filing a copy of 10814
the taxpayer's request for a federal filing extension with the 10815
individual or office charged with the administration of the 10816
municipal income tax. The request for extension shall be filed not 10817
later than the last day for filing the municipal income tax return 10818
as prescribed by ordinance or rule of the municipal corporation. A 10819
municipal corporation shall grant such a request for extension 10820
filed before January 1, 2004, for a period not less than the 10821
period of the federal extension request. For taxable years 10822
beginning after 2003, the extended due date of the municipal 10823
income tax return shall be the last day of the month following the 10824
month to which the due date of the federal income tax return has 10825
been extended. A municipal corporation may deny a taxpayer's 10826
request for extension only if the taxpayer fails to timely file 10827
the request, fails to file a copy of the request for the federal 10828
extension, owes the municipal corporation any delinquent income 10829
tax or any penalty, interest, assessment, or other charge for the 10830
late payment or nonpayment of income tax, or has failed to file 10831
any required income tax return, report, or other related document 10832
for a prior tax period. The granting of an extension for filing a 10833
municipal corporation income tax return does not extend the last 10834
date for paying the tax without penalty unless the municipal 10835
corporation grants an extension of that date. 10836

Sec. 718.051. (A) As used in this section, "Ohio business 10837
gateway" means the online computer network system, initially 10838
created by the department of administrative services under section 10839

125.30 of the Revised Code, that allows private businesses to 10840
electronically file business reply forms with state agencies and 10841
includes any successor electronic filing and payment system. 10842

(B) Notwithstanding section 718.05 of the Revised Code, on 10843
and after January 1, 2005, any taxpayer that is subject to any 10844
municipal corporation's tax on the net profit from a business or 10845
profession and has received an extension to file the federal 10846
income tax return shall not be required to notify the municipal 10847
corporation of the federal extension and shall not be required to 10848
file any municipal income tax return until the last day of the 10849
month to which the due date for filing the federal return has been 10850
extended, provided that, on or before the date for filing the 10851
municipal income tax return, the person notifies the tax 10852
commissioner of the federal extension through the Ohio business 10853
gateway. 10854

(C) For taxable years beginning on or after January 1, 2005, 10855
a taxpayer subject to any municipal corporation's tax on the net 10856
profit from a business or profession may file any municipal income 10857
tax return or estimated municipal income return, and may make 10858
payment of amounts shown to be due on such returns, by using the 10859
Ohio business gateway. 10860

(D)(1) As used in this division, "qualifying wages" has the 10861
same meaning as in section 718.03 of the Revised Code. 10862

(2) Any employer may report the amount of municipal income 10863
tax withheld from qualifying wages paid on or after January 1, 10864
2007, and may make remittance of such amounts, by using the Ohio 10865
business gateway. 10866

(E) Nothing in this section affects the due dates for filing 10867
employer withholding tax returns. 10868

(F) No municipal corporation shall be required to pay any fee 10869
or charge for the operation or maintenance of the Ohio business 10870

<u>gateway.</u>	10871
<u>(G) The use of the Ohio business gateway by municipal corporations, taxpayers, or other persons pursuant to this section does not affect the legal rights of municipalities or taxpayers as otherwise permitted by law. This state shall not be a party to the administration of municipal income taxes or to an appeal of a municipal income tax matter, except as otherwise specifically provided by law.</u>	10872 10873 10874 10875 10876 10877 10878
<u>(H)(1) The tax commissioner shall adopt rules establishing:</u>	10879
<u>(a) The format of documents to be used by taxpayers to file returns and make payments through the Ohio business gateway; and</u>	10880 10881
<u>(b) The information taxpayers must submit when filing municipal income tax returns through the Ohio business gateway.</u>	10882 10883
<u>(2) The commissioner shall consult with the Ohio business gateway steering committee before adopting the rules described in division (H)(1) of this section.</u>	10884 10885 10886
<u>(I) Nothing in this section shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.</u>	10887 10888 10889
Sec. 718.11. As used in this section, "tax administrator" means the individual charged with direct responsibility for administration of a tax levied by a municipal corporation on income.	10890 10891 10892 10893
Not later than one hundred eighty days after the effective date of this section, the <u>The</u> legislative authority of each municipal corporation that imposes a tax on income on that effective date shall establish by ordinance maintain a board to hear appeals as provided in this section. The legislative authority of any municipal corporation that does not impose a tax on income on the effective date of this section <u>amendment</u> , but	10894 10895 10896 10897 10898 10899 10900

that imposes such a tax after that date, shall establish such a board by ordinance not later than one hundred eighty days after the tax takes effect.

Whenever a tax administrator issues a decision regarding a municipal income tax obligation that is subject to appeal as provided in this section or in an ordinance or regulation of the municipal corporation, the tax administrator shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.

Any person who is aggrieved by a decision by the tax administrator and who has filed with the municipal corporation the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the decision to the board created pursuant to this section by filing a request with the board. The request shall be in writing, shall state why the decision should be deemed incorrect or unlawful, and shall be filed within thirty days after the tax administrator issues the decision complained of.

The board shall schedule a hearing within forty-five days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the board and may be represented by an attorney at law, certified public accountant, or other representative.

The board may affirm, reverse, or modify the tax administrator's decision or any part of that decision. The board shall issue a final decision on the appeal within ninety days after the board's final hearing on the appeal, and send ~~notice a~~ copy of its final decision by ordinary mail to ~~the petitioner~~ all of the parties to the appeal within fifteen days after issuing the decision. The taxpayer or the tax administrator may appeal the board's decision to the board of tax appeals as provided in

section 5717.011 of the Revised Code. 10933

Each board of appeal created pursuant to this section shall 10934
adopt rules governing its procedures and shall keep a record of 10935
its transactions. Such records are not public records available 10936
for inspection under section 149.43 of the Revised Code. Hearings 10937
requested by a taxpayer before a board of appeal created pursuant 10938
to this section are not meetings of a public body subject to 10939
section 121.22 of the Revised Code. 10940

Sec. 718.121. (A) Except as provided in division (B) of this 10941
section, if tax or withholding is paid to a municipal corporation 10942
on income or wages, and if a second municipal corporation imposes 10943
a tax on that income or wages after the time period allowed for a 10944
refund of the tax or withholding paid to the first municipal 10945
corporation, the second municipal corporation shall allow a 10946
nonrefundable credit, against the tax or withholding the second 10947
municipality claims is due with respect to such income or wages, 10948
equal to the tax or withholding paid to the first municipal 10949
corporation with respect to such income or wages. 10950

(B) If the tax rate in the second municipal corporation is 10951
less than the tax rate in the first municipal corporation, then 10952
the credit described in division (A) of this section shall be 10953
calculated using the tax rate in effect in the second municipal 10954
corporation. 10955

(C) Nothing in this section permits any credit carryforward. 10956

Sec. 718.14. (A) As used in this section: 10957

(1) "Limited liability company" means a limited liability 10958
company formed under Chapter 1705. of the Revised Code or under 10959
the laws of another state. 10960

(2) "Pass-through entity" means a partnership, limited 10961
liability company, S corporation, or any other class of entity the 10962

income or profits from which are given pass-through treatment 10963
under the Internal Revenue Code, ~~excluding an S corporation.~~ 10964

(3) "Income from a pass-through entity" means partnership 10965
income of partners, membership interests of members of a limited 10966
liability company, distributive shares of shareholders of an S 10967
corporation, or other distributive or proportionate ownership 10968
shares of income from other pass-through entities. 10969

(4) "Owner" means a partner of a partnership, a member of a 10970
limited liability company, a shareholder of an S corporation, or 10971
other person with an ownership interest in a pass-through entity. 10972

(5) "Owner's proportionate share," with respect to each owner 10973
of a pass-through entity, means the ratio of (a) the owner's 10974
income from the pass-through entity that is subject to taxation by 10975
the municipal corporation, to (b) the total income from that 10976
entity of all owners whose income from the entity is subject to 10977
taxation by that municipal corporation. 10978

(B) On and after January 1, 2003, any municipal corporation 10979
imposing a tax that applies to income from a pass-through entity 10980
shall grant a credit to each owner who is domiciled in the 10981
municipal corporation for taxes paid to another municipal 10982
corporation by a pass-through entity that does not conduct 10983
business in the municipal corporation. The amount of the credit 10984
shall equal the lesser of the following amounts, subject to 10985
division (C) of this section: 10986

(1) The owner's proportionate share of the amount, if any, of 10987
tax paid by the pass-through entity to another municipal 10988
corporation in this state; 10989

(2) The owner's proportionate share of the amount of tax that 10990
would be imposed on the pass-through entity by the municipal 10991
corporation in which the taxpayer is domiciled if the pass-through 10992
entity conducted business in the municipal corporation. 10993

(C) If a municipal corporation grants a credit for a 10994
percentage, less than one hundred per cent, of the amount of 10995
income taxes paid on compensation by an individual who resides or 10996
is domiciled in the municipal corporation to another municipal 10997
corporation, the amount of credit otherwise required by division 10998
(B) of this section shall be multiplied by that percentage. 10999

(D) On and after January 1, 2003, any municipal corporation 11000
that imposes a tax on income of or from a pass-through entity 11001
shall specify by ordinance or rule whether the tax applies to 11002
income of the pass-through entity in the hands of the entity or to 11003
income from the pass-through entity in the hands of the owners of 11004
the entity. A municipal corporation may specify a different 11005
ordinance or rule under this division for each of the classes of 11006
pass-through entity enumerated in division (A)(2) of this section. 11007

Sec. 718.15. A municipal corporation, by ordinance, may grant 11008
a refundable or nonrefundable credit against its tax on income to 11009
a taxpayer that also receives a tax credit under section 122.17 of 11010
the Revised Code. If a credit is granted under this section, it 11011
shall be measured as a percentage of the new income tax revenue 11012
the municipal corporation derives from new employees of the 11013
taxpayer and shall be for a term not exceeding ~~ten~~ fifteen years. 11014
Before the municipal corporation passes an ordinance granting a 11015
credit, the municipal corporation and the taxpayer shall enter 11016
into an agreement specifying all the conditions of the credit. 11017
11018

Sec. 718.151. A municipal corporation, by ordinance, may 11019
grant a nonrefundable credit against its tax on income to a 11020
taxpayer that also receives a tax credit under section 122.171 of 11021
the Revised Code. If a credit is granted under this section, it 11022
shall be measured as a percentage of the income tax revenue the 11023

municipal corporation derives from the retained employees of the taxpayer, and shall be for a term not exceeding ~~ten~~ fifteen years. Before a municipal corporation passes an ordinance allowing such a credit, the municipal corporation and the taxpayer shall enter into an agreement specifying all the conditions of the credit.

Sec. 731.14. All contracts made by the legislative authority of a village shall be executed in the name of the village and signed on its behalf by the mayor and clerk. Except where the contract is for equipment, services, materials, or supplies to be purchased under division (D) of section 713.23 or section 125.04 or 5513.01 of the Revised Code or available from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code, when any expenditure, other than the compensation of persons employed ~~therein~~ in the village, exceeds ~~fifteen~~ twenty-five thousand dollars, such contracts shall be in writing and made with the lowest and best bidder after advertising for not less than two nor more than four consecutive weeks in a newspaper of general circulation within the village. The bids shall be opened and shall be publicly read by the clerk of ~~such~~ the village or a person designated by the clerk at the time, date, and place specified in the advertisement to bidders or specifications. The time, date, and place of bid openings may be extended to a later date by the legislative authority of the village, provided that written or oral notice of the change shall be given to all persons who have received or requested specifications no later than ninety-six hours prior to the original time and date fixed for the opening. This section does not apply to those villages that have provided for the appointment of a village administrator under section 735.271 of the Revised Code.

Sec. 731.141. In those villages that have established the position of village administrator, as provided by section 735.271

of the Revised Code, the village administrator shall make 11055
contracts, purchase supplies and materials, and provide labor for 11056
any work under the administrator's supervision involving not more 11057
than ~~fifteen~~ twenty-five thousand dollars. When an expenditure, 11058
other than the compensation of persons employed by the village, 11059
exceeds ~~fifteen~~ twenty-five thousand dollars, ~~such~~ the expenditure 11060
shall first be authorized and directed by ordinance of the 11061
legislative authority of the village. When so authorized and 11062
directed, except where the contract is for equipment, services, 11063
materials, or supplies to be purchased under division (D) of 11064
section 713.23 or section 125.04 or 5513.01 of the Revised Code or 11065
available from a qualified nonprofit agency pursuant to sections 11066
4115.31 to 4115.35 of the Revised Code, the village administrator 11067
shall make a written contract with the lowest and best bidder 11068
after advertisement for not less than two nor more than four 11069
consecutive weeks in a newspaper of general circulation within the 11070
village. The bids shall be opened and shall be publicly read by 11071
the village administrator or a person designated by the village 11072
administrator at the time, date, and place as specified in the 11073
advertisement to bidders or specifications. The time, date, and 11074
place of bid openings may be extended to a later date by the 11075
village administrator, provided that written or oral notice of the 11076
change shall be given to all persons who have received or 11077
requested specifications no later than ninety-six hours prior to 11078
the original time and date fixed for the opening. All contracts 11079
shall be executed in the name of the village and signed on its 11080
behalf by the village administrator and the clerk. 11081

The legislative authority of a village may provide, by 11082
ordinance, for central purchasing for all offices, departments, 11083
divisions, boards, and commissions of the village, under the 11084
direction of the village administrator, who shall make contracts, 11085
purchase supplies or materials, and provide labor for any work of 11086
the village in the manner provided by this section. 11087

Sec. 735.05. The director of public service may make any 11088
contract, purchase supplies or material, or provide labor for any 11089
work under the supervision of the department of public service 11090
involving not more than ~~fifteen~~ twenty-five thousand dollars. When 11091
an expenditure within the department, other than the compensation 11092
of persons employed ~~therein~~ in the department, exceeds ~~fifteen~~ 11093
twenty-five thousand dollars, ~~such~~ the expenditure shall first be 11094
authorized and directed by ordinance of the city legislative 11095
authority. When so authorized and directed, except where the 11096
contract is for equipment, services, materials, or supplies to be 11097
purchased under division (D) of section 713.23 or section 125.04 11098
or 5513.01 of the Revised Code or available from a qualified 11099
nonprofit agency pursuant to sections 4115.31 to 4115.35 of the 11100
Revised Code, the director shall make a written contract with the 11101
lowest and best bidder after advertisement for not less than two 11102
nor more than four consecutive weeks in a newspaper of general 11103
circulation within the city. 11104

Sec. 737.03. The director of public safety shall manage^r and 11105
make all contracts with reference to ~~the~~ police stations, fire 11106
houses, reform schools, infirmaries, hospitals, workhouses, farms, 11107
pesthouses, and all other charitable and reformatory institutions. 11108
In the control and supervision of those institutions, the director 11109
shall be governed by the provisions of Title VII of the Revised 11110
Code relating to those institutions. 11111

The director may make all contracts and expenditures of money 11112
for acquiring lands for the erection or repairing of station 11113
houses, police stations, fire department buildings, fire cisterns, 11114
and plugs, that are required, for the purchase of engines, 11115
apparatus, and all other supplies necessary for the police and 11116
fire departments, and for other undertakings and departments under 11117
the director's supervision, but no obligation involving an 11118

expenditure of more than ~~fifteen~~ twenty-five thousand dollars 11119
shall be created unless first authorized and directed by 11120
ordinance. In making, altering, or modifying those contracts, the 11121
director shall be governed by sections 735.05 to 735.09 of the 11122
Revised Code, except that all bids shall be filed with and opened 11123
by the director. The director shall make no sale or disposition of 11124
any property belonging to the city without first being authorized 11125
by resolution or ordinance of the city legislative authority. 11126

Sec. 753.22. (A) The director of public safety or the joint 11127
board established pursuant to section 753.15 of the Revised Code 11128
may establish a commissary for the workhouse. The commissary may 11129
be established either in-house or by another arrangement. If a 11130
commissary is established, all persons incarcerated in the 11131
workhouse shall receive commissary privileges. A person's 11132
purchases from the commissary shall be deducted from the person's 11133
account record in the workhouse's business office. The commissary 11134
shall provide for the distribution to indigent persons 11135
incarcerated in the workhouse necessary hygiene articles and 11136
writing materials. 11137

(B) If a commissary is established, the director of public 11138
safety or the joint board established pursuant to section 753.15 11139
of the Revised Code shall establish a commissary fund for the 11140
workhouse. The management of funds in the commissary fund shall be 11141
strictly controlled in accordance with procedures adopted by the 11142
auditor of state. Commissary fund revenue over and above operating 11143
costs and reserve shall be considered profits. All profits from 11144
the commissary fund shall be used to purchase supplies and 11145
equipment for the benefit of persons incarcerated in the workhouse 11146
and to pay salary and benefits for employees of the workhouse, or 11147
for any other persons, who work in or are employed for the sole 11148
purpose of providing service to the commissary. The director of 11149
public safety or the joint board established pursuant to section 11150

753.15 of the Revised Code shall adopt rules and regulations for 11151
the operation of any commissary fund the director or the joint 11152
board establishes. 11153

Sec. 901.17. ~~(A)~~ The division of markets ~~shall~~ may do all of 11154
the following: 11155

~~(1)~~(A) Investigate the cost of production and marketing in 11156
all its phases; 11157

~~(2)~~(B) Gather and disseminate information concerning supply, 11158
demand, prevailing prices, and commercial movements, including 11159
common and cold storage of food products, and maintain market news 11160
service for disseminating such information; 11161

~~(3)~~(C) Promote, assist, and encourage the organization and 11162
operation of cooperative and other associations and organizations 11163
for improving the relations and services among producers, 11164
distributors, and consumers of food products; 11165

~~(4)~~(D) Investigate the practice, methods, and any specific 11166
transaction of commission merchants and others who receive, 11167
solicit, buy, or handle on commission or otherwise, food products; 11168

~~(5)~~(E) Act as mediator or arbitrator, when invited, in any 11169
controversy or issue that arises between producers and 11170
distributors and that affects the interest of the consumer; 11171

~~(6)~~(F) Act on behalf of the consumers in conserving and 11172
protecting their interests in every practicable way against 11173
excessive prices; 11174

~~(7)~~(G) Act as market adviser for producers and distributors, 11175
assisting them in economical and efficient distribution of good 11176
products at fair prices; 11177

~~(8)~~(H) Encourage the establishment of retail municipal 11178
markets and develop direct dealing between producers and 11179
consumers; 11180

~~(9)(I) Encourage the consumption of Ohio-grown products 11181
within the state, nationally, and internationally, and inspect and 11182
determine the grade and condition of farm produce, both at 11183
collecting and receiving centers within the state; 11184~~

~~(10)(J) Take such means and use such powers, relative to 11185
shipment, transportation, and storage of foodstuffs of any kind, 11186
as are necessary, advisable, or desirable in case of an emergency 11187
creating or threatening to create a scarcity of food within the 11188
state; 11189~~

(K) Participate in trade missions between states and foreign 11190
countries in order to encourage the sale and promotion of 11191
Ohio-grown products. 11192

~~(B)(1) The director of agriculture shall adopt and may amend 11193
schedules of fees to be charged for inspecting farm produce at 11194
collecting and receiving centers or such other services as may be 11195
rendered under this section. All such fees shall be made with a 11196
view to the minimum cost and to make this branch of the department 11197
of agriculture self-sustaining. 11198~~

~~The fees shall be deposited in the state treasury and 11199
credited to the inspection fund, which is hereby created, for use 11200
in carrying out the purposes of this section. All investment 11201
earnings of the inspection fund shall be credited to the fund. If, 11202
in any year, the balance in the inspection fund is not sufficient 11203
to meet the expenses incurred pursuant to this section, the 11204
deficit shall be paid from funds appropriated for the use of the 11205
department. 11206~~

~~(2) The director may adopt a schedule of fees to be charged 11207
for inspecting any agricultural product for the purposes of the 11208
issuance of an export certificate, as may be required by the 11209
United States department of agriculture or foreign purchasers. 11210
Such fees shall be credited to the general revenue fund. 11211~~

Sec. 901.21. (A) As used in this section and section 901.22 11212
of the Revised Code: 11213

(1) "Agricultural easement" has the same meaning as in 11214
section 5301.67 of the Revised Code. 11215

(2) "Agriculture" means those activities occurring on land 11216
devoted exclusively to agricultural use, as defined in section 11217
5713.30 of the Revised Code, or on land that constitutes a 11218
homestead. 11219

(3) "Homestead" means the portion of a farm on which is 11220
located a dwelling house, yard, or outbuildings such as a barn or 11221
garage. 11222

(B) The director of agriculture may acquire real property 11223
used predominantly in agriculture and agricultural easements by 11224
gift, devise, or bequest if, at the time an easement is granted, 11225
such an easement is on land that is valued for purposes of real 11226
property taxation at its current value for agricultural use under 11227
section 5713.31 of the Revised Code or that constitutes a 11228
homestead. Any terms may be included in an agricultural easement 11229
so acquired that are necessary or appropriate to preserve on 11230
behalf of the grantor of the easement the favorable tax 11231
consequences of the gift, devise, or bequest under the "Internal 11232
Revenue Act of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 11233
The director, by any such means or by purchase or lease, may 11234
acquire, or acquire the use of, stationary personal property or 11235
equipment that is located on land acquired in fee by the director 11236
under this section and that is necessary or appropriate for the 11237
use of the land predominantly in agriculture. 11238

(C) The director may do all things necessary or appropriate 11239
to retain the use of real property acquired in fee under division 11240
(B) of this section predominantly in agriculture, including, 11241

without limitation, performing any of the activities described in 11242
division (A)(1) or (2) of section 5713.30 of the Revised Code or 11243
entering into contracts to lease or rent the real property so 11244
acquired to persons or governmental entities that will use the 11245
land predominantly in agriculture. 11246

(D)(1) When the director considers it to be necessary or 11247
appropriate, the director may sell real property acquired in fee, 11248
and stationary personal property or equipment acquired by gift, 11249
devise, bequest, or purchase, under division (B) of this section 11250
on such terms as the director considers to be advantageous to this 11251
state. 11252

(2) An agricultural easement acquired under division (B) of 11253
this section may be extinguished under the circumstances 11254
prescribed, and in accordance with the terms and conditions set 11255
forth, in the instrument conveying the agricultural easement. 11256

(E) There is hereby created in the state treasury the 11257
agricultural easement purchase fund. The fund shall consist of the 11258
proceeds received from the sale of real and personal property 11259
under division (D) of this section; moneys received due to the 11260
extinguishment of agricultural easements acquired by the director 11261
under division (B) of this section or section 5301.691 of the 11262
Revised Code; moneys received due to the extinguishment of 11263
agricultural easements purchased with the assistance of matching 11264
grants made under section 901.22 of the Revised Code; gifts, 11265
bequests, devises, and contributions received by the director for 11266
the purpose of acquiring agricultural easements; and grants 11267
received from public or private sources for the purpose of 11268
purchasing agricultural easements. The fund shall be administered 11269
by the director, and moneys in the fund shall be used by the 11270
director exclusively to purchase agricultural easements under 11271
division (A) of section 5301.691 of the Revised Code and provide 11272
matching grants under section 901.22 of the Revised Code to 11273

municipal corporations, counties, townships, soil and water 11274
conservation districts established under Chapter 1515. of the 11275
Revised Code, and charitable organizations described in division 11276
(B) of section 5301.69 of the Revised Code for the purchase of 11277
agricultural easements. Money in the fund shall be used only to 11278
purchase agricultural easements on land that is valued for 11279
purposes of real property taxation at its current value for 11280
agricultural use under section 5713.31 of the Revised Code or that 11281
constitutes a homestead when the easement is purchased. 11282

(F) There is hereby created in the state treasury the clean 11283
Ohio agricultural easement fund. Twelve and one-half per cent of 11284
net proceeds of obligations issued and sold pursuant to sections 11285
151.01 and 151.09 of the Revised Code shall be deposited into the 11286
fund. The fund shall be used by the director for the purposes of 11287
~~sections 901.21 and this section,~~ section 901.22 of the Revised 11288
Code, and the provisions of sections 5301.67 to 5301.70 of the 11289
Revised Code governing agricultural easements. Investment earnings 11290
of the fund shall be credited to the fund. ~~For two years after the~~ 11291
~~effective date of this amendment, investment earnings credited to~~ 11292
~~the fund and~~ and may be used to pay costs incurred by the director in 11293
administering those sections and provisions. 11294

(G) The term of an agricultural easement purchased wholly or 11295
in part with money from the clean Ohio agricultural easement fund 11296
or the agricultural easement purchase fund shall be perpetual and 11297
shall run with the land. 11298

Sec. 901.22. (A) The director of agriculture, in accordance 11299
with Chapter 119. of the Revised Code, shall adopt rules that do 11300
all of the following: 11301

(1) Establish procedures and eligibility criteria for making 11302
matching grants to municipal corporations, counties, townships, 11303
soil and water conservation districts established under Chapter 11304

1515. of the Revised Code, and charitable organizations described 11305
in division (B) of section 5301.69 of the Revised Code for the 11306
purchase of agricultural easements. With respect to agricultural 11307
easements that are purchased or proposed to be purchased with such 11308
matching grants that consist in whole or in part of moneys from 11309
the clean Ohio agricultural easement fund created in section 11310
901.21 of the Revised Code, the rules shall establish all of the 11311
following: 11312

(a) Procedures for all of the following: 11313

(i) Soliciting and accepting applications for matching 11314
grants; 11315

(ii) Participation by local governments and by the public in 11316
the process of making matching grants to charitable organizations; 11317

(iii) Notifying local governments, charitable organizations, 11318
and organizations that represent the interests of farmers of the 11319
ranking system established in rules adopted under division 11320
(A)(1)(b) of this section. 11321

(b) A ranking system for applications for the matching grants 11322
that is based on the soil type, proximity of the land or other 11323
land that is conducive to agriculture as defined by rules adopted 11324
under this section and that is the subject of an application to 11325
other agricultural land or other land that is conducive to 11326
agriculture as defined by rules adopted under this section and 11327
that is already or is in the process of becoming permanently 11328
protected from development, farm stewardship, development 11329
pressure, and, if applicable, a local comprehensive land use plan 11330
involved with a proposed agricultural easement. The rules shall 11331
require that preference be given to proposed agricultural 11332
easements that involve the greatest proportion of all of the 11333
following: 11334

(i) Prime soils, unique or locally important soils, 11335

microclimates, or similar features; 11336

(ii) Land that is adjacent to or that is in close proximity 11337
to other agricultural land or other land that is conducive to 11338
agriculture as defined by rules adopted under this section and 11339
that is already or is in the process of becoming permanently 11340
protected from development, by agricultural easement or otherwise, 11341
so that a buffer would exist between the land involving the 11342
proposed agricultural easement and areas that have been developed 11343
or likely will be developed for purposes other than agriculture; 11344

(iii) The use of best management practices, including 11345
federally or state approved conservation plans, and a history of 11346
substantial compliance with applicable federal and state laws; 11347

(iv) Development pressure that is imminent, but not a result 11348
of current location in the direct path of urban development; 11349

(v) Areas identified for agricultural protection in local 11350
comprehensive land use plans. 11351

(c) Any other criteria that the director determines are 11352
necessary for selecting applications for matching grants; 11353

(d) Requirements regarding the information that must be 11354
included in the annual monitoring report that must be prepared for 11355
an agricultural easement under division ~~(D)~~(E)(2) of section 11356
5301.691 of the Revised Code, procedures for submitting a copy of 11357
the report to the office of farmland preservation in the 11358
department of agriculture, and requirements and procedures 11359
governing corrective actions that may be necessary to enforce the 11360
terms of the agricultural easement. 11361

(2) Establish provisions that shall be included in the 11362
instrument conveying to a municipal corporation, county, township, 11363
soil and water conservation district, or charitable organization 11364
any agricultural easement purchased with matching grant funds 11365
provided by the director under this section, including, without 11366

limitation, all of the following provisions: 11367

(a) A provision stating that an easement so purchased may be 11368
extinguished only if an unexpected change in the conditions of or 11369
surrounding the land that is subject to the easement makes 11370
impossible or impractical the continued use of the land for the 11371
purposes described in the easement, or if the requirements of the 11372
easement are extinguished by judicial proceedings; 11373

(b) A provision requiring that, upon the sale, exchange, or 11374
involuntary conversion of the land subject to the easement, the 11375
holder of the easement shall be paid an amount of money that is at 11376
least equal to the proportionate value of the easement compared to 11377
the total value of the land at the time the easement was acquired; 11378

(c) A provision requiring that, upon receipt of the portion 11379
of the proceeds of a sale, exchange, or involuntary conversion 11380
described in division (A)(2)(b) of this section, the municipal 11381
corporation, county, township, soil and water conservation 11382
district, or charitable organization remit to the director an 11383
amount of money equal to the percentage of the cost of purchasing 11384
the easement it received as a matching grant under this section. 11385

Moneys received by the director pursuant to rules adopted 11386
under division (A)(2)(c) of this section shall be credited to the 11387
agricultural easement purchase fund created in section 901.21 of 11388
the Revised Code. 11389

(3) Establish a provision that provides a charitable 11390
organization ~~described in division (B) of section 5301.69 of the~~ 11391
~~Revised Code~~, municipal corporation, township, ~~or~~ county, or soil 11392
and water conservation district with the option of purchasing 11393
agricultural easements either in installments or with a lump sum 11394
payment. The rules shall include a requirement that a charitable 11395
organization, municipal corporation, township, ~~or~~ county, or soil 11396
and water conservation district negotiate with the seller of the 11397

agricultural easement concerning any installment payment terms, 11398
including the dates and amounts of payments and the interest rate 11399
on the outstanding balance. The rules also shall require the 11400
director to approve any method of payment that is undertaken in 11401
accordance with the rules adopted under division (A)(3) of this 11402
section. 11403

(4) Establish any other requirements that the director 11404
considers to be necessary or appropriate to implement or 11405
administer a program to make matching grants under this section 11406
and monitor those grants. 11407

(B) The director may develop guidelines regarding the 11408
acquisition of agricultural easements by the department of 11409
agriculture and the provisions of instruments conveying those 11410
easements. The director may make the guidelines available to 11411
public and private entities authorized to acquire and hold 11412
agricultural easements. 11413

(C) The director may provide technical assistance in 11414
developing a program for the acquisition and monitoring of 11415
agricultural easements to public and private entities authorized 11416
to hold agricultural easements. The technical assistance may 11417
include, without limitation, reviewing and providing advisory 11418
recommendations regarding draft instruments conveying agricultural 11419
easements. 11420

(D) The director may make matching grants from the 11421
agricultural easement purchase fund and the clean Ohio 11422
agricultural easement fund to municipal corporations, counties, 11423
townships, soil and water conservation districts, and charitable 11424
organizations ~~described in division (B) of section 5301.69 of the~~ 11425
~~Revised Code~~, to assist those political subdivisions and 11426
charitable organizations in purchasing agricultural easements. 11427
Application for a matching grant shall be made on forms prescribed 11428
and provided by the director. The matching grants shall be made in 11429

compliance with the criteria and procedures established in rules 11430
adopted under this section. Instruments conveying agricultural 11431
easements purchased with matching grant funds provided under this 11432
section, at a minimum, shall include the mandatory provisions set 11433
forth in those rules. 11434

Matching grants made under this division using moneys from 11435
the clean Ohio agricultural easement fund created in section 11436
901.21 of the Revised Code may provide up to seventy-five per cent 11437
of the value of an agricultural easement as determined by a 11438
general real estate appraiser who is certified under Chapter 4763. 11439
of the Revised Code or as determined through a points based 11440
appraisal system that is recommended by the director. The method 11441
of appraisal that is used shall be determined by the director. Not 11442
less than twenty-five per cent of the value of the agricultural 11443
easement shall be provided by the recipient of the matching grant 11444
or donated by the person who is transferring the easement to the 11445
grant recipient. The amount of such a matching grant used for the 11446
purchase of a single agricultural easement shall not exceed one 11447
million dollars. 11448

(E) For any agricultural easement purchased with a matching 11449
grant that consists in whole or in part of moneys from the clean 11450
Ohio agricultural easement fund, the director shall be named as a 11451
grantee on the instrument conveying the easement, as shall the 11452
municipal corporation, county, township, soil and water 11453
conservation district, or charitable organization that receives 11454
the grant. 11455

(F)(1) The director shall monitor and evaluate the 11456
effectiveness and efficiency of the agricultural easement program 11457
as a farmland preservation tool. On or before July 1, 1999, and 11458
the first day of July of each year thereafter, the director shall 11459
prepare and submit a report to the chairpersons of the standing 11460
committees of the senate and the house of representatives that 11461

consider legislation regarding agriculture. The report shall 11462
consider and address the following criteria to determine the 11463
program's effectiveness: 11464

(a) The number of agricultural easements purchased during the 11465
preceding year; 11466

(b) The location of those easements; 11467

(c) The number of acres of land preserved for agricultural 11468
use; 11469

(d) The amount of money used by a municipal corporation, 11470
township, ~~or county, or soil and water conservation district~~ from 11471
~~its general fund or special~~ any fund to purchase the agricultural 11472
easements; 11473

(e) The number of state matching grants given to purchase the 11474
agricultural easements; 11475

(f) The amount of state matching grant moneys used to 11476
purchase the agricultural easements. 11477

(2) The report also shall consider and include, at a minimum, 11478
the following information for each county to determine the 11479
program's efficiency: 11480

(a) The total number of acres in the county; 11481

(b) The total number of acres in current agricultural use; 11482

(c) The total number of acres preserved for agricultural use 11483
in the preceding year; 11484

(d) The average cost, per acre, of land preserved for 11485
agricultural use in the preceding year. 11486

Sec. 901.63. (A) The agricultural financing commission shall 11487
do both of the following until ~~July 1, 2003~~ October 15, 2005: 11488

(1) Make recommendations to the director of agriculture about 11489

financial assistance applications made pursuant to sections 901.80 11490
to 901.83 of the Revised Code. In making its recommendations, the 11491
commission shall utilize criteria established by rules adopted 11492
under division (A)(8)(b) of section 901.82 of the Revised Code. 11493

(2) Advise the director in the administration of sections 11494
901.80 to 901.83 of the Revised Code. 11495

With respect to sections 901.80 to 901.83 of the Revised 11496
Code, the role of the commission is solely advisory. No officer, 11497
member, or employee of the commission is liable for damages in a 11498
civil action for any injury, death, or loss to person or property 11499
that allegedly arises out of purchasing any loan or providing a 11500
loan guarantee, failure to purchase a loan or provide a loan 11501
guarantee, or failure to take action under sections 901.80 to 11502
901.83 of the Revised Code, or that allegedly arises out of any 11503
act or omission of the department of agriculture that involves 11504
those sections. 11505

(B) The commission may: 11506

(1) Adopt bylaws for the conduct of its business; 11507

(2) Exercise all rights, powers, and duties conferred on the 11508
commission as an issuer under Chapter 902. of the Revised Code; 11509

(3) Contract with, retain, or designate financial 11510
consultants, accountants, and such other consultants and 11511
independent contractors as the commission may determine to be 11512
necessary or appropriate to carry out the purposes of this chapter 11513
and to fix the terms of those contracts; 11514

(4) Undertake and carry out or authorize the completion of 11515
studies and analyses of agricultural conditions and needs within 11516
the state relevant to the purpose of this chapter to the extent 11517
not otherwise undertaken by other departments or agencies of the 11518
state satisfactory for that purpose; 11519

(5) Acquire by gift, purchase, foreclosure, or other means, 11520
and hold, assign, pledge, lease, transfer, or otherwise dispose 11521
of, real and personal property, or any interest in that real and 11522
personal property, in the exercise of its powers and the 11523
performance of its duties under this chapter and Chapter 902. of 11524
the Revised Code; 11525

(6) Receive and accept gifts, grants, loans, or any other 11526
financial or other form of aid from any federal, state, local, or 11527
private agency or fund and enter into any contract with any such 11528
agency or fund in connection therewith, and receive and accept aid 11529
or contributions from any other source of money, property, labor, 11530
or things of value, to be held, used, and applied only for the 11531
purposes for which the grants and contributions are made, all 11532
within the purposes of this chapter and Chapter 902. of the 11533
Revised Code; 11534

(7) Sue and be sued in its own name with respect to its 11535
contracts or to enforce this chapter or its obligations or 11536
covenants made under this chapter and Chapter 902. of the Revised 11537
Code; 11538

(8) Make and enter into all contracts, commitments, and 11539
agreements, and execute all instruments necessary or incidental to 11540
the performance of its duties and the execution of its powers 11541
under this chapter and Chapter 902. of the Revised Code; 11542

(9) Adopt an official seal; 11543

(10) Do any and all things necessary or appropriate to carry 11544
out the public purposes and exercise the powers granted to the 11545
commission in this chapter and Chapter 902. of the Revised Code 11546
and the public purposes of Section 13 of Article VIII, Ohio 11547
Constitution. 11548

Any instrument by which real property is acquired pursuant to 11549
this section shall identify the agency of the state that has the 11550

use and benefit of the real property as specified in section 11551
5301.012 of the Revised Code. 11552

Sec. 901.85. There is hereby created in the state treasury 11553
the farm service agency electronic filing fund, which shall 11554
consist of money reimbursed to the fund by the farm service agency 11555
in the United States department of agriculture together with any 11556
money appropriated to the fund by the general assembly. The 11557
director of agriculture shall use money credited to the fund to 11558
pay the secretary of state for fees that the secretary of state 11559
charges in advance for the electronic filing by the farm service 11560
agency of financing statements related to agricultural loans that 11561
the farm service agency disburses. 11562

Sec. 902.11. (A) Any real or personal property, or both, of 11563
an issuer ~~which~~ that is acquired, constructed, reconstructed, 11564
enlarged, improved, furnished, or equipped, or any combination 11565
thereof, and leased or subleased under authority of this chapter 11566
shall be subject to ad valorem, sales, use, and franchise taxes 11567
and to zoning, planning, and building regulations and fees, to the 11568
same extent and in the same manner as if the lessee-user or 11569
sublessee-user thereof, rather than the issuer, had acquired, 11570
constructed, reconstructed, enlarged, improved, furnished, or 11571
equipped, or any combination thereof, such real or personal 11572
property, and title thereto was in the name of such lessee-user or 11573
sublessee-user. 11574

The transfer of tangible personal property by lease or 11575
sublease under authority of this chapter is not a sale as used in 11576
Chapter 5739. of the Revised Code. The exemptions provided in 11577
divisions (B)(1) and ~~(14)~~(13) of section 5739.02 of the Revised 11578
Code shall not be applicable to purchases for a project under this 11579
chapter. 11580

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

(B) Bonds issued under this chapter, the transfer thereof, and the interest and other income from the bonds, including any profit made on the sale thereof, are free from taxation within the state.

Sec. 921.151. The pesticide program fund is hereby created in the state treasury. ~~All~~ The portion of the money in the fund that is collected under this chapter shall be used to carry out the purposes of this chapter. The portion of the money in the fund that is collected under section 927.53 of the Revised Code shall be used to carry out the purposes specified in that section, the portion of the money in the fund that is collected under section 927.69 of the Revised Code shall be used to carry out the purposes specified in that section, and the portion of the money in the fund that is collected under section 927.701 of the Revised Code shall be used to carry out the purposes of that section. The fund shall consist of fees collected under sections 921.01 to 921.15, division (F) of section 927.53, and section 927.69 of the Revised Code, money collected under section 927.701 of the Revised Code, and all fines, penalties, costs, and damages, except court costs,

~~which~~ that are collected by either the director of agriculture or 11612
the attorney general in consequence of any violation of sections 11613
921.01 to 921.29 of the Revised Code. Not later than the thirtieth 11614
day of June of each year, the director of budget and management 11615
shall determine whether the amount credited to the pesticide 11616
program fund under this chapter is in excess of the amount 11617
necessary to meet the expenses of the director of agriculture in 11618
administering this chapter and shall transfer any such excess from 11619
the pesticide program fund to the general revenue fund. 11620

Sec. 927.53. (A) Each collector or dealer who sells, offers, 11621
or exposes for sale, or distributes nursery stock within this 11622
state, or ships nursery stock to other states, shall pay an annual 11623
license fee of fifty dollars to the director of agriculture for 11624
each place of business ~~he~~ the collector or dealer operates. 11625

(B)(1) Each dealer shall furnish the director, annually, an 11626
affidavit that ~~he~~ the dealer will buy and sell only nursery stock 11627
which has been inspected and certified by an official state or 11628
federal inspector. 11629

(2) Each dealer's license expires on the thirty-first day of 11630
December of each year. Each licensed dealer shall apply for 11631
renewal of ~~his~~ the dealer's license prior to the first day of 11632
January of each year and in accordance with the standard renewal 11633
procedure of sections 4745.01 to 4745.03 of the Revised Code. 11634

(C) Each licensed ~~nurseryman~~ nurseryperson shall post 11635
conspicuously in ~~his~~ the nurseryperson's principal place of 11636
business, the certificate which is issued to ~~him~~ the nurseryperson 11637
in accordance with section 927.61 of the Revised Code. 11638

(D) Each licensed ~~nurseryman~~ nurseryperson, or dealer, shall 11639
post conspicuously in each place of business, each certificate or 11640
license which is issued to ~~him~~ the nurseryperson or dealer in 11641
compliance with this section or section 927.61 of the Revised 11642

Code. 11643

(E)(1) Each ~~nurseryman~~ nurseryperson who produces, sells, 11644
offers for sale, or distributes woody nursery stock within the 11645
state, or ships woody nursery stock to other states, shall pay to 11646
the director an annual inspection fee of fifty dollars plus four 11647
dollars per acre, or fraction thereof, of growing nursery stock in 11648
intensive production areas and two dollars per acre, or fraction 11649
thereof, of growing nursery stock in nonintensive production 11650
areas, as applicable. 11651

(2) Each ~~nurseryman~~ nurseryperson who limits ~~his~~ production 11652
and sales of nursery stock to brambles, herbaceous, perennial, and 11653
other nonwoody plants, shall pay to the director an inspection fee 11654
of thirty dollars, plus four dollars per acre, or fraction 11655
thereof, of growing nursery stock in intensive and nonintensive 11656
production areas. 11657

(F) On and after the effective date of this amendment, the 11658
following additional fees shall be assessed: 11659

(1) Each collector or dealer who pays a fee under division 11660
(A) of this section shall pay an additional fee of twenty-five 11661
dollars. 11662

(2) Each nurseryperson who pays fees under division (E)(1) of 11663
this section shall pay additional fees as follows: 11664

(a) Fifteen dollars for the inspection fee; 11665

(b) Fifty cents per acre, or fraction thereof, of growing 11666
nursery stock in intensive production areas; 11667

(c) One dollar and fifty cents per acre, or fraction thereof, 11668
of growing nursery stock in nonintensive production areas. 11669

(3) Each nursery person who pays fees under division (E)(2) 11670
of this section shall pay additional fees as follows: 11671

(a) Thirty-five dollars for the inspection fee; 11672

(b) Fifty cents per acre, or fraction thereof, of growing 11673
stock in intensive and nonintensive production areas. 11674

The fees collected under division (F) of this section shall 11675
be deposited into the state treasury to the credit of the 11676
pesticide program fund created in Chapter 921. of the Revised 11677
Code. Moneys so credited to the fund shall be used to pay the 11678
costs incurred by the department of agriculture in administering 11679
this chapter, including employing a minimum of two additional 11680
inspectors. 11681

Sec. 927.69. To effect the purpose of sections 927.51 to 11682
927.74, ~~inclusive~~, of the Revised Code, the director of 11683
agriculture, or ~~his~~ the director's authorized representative, may: 11684

(A) Make reasonable inspection of any premises in this state 11685
and any property therein or thereon; 11686

(B) Stop and inspect in a reasonable manner, any means of 11687
conveyance moving within this state upon probable cause to believe 11688
it contains or carries any pest, host, commodity, or other article 11689
~~which that~~ is subject to sections 927.51 to 927.72, ~~inclusive~~, of 11690
the Revised Code; 11691

(C) Conduct inspections of agricultural products that are 11692
required by other states, the United States department of 11693
agriculture, other federal agencies, or foreign countries to 11694
determine whether the products are infested. If, upon making such 11695
an inspection, the director or the director's authorized 11696
representative determines that an agricultural product is not 11697
infested, the director or the director's authorized representative 11698
may issue a certificate, as required by other states, the United 11699
States department of agriculture, other federal agencies, or 11700
foreign countries, indicating that the product is not infested. 11701

If the director charges fees for any of the certificates, 11702

agreements, or inspections specified in this section, the fees 11703
shall be as follows: 11704

(1) Phyto sanitary certificates, twenty-five dollars; 11705

(2) Compliance agreements, twenty dollars; 11706

(3) Solid wood packing certificates, twenty dollars; 11707

(4) Agricultural products and their conveyances inspections, 11708
sixty-five dollars. 11709

The director may adopt rules under section 927.52 of the 11710
Revised Code that define the certificates, agreements, and 11711
inspections. 11712

The fees shall be deposited into the state treasury to the 11713
credit of the pesticide program fund created in Chapter 921. of 11714
the Revised Code. Money credited to the fund shall be used to pay 11715
the costs incurred by the department of agriculture in 11716
administering this chapter, including employing a minimum of two 11717
additional inspectors. 11718

Sec. 927.701. (A) As used in this section, "gypsy moth" means 11719
the live insect, Lymantria dispar, in any stage of development. 11720
11721

(B) The director of agriculture may establish a voluntary 11722
gypsy moth suppression program under which a landowner may request 11723
that the department of agriculture have the landowner's property 11724
aerially sprayed to suppress the presence of gypsy moths in 11725
exchange for payment from the landowner of a portion of the cost 11726
of the spraying. To determine the amount of payment that is due 11727
from a landowner, the department first shall determine the 11728
projected cost per acre to the department of gypsy moth 11729
suppression activities for the year in which the landowner's 11730
request is made. The cost shall be calculated by determining the 11731
total expense of aerial spraying for gypsy moths to be incurred by 11732

the department in that year divided by the total number of acres 11733
proposed to be sprayed in that year. With respect to a landowner, 11734
the department shall multiply the cost per acre by the number of 11735
acres that the landowner requests to be sprayed. The department 11736
shall add to that amount any administrative costs that it incurs 11737
in billing the landowner and collecting payment. The amount that 11738
the landowner shall pay to the department shall not exceed fifty 11739
per cent of the resulting amount. 11740

(C) The director shall adopt rules under Chapter 119. of the 11741
Revised Code to establish procedures under which a landowner may 11742
make a request under division (B) of this section and to establish 11743
provisions governing agreements between the department and 11744
landowners concerning gypsy moth suppression together with any 11745
other provisions that the director considers appropriate to 11746
administer this section. 11747

(D) The director shall deposit all money collected under this 11748
section into the state treasury to the credit of the pesticide 11749
program fund created in Chapter 921. of the Revised Code. Money 11750
credited to the fund under this section shall be used for the 11751
suppression of gypsy moths in accordance with this section. 11752

Sec. 929.01. ~~As used in Chapter 929. of the Revised Code~~ this 11753
chapter: 11754

(A) "Agricultural production" means commercial aquaculture, 11755
apiculture, animal husbandry, or poultry husbandry; the production 11756
for a commercial purpose of timber, field crops, tobacco, fruits, 11757
vegetables, nursery stock, ornamental shrubs, ornamental trees, 11758
flowers, or sod; the growth of timber for a noncommercial purpose, 11759
if the land on which the timber is grown is contiguous to or part 11760
of a parcel of land under common ownership that is otherwise 11761
devoted exclusively to agricultural use; or any combination of 11762
such husbandry, production, or growth; and includes the 11763

processing, drying, storage, and marketing of agricultural 11764
products when those activities are conducted in conjunction with 11765
such husbandry, production, or growth. 11766

"Agricultural production" includes conservation practices, 11767
provided that the tracts, lots, or parcels of land or portions 11768
thereof that are used for conservation practices comprise not more 11769
than twenty-five per cent of tracts, lots, or parcels of land that 11770
are otherwise devoted exclusively to agricultural use and for 11771
which an application is filed under section 929.02 of the Revised 11772
Code. 11773

(B) "Withdrawal from an agricultural district" includes the 11774
explicit removal of land from an agricultural district, conversion 11775
of land in an agricultural district to use for purposes other than 11776
agricultural production, and withdrawal of land from a land 11777
retirement or conservation program to use for ~~purposes~~ purposes 11778
other than agricultural production. Withdrawal from an 11779
agricultural district does not include land described in division 11780
(A)(4) of section 5713.30 of the Revised Code. 11781

(C) "Conservation practice" has the same meaning as in 11782
section 5713.30 of the Revised Code. 11783

Sec. 955.51. (A) Any owner of horses, sheep, cattle, swine, 11784
mules, goats, domestic rabbits, or domestic fowl or poultry that 11785
have an aggregate fair market value of ten dollars or more and 11786
that have been injured or killed by a coyote or a black vulture 11787
shall notify the dog warden within three days after the loss or 11788
injury has been discovered. The dog warden promptly shall 11789
investigate the loss or injury and shall determine whether or not 11790
the loss or injury was made by a coyote or a black vulture. If the 11791
dog warden finds that the loss or injury was not made by a coyote 11792
or a black vulture, the owner has no claim under sections 955.51 11793
to 955.53 of the Revised Code. If the dog warden finds that the 11794

loss or injury was made by a coyote or a black vulture, ~~he~~ the dog 11795
warden promptly shall notify the wildlife officer of that finding. 11796
The wildlife officer then shall confirm the finding, disaffirm it, 11797
or state that ~~he~~ the wildlife officer is uncertain about the 11798
finding. If the wildlife officer affirms the finding of the dog 11799
warden or states that ~~he~~ the wildlife officer is uncertain about 11800
that finding, the owner may proceed with ~~his~~ a claim under 11801
sections 955.51 to 955.53 of the Revised Code, and the dog warden 11802
shall provide the owner with duplicate copies of the claim form 11803
provided for in section 955.53 of the Revised Code and assist ~~him~~ 11804
the owner in filling it out. The owner shall set forth the kind, 11805
grade, quality, and what ~~he~~ the owner has determined is the fair 11806
market value of the animals, fowl, or poultry, the nature and 11807
amount of the loss or injury, the place where the loss or injury 11808
occurred, and all other pertinent facts in the possession of the 11809
claimant. If the animals, fowl, or poultry die as a result of 11810
their injuries, their fair market value is the market value of 11811
uninjured animals, fowl, or poultry on the date of the death of 11812
the injured animals, fowl, or poultry. If the animals, fowl, or 11813
poultry do not die as a result of their injuries, their fair 11814
market value is their market value on the date on which they 11815
received their injuries. 11816

(B) If the dog warden finds all the statements that the owner 11817
made on the form to be correct and agrees with the owner as to the 11818
fair market value of the animals, fowl, or poultry, ~~he~~ the dog 11819
warden promptly shall so certify and send both copies of the form, 11820
together with whatever other documents, testimony, or information 11821
~~he~~ the dog warden has received relating to the loss or injury, to 11822
the department of agriculture. 11823

(C) If the dog warden does not find all the statements to be 11824
correct or does not agree with the owner as to the fair market 11825
value, the owner may appeal to the department of agriculture for a 11826

determination of ~~his~~ the owner's claim. In that case the owner 11827
shall secure statements as to the nature and amount of the loss or 11828
injury from at least two witnesses who viewed the results of the 11829
killing or injury and who can testify about the results and shall 11830
submit both copies of the form to the department no later than 11831
twenty days after the loss or injury was discovered. The dog 11832
warden shall submit to the department whatever documents, 11833
testimony, and other information ~~he~~ the dog warden has received 11834
relating to the loss or injury. The department shall receive any 11835
other information or testimony that will enable it to determine 11836
the fair market value of the animals, fowl, or poultry injured or 11837
killed. 11838

(D) If the animals, fowl, or poultry described in division 11839
(A) of this section are registered in any accepted association or 11840
registry, the owner or ~~his~~ the owner's employee or tenant shall 11841
submit with the claim form the registration papers showing the 11842
lines of breeding, age, and other relevant matters. If the animals 11843
are the offspring of registered stock and eligible for 11844
registration, the registration papers showing the breeding of the 11845
offspring shall be submitted. 11846

Sec. 1309.109. (A) Except as otherwise provided in divisions 11847
(C) and (D) of this section, this chapter applies to the 11848
following: 11849

(1) A transaction, regardless of its form, that creates a 11850
security interest in personal property or fixtures by contract; 11851

(2) An agricultural lien; 11852

(3) A sale of accounts, chattel paper, payment intangibles, 11853
or promissory notes; 11854

(4) A consignment; 11855

(5) A security interest arising under section 1302.42 or 11856

1302.49, division (C) of section 1302.85, or division (E) of 11857
section 1310.54 of the Revised Code, as provided in section 11858
1309.110 of the Revised Code; and 11859

(6) A security interest arising under section 1304.20 or 11860
1305.18 of the Revised Code. 11861

(B) The application of this chapter to a security interest in 11862
a secured obligation is not affected by the fact that the 11863
obligation is itself secured by a transaction or interest to which 11864
this chapter does not apply. 11865

(C) This chapter does not apply to the extent that: 11866

(1) A statute, regulation, or treaty of the United States 11867
preempts this chapter; or 11868

(2) The rights of a transferee beneficiary or nominated 11869
person under a letter of credit are independent and superior under 11870
section 1305.13 of the Revised Code. 11871

(D) This chapter does not apply to the following: 11872

(1) A landlord's lien, other than an agricultural lien; 11873

(2)(a) A lien, not enumerated in division (D)(2) of this 11874
section and other than an agricultural lien, given by statute or 11875
other rule of law for services or materials, including any lien 11876
created under any provision of Chapter 926., sections 1311.55 to 11877
1311.57, sections 1311.71 to 1311.80, section 1701.66, or Chapter 11878
4585. of the Revised Code; 11879

(b) Notwithstanding division (D)(2)(a) of this section, 11880
section 1309.333 of the Revised Code applies with respect to 11881
priority of the lien. 11882

(3) An assignment of a claim for wages, salary, or other 11883
compensation of an employee; 11884

(4) A sale of accounts, chattel paper, payment intangibles, 11885
or promissory notes as part of a sale of the business out of which 11886

they arose;	11887
(5) An assignment of accounts, chattel paper, payment intangibles, or promissory notes that is for the purpose of collection only;	11888 11889 11890
(6) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;	11891 11892
(7) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;	11893 11894 11895
(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;	11896 11897 11898 11899 11900 11901
(9) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;	11902 11903
(10) A right of recoupment or set-off, but:	11904
(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	11905 11906 11907
(b) Section 1309.404 of the Revised Code applies with respect to defenses or claims of an account debtor.	11908 11909
(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:	11910 11911 11912
(a) Liens on real property in sections 1309.203 and 1309.308 of the Revised Code;	11913 11914
(b) Fixtures in section 1309.334 of the Revised Code;	11915

(c) Fixture filings in sections 1309.501, 1309.502, 1309.512, 1309.516, and 1309.519 of the Revised Code; and	11916 11917
(d) Security agreements covering personal and real property in section 1309.604 of the Revised Code.	11918 11919
(12) An assignment of a claim arising in tort, other than a commercial tort claim, but sections 1309.315 and 1309.322 of the Revised Code apply with respect to proceeds and priorities in proceeds;	11920 11921 11922 11923
(13) An assignment of a deposit account in a consumer transaction, but sections 1309.315 and 1309.322 of the Revised Code apply with respect to proceeds and priorities in proceeds; or	11924 11925 11926
(14) A transfer by a government, state, or governmental unit.	11927
(E) The granting of a security interest in all or any part of a lottery prize award for consideration is subject to the prohibition of division (A)(3)(C) of section 3770.07 of the Revised Code. The sale, assignment, or other redirection of a lottery prize award for consideration is subject to the provisions of division (A)(4)(D) of section 3770.07 and sections 3770.10 to 3770.14 of the Revised Code.	11928 11929 11930 11931 11932 11933 11934
Sec. 1317.07. No retail installment contract authorized by section 1317.03 of the Revised Code that is executed in connection with any retail installment sale shall evidence any indebtedness in excess of the time balance fixed in the written instrument in compliance with section 1317.04 of the Revised Code, but it may evidence in addition any agreements of the parties for the payment of delinquent charges, as provided for in section 1317.06 of the Revised Code, taxes, and any lawful fee actually paid out, or to be paid out, by the retail seller to any public officer for filing, recording, or releasing any instrument securing the payment of the obligation owed on any retail installment contract.	11935 11936 11937 11938 11939 11940 11941 11942 11943 11944 11945

No retail seller, directly or indirectly, shall charge, contract 11946
for, or receive from any retail buyer, any further or other amount 11947
for examination, service, brokerage, commission, expense, fee, or 11948
other thing of value. A documentary service charge customarily and 11949
presently being paid on May 9, 1949, in a particular business and 11950
area may be charged if the charge does not exceed ~~fifty~~ one 11951
hundred dollars per sale. 11952

No retail seller shall use multiple agreements with respect 11953
to a single item or related items purchased at the same time, with 11954
intent to obtain a higher charge than would otherwise be permitted 11955
by Chapter 1317. of the Revised Code or to avoid disclosure of an 11956
annual percentage rate, nor by use of such agreements make any 11957
charge greater than that which would be permitted by Chapter 1317. 11958
of the Revised Code had a single agreement been used. 11959

Sec. 1321.21. All fees, charges, penalties, and forfeitures 11960
collected under Chapters 1321., 1322., 4712., 4727., and 4728., 11961
sections 1315.21 to 1315.30, ~~and~~ sections 1315.35 to 1315.44, and 11962
sections 1349.25 to 1349.37 of the Revised Code shall be paid to 11963
the superintendent of financial institutions and shall be 11964
deposited by the superintendent into the state treasury to the 11965
credit of the consumer finance fund, which is hereby created. The 11966
fund may be expended or obligated by the superintendent for the 11967
defrayment of the costs of administration of Chapters 1321., 11968
1322., 4712., 4727., and 4728., sections 1315.21 to 1315.30, ~~and~~ 11969
sections 1315.35 to 1315.44, and sections 1349.25 to 1349.37 of 11970
the Revised Code by the division of financial institutions. All 11971
actual and necessary expenses incurred by the superintendent, 11972
including any services rendered by the department of commerce for 11973
the division's administration of Chapters 1321., 1322., 4712., 11974
4727., and 4728., sections 1315.21 to 1315.30, ~~and~~ sections 11975
1315.35 to 1315.44, and sections 1349.25 to 1349.37 of the Revised 11976
Code, shall be paid from the fund. The fund shall be assessed a 11977

proportionate share of the administrative costs of the department 11978
and the division. The proportionate share of the administrative 11979
costs of the division of financial institutions shall be 11980
determined in accordance with procedures prescribed by the 11981
superintendent and approved by the director of budget and 11982
management. Such assessment shall be paid from the consumer 11983
finance fund to the division of administration fund or the 11984
financial institutions fund. 11985

Sec. 1333.99. (A) Whoever violates sections 1333.01 to 11986
1333.04 of the Revised Code is guilty of a minor misdemeanor. 11987

(B) Whoever violates section 1333.12 of the Revised Code is 11988
guilty of a misdemeanor of the fourth degree. 11989

(C) Whoever violates section 1333.36 of the Revised Code is 11990
guilty of a misdemeanor of the third degree. 11991

(D) A prosecuting attorney may file an action to restrain any 11992
person found in violation of section 1333.36 of the Revised Code. 11993
Upon the filing of such an action, the common pleas court may 11994
receive evidence of such violation and forthwith grant a temporary 11995
restraining order as may be prayed for, pending a hearing on the 11996
merits of said cause. 11997

(E) Whoever violates division (A)(1) of section 1333.52 or 11998
section 1333.81 of the Revised Code is guilty of a misdemeanor of 11999
the first degree. 12000

(F) Whoever violates division (A)(2) or (B) of section 12001
1333.52 ~~or division (F) or (H) of section 1333.96~~ of the Revised 12002
Code is guilty of a misdemeanor of the second degree. 12003

(G) Except as otherwise provided in this division, whoever 12004
violates section 1333.92 of the Revised Code is guilty of a 12005
misdemeanor of the first degree. If the value of the compensation 12006
is five hundred dollars or more and less than five thousand 12007

dollars, whoever violates section 1333.92 of the Revised Code is 12008
guilty of a felony of the fifth degree. If the value of the 12009
compensation is five thousand dollars or more and less than one 12010
hundred thousand dollars, whoever violates section 1333.92 of the 12011
Revised Code is guilty of a felony of the fourth degree. If the 12012
value of the compensation is one hundred thousand dollars or more, 12013
whoever violates section 1333.92 of the Revised Code is guilty of 12014
a felony of the third degree. 12015

~~(H) Whoever violates division (B), (C), or (I) of section 12016
1333.96 of the Revised Code is guilty of a misdemeanor of the 12017
third degree. 12018~~

~~(I) Any person not registered as a travel agency or tour 12019
promoter as provided in divisions (B) and (C) of section 1333.96 12020
of the Revised Code who states that the person is so registered is 12021
guilty of a misdemeanor of the first degree. 12022~~

Sec. 1337.11. As used in sections 1337.11 to 1337.17 of the 12023
Revised Code: 12024

(A) "Adult" means a person who is eighteen years of age or 12025
older. 12026

(B) "Attending physician" means the physician to whom a 12027
principal or the family of a principal has assigned primary 12028
responsibility for the treatment or care of the principal or, if 12029
the responsibility has not been assigned, the physician who has 12030
accepted that responsibility. 12031

(C) "Comfort care" means any of the following: 12032

(1) Nutrition when administered to diminish the pain or 12033
discomfort of a principal, but not to postpone death; 12034

(2) Hydration when administered to diminish the pain or 12035
discomfort of a principal, but not to postpone death; 12036

(3) Any other medical or nursing procedure, treatment, 12037

intervention, or other measure that is taken to diminish the pain 12038
or discomfort of a principal, but not to postpone death. 12039

(D) "Consulting physician" means a physician who, in 12040
conjunction with the attending physician of a principal, makes one 12041
or more determinations that are required to be made by the 12042
attending physician, or to be made by the attending physician and 12043
one other physician, by an applicable provision of sections 12044
1337.11 to 1337.17 of the Revised Code, to a reasonable degree of 12045
medical certainty and in accordance with reasonable medical 12046
standards. 12047

(E) "Guardian" means a person appointed by a probate court 12048
pursuant to Chapter 2111. of the Revised Code to have the care and 12049
management of the person of an incompetent. 12050

(F) "Health care" means any care, treatment, service, or 12051
procedure to maintain, diagnose, or treat an individual's physical 12052
or mental condition. 12053

(G) "Health care decision" means informed consent, refusal to 12054
give informed consent, or withdrawal of informed consent to health 12055
care. 12056

(H) "Health care facility" means any of the following: 12057

(1) A hospital; 12058

(2) A hospice care program or other institution that 12059
specializes in comfort care of patients in a terminal condition or 12060
in a permanently unconscious state; 12061

(3) A nursing home; 12062

(4) A home health agency; 12063

(5) An intermediate care facility for the mentally retarded. 12064

(I) "Health care personnel" means physicians, nurses, 12065
physician assistants, emergency medical technicians-basic, 12066
emergency medical technicians-intermediate, emergency medical 12067

technicians-paramedic, medical technicians, dietitians, other 12068
authorized persons acting under the direction of an attending 12069
physician, and administrators of health care facilities. 12070

(J) "Home health agency" has the same meaning as in section 12071
~~3701.88~~ 3701.881 of the Revised Code. 12072

(K) "Hospice care program" has the same meaning as in section 12073
3712.01 of the Revised Code. 12074

(L) "Hospital" has the same meanings as in sections 2108.01, 12075
3701.01, and 5122.01 of the Revised Code. 12076

(M) "Hydration" means fluids that are artificially or 12077
technologically administered. 12078

(N) "Incompetent" has the same meaning as in section 2111.01 12079
of the Revised Code. 12080

(O) "Intermediate care facility for the mentally retarded" 12081
has the same meaning as in section 5111.20 of the Revised Code. 12082

(P) "Life-sustaining treatment" means any medical procedure, 12083
treatment, intervention, or other measure that, when administered 12084
to a principal, will serve principally to prolong the process of 12085
dying. 12086

(Q) "Medical claim" has the same meaning as in section 12087
2305.11 of the Revised Code. 12088

(R) "Nursing home" has the same meaning as in section 3721.01 12089
of the Revised Code. 12090

(S) "Nutrition" means sustenance that is artificially or 12091
technologically administered. 12092

(T) "Permanently unconscious state" means a state of 12093
permanent unconsciousness in a principal that, to a reasonable 12094
degree of medical certainty as determined in accordance with 12095
reasonable medical standards by the principal's attending 12096
physician and one other physician who has examined the principal, 12097

is characterized by both of the following:	12098
(1) Irreversible unawareness of one's being and environment.	12099
(2) Total loss of cerebral cortical functioning, resulting in the principal having no capacity to experience pain or suffering.	12100 12101
(U) "Person" has the same meaning as in section 1.59 of the Revised Code and additionally includes political subdivisions and governmental agencies, boards, commissions, departments, institutions, offices, and other instrumentalities.	12102 12103 12104 12105
(V) "Physician" means a person who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.	12106 12107 12108
(W) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code.	12109 12110
(X) "Professional disciplinary action" means action taken by the board or other entity that regulates the professional conduct of health care personnel, including the state medical board and the board of nursing.	12111 12112 12113 12114
(Y) "Terminal condition" means an irreversible, incurable, and untreatable condition caused by disease, illness, or injury from which, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by a principal's attending physician and one other physician who has examined the principal, both of the following apply:	12115 12116 12117 12118 12119 12120
(1) There can be no recovery.	12121
(2) Death is likely to occur within a relatively short time if life-sustaining treatment is not administered.	12122 12123
(Z) "Tort action" means a civil action for damages for injury, death, or loss to person or property, other than a civil action for damages for a breach of contract or another agreement between persons.	12124 12125 12126 12127

Sec. 1346.02. Any tobacco product manufacturer selling 12128
cigarettes to consumers within the state (whether directly or 12129
through a distributor, retailer or similar intermediary or 12130
intermediaries) after ~~the effective date of this section~~ June 30, 12131
1999 shall do one of the following: 12132

(A) Become a participating manufacturer (as that term is 12133
defined in section II(jj) of the Master Settlement Agreement) and 12134
generally perform its financial obligations under the Master 12135
Settlement Agreement; or 12136

(B)(1) Place into a qualified escrow fund by April 15 of the 12137
year following the year in question the following amounts (as such 12138
amounts are adjusted for inflation): 12139

1999: \$.0094241 per unit sold after ~~the effective date of~~ 12140
~~this section~~ June 30, 1999; 12141

2000: \$.0104712 per unit sold; 12142

For each of 2001 and 2002: \$.0136125 per unit sold; 12143

For each of 2003 through 2006: \$.0167539 per unit sold; 12144

For each of 2007 and each year thereafter: \$.0188482 per unit 12145
sold. 12146

(2) A tobacco product manufacturer that places funds into 12147
escrow pursuant to division (B)(1) of this section shall receive 12148
the interest or other appreciation on such funds as earned. Such 12149
funds themselves shall be released from escrow only under the 12150
following circumstances: 12151

(a) To pay a judgment or settlement on any released claim 12152
brought against such tobacco product manufacturer by the state or 12153
any releasing party located or residing in the state. Funds shall 12154
be released from escrow under division (B)(2)(a) of this section: 12155

(i) In the order in which they were placed into escrow; and 12156

(ii) Only to the extent and at the time necessary to make payments required under such judgment or settlement. 12157
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(b) To the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow on account of units sold in the state in a particular year was greater than the ~~state's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement~~ payments, as determined pursuant to section ~~IX(i)(2)~~ IX(i) of the ~~Master Settlement that Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the inflation adjustment~~ including after final determination of all adjustments, that such manufacturer would have been required to make on account of such units sold had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or 12159
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(c) To the extent not released from escrow under division (B)(2)(a) or (b) of this section, funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow. 12173
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(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to division (B) of this section shall annually certify to the attorney general that it is in compliance with division (B) of this section. The attorney general may bring a civil action on behalf of the state against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall: 12178
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(a) Be required within fifteen days to place such funds into 12187

escrow as shall bring it into compliance with this section. The 12188
court, upon a finding of a violation of division (B) of this 12189
section, may impose a civil penalty to be paid to the general 12190
revenue fund of the state in an amount not to exceed five per cent 12191
of the amount improperly withheld from escrow per day of the 12192
violation and in a total amount not to exceed one hundred per cent 12193
of the original amount improperly withheld from escrow; 12194

(b) In the case of a knowing violation, be required within 12195
fifteen days to place such funds into escrow as shall bring it 12196
into compliance with this section. The court, upon a finding of a 12197
knowing violation of division (B) of this section, may impose a 12198
civil penalty to be paid to the general revenue fund of the state 12199
in an amount not to exceed fifteen per cent of the amount 12200
improperly withheld from escrow per day of the violation and in a 12201
total amount not to exceed three hundred per cent of the original 12202
amount improperly withheld from escrow; and 12203

(c) In the case of a second knowing violation, be prohibited 12204
from selling cigarettes to consumers within the state (whether 12205
directly or through a distributor, retailer or similar 12206
intermediary) for a period not to exceed two years. 12207

Each failure to make an annual deposit required under this 12208
section shall constitute a separate violation. 12209

Sec. 1346.04. As used in this section and sections 1346.05 to 12210
1346.10 of the Revised Code: 12211

(A) "Brand family" means all styles of cigarettes sold under 12212
the same trademark and differentiated from one another by means of 12213
additional modifiers or descriptors, including, but not limited 12214
to, "menthol," "lights," "kings," and "100s." "Brand family" 12215
includes cigarettes sold under any brand name (whether that name 12216
is used alone or in conjunction with any other word), trademark, 12217
logo, symbol, motto, selling message, recognizable pattern of 12218

colors, or other indicia of product identification identical or similar to, or identifiable with, a previous brand of cigarettes. 12219
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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. 12221
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(C) "Nonparticipating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer. 12224
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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 and all amendments to that agreement. 12226
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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 required to pay the excise tax imposed on cigarettes and other tobacco products under sections 5743.03 and 5743.51 of the Revised Code. 12229
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Sec. 1346.05. (A)(1) Every tobacco product manufacturer whose cigarettes are sold in this state either directly or through a distributor, retailer, or other intermediary shall execute and deliver to the attorney general an annual certification, made under penalty of falsification, stating that, as of the date of the certification, the tobacco manufacturer is either a participating manufacturer or a nonparticipating manufacturer in full compliance with section 1346.02 of the Revised Code, including full compliance with all quarterly installment payment requirements, if required to make such payments by an administrative rule adopted by the attorney general. The certification shall be on a form prescribed by the attorney general and shall be filed not later than the thirtieth day of April in each year. 12235
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(2) Each participating manufacturer shall include in its certification a list of its brand families. Thirty days before making any additions to or modifications of its brand families, a participating manufacturer shall update its brand family list by executing and delivering a supplemental certification to the attorney general. 12249
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(3) Each nonparticipating manufacturer shall include all of the following in its certification: 12255
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(a) A list of all of its brand families and the number of units sold during the preceding calendar year for each brand family, and a list of all of its brand families that have been sold in the state at any time during the current calendar year. The list shall indicate, by an asterisk, any brand family that was sold in the state during the preceding calendar year and that is no longer being sold in the state as of the date of the certification. The list shall identify by name and address any other manufacturer in the preceding or current year of the brand families included on the list. Thirty days before making any additions to or modifications of its brand families, a nonparticipating manufacturer shall update its brand family list by executing and delivering a supplemental certification to the attorney general. 12257
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(b) A statement that the nonparticipating manufacturer is registered to do business in this state, or has appointed an agent for service of process in this state and provided notice of that appointment as required by section 1346.06 of the Revised Code; 12271
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(c) A certification that the nonparticipating manufacturer has established and continues to maintain a qualified escrow fund under section 1346.02 of the Revised Code and that the qualified escrow fund is governed by a qualified escrow agreement executed by the nonparticipating manufacturer and reviewed and approved by 12275
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<u>the attorney general;</u>	12280
<u>(d) All of the following information regarding the qualified escrow fund the nonparticipating manufacturer is required to establish and maintain under section 1346.02 of the Revised Code and the rules adopted under that section:</u>	12281
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<u>(i) The name, address, and telephone number of the financial institution at which the nonparticipating manufacturer has established its qualified escrow fund;</u>	12285
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<u>(ii) The account number of the qualified escrow fund and any subaccount number for the state;</u>	12288
	12289
<u>(iii) The amount that the nonparticipating manufacturer deposited in the qualified escrow fund for cigarettes sold in the state during the preceding calendar year, the date and amount of each deposit, and any evidence or verification the attorney general deems necessary to confirm those deposits;</u>	12290
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<u>(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.</u>	12295
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<u>(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.</u>	12300
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<u>(4)(a) No tobacco product manufacturer shall include a brand family in its certification unless either of the following applies:</u>	12304
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<u>(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</u>	12307
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of calculating its payments under the Master Settlement Agreement 12310
for the relevant year in the volume and shares determined pursuant 12311
to that agreement. 12312

(ii) In the case of a nonparticipating manufacturer, the 12313
nonparticipating manufacturer affirms that the cigarettes in the 12314
brand family shall be deemed to be its cigarettes for the purpose 12315
of section 1346.02 of the Revised Code. 12316

(b) Nothing in this section limits or shall be construed to 12317
limit the state's authority to determine that the cigarettes in a 12318
brand family constitute the cigarettes of another tobacco product 12319
manufacturer for the purpose of calculating payments under the 12320
Master Settlement Agreement or for the purpose of section 1346.02 12321
of the Revised Code. 12322

(5) Each tobacco product manufacturer shall maintain all 12323
invoices and documentations of sales and other information relied 12324
upon for its certification for a period of at least five years. 12325

(B)(1) Except as otherwise provided in division (B)(3) of 12326
this section, the attorney general shall develop and publish on 12327
its web site a directory listing all tobacco product manufacturers 12328
that have provided current and accurate certifications under 12329
division (A) of this section and all brand families listed in 12330
those certifications. 12331

(2)(a) The attorney general shall update the directory as 12332
necessary to correct mistakes or to add or remove a tobacco 12333
product manufacturer or brand family to keep the directory in 12334
conformity with the requirements of this section. At least ten 12335
days before any tobacco product manufacturer or brand family is 12336
added to or removed from the directory, the attorney general shall 12337
publish notice of the pending addition or removal online in the 12338
directory and shall notify the tax commissioner of those pending 12339
changes. At least ten days before such addition or removal, the 12340

tax commissioner shall transmit by electronic mail or other 12341
practicable means to each stamping agent notice of the pending 12342
addition or removal. 12343

(b) Unless an agreement between a stamping agent and a 12344
tobacco product manufacturer provides otherwise, a tobacco product 12345
manufacturer that is removed from the directory or whose brand 12346
family is removed from the directory shall refund to the stamping 12347
agent any money paid by the stamping agent to the tobacco product 12348
manufacturer for cigarettes of that tobacco product manufacturer 12349
that are in the possession of the stamping agent at the time the 12350
stamping agent receives notice of the pending removal of the 12351
tobacco product manufacturer or a brand family of that tobacco 12352
product manufacturer from the directory under division (B)(2)(a) 12353
of this section. 12354

(c) The tax commissioner shall notify the attorney general of 12355
any tobacco product manufacturer that fails to refund money to a 12356
stamping agent under division (B)(2)(b) of this section. The 12357
attorney general shall not restore to the directory any tobacco 12358
product manufacturer or brand family of a tobacco product 12359
manufacturer until the tobacco product manufacturer has paid the 12360
stamping agent any required refund. Once a required refund has 12361
been so paid, the tax commissioner shall notify the attorney 12362
general of that payment. 12363

(3) The attorney general shall not include or retain in the 12364
directory a nonparticipating manufacturer or a brand family of a 12365
nonparticipating manufacturer if any of the following applies: 12366

(a) The nonparticipating manufacturer fails to provide the 12367
required certification under this section, or the attorney general 12368
determines that the certification is not in compliance with the 12369
requirements of this section, unless the attorney general 12370
determines that the violation has been cured to the attorney 12371
general's satisfaction. 12372

(b) The attorney general determines that any escrow payment required under section 1346.02 of the Revised Code for any period for any brand family of the nonparticipating manufacturer, regardless of whether the brand family is listed by the nonparticipating manufacturer in its certification under this section, has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the attorney general. 12373
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(c) The attorney general determines that the nonparticipating manufacturer has not fully satisfied any outstanding final judgment, including interest, for a violation of section 1346.02 of the Revised Code. 12381
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(4) Each stamping agent shall provide an electronic mail address to the tax commissioner for the purpose of receiving notifications under division (B)(2) of this section. As necessary, each stamping agent shall update the agent's electronic mail address with the tax commissioner. 12385
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(C)(1) No person shall do any of the following: 12390

(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; 12391
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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; 12394
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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; 12397
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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 12400
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a tax stamp affixed while the tobacco product manufacturer or 12403
brand family of those cigarettes was not included in the 12404
directory; 12405

(e) Acquire, hold, own, possess, transport, import, or cause 12406
to be imported cigarettes that the person knows or should know are 12407
intended for distribution or sale in this state and that are the 12408
cigarettes of a tobacco product manufacturer or a brand family 12409
that is not included in the directory. 12410

(2) Except as otherwise provided in this division, a 12411
violation of division (C)(1) of this section is a misdemeanor of 12412
the first degree. If the offender has a previous conviction for a 12413
violation of that division, a violation of division (C)(1) of this 12414
section is a felony of the fourth degree. 12415

(3) Any cigarettes sold, offered for sale, or possessed for 12416
sale in violation of division (C)(1) of this section shall be 12417
considered contraband under section 5743.21 of the Revised Code, 12418
and those cigarettes shall be subject to seizure and forfeiture 12419
under that section. Cigarettes so seized and forfeited shall not 12420
be resold and shall be destroyed. 12421

Sec. 1346.06. (A)(1) Any nonresident or foreign 12422
nonparticipating manufacturer that has not registered to do 12423
business in the state as a foreign corporation or business entity, 12424
as a condition precedent to having its brand families included or 12425
retained in the directory developed and published by the attorney 12426
general under section 1346.05 of the Revised Code, shall appoint, 12427
and continually engage without interruption the services of, an 12428
agent in the state to act as agent for the service, in any manner 12429
authorized by law, of all process pertaining to any action or 12430
proceeding in the courts of this state against the manufacturer 12431
concerning or arising out of the enforcement of this chapter. 12432

(2) Service on a nonparticipating manufacturer's agent shall 12433

constitute legal and valid service of process on the manufacturer. 12434

(3) A nonparticipating manufacturer shall provide the 12435
attorney general, to the satisfaction of the attorney general, 12436
with proof of the appointment of, and notice of the name, address, 12437
telephone number, and availability of, the manufacturer's agent. 12438

(B)(1) If a nonparticipating manufacturer decides to 12439
terminate its agent's appointment, the manufacturer shall provide 12440
notice of the termination to the attorney general thirty calendar 12441
days prior to the termination and shall provide proof, to the 12442
satisfaction of the attorney general, of the appointment of a new 12443
agent not less than five calendar days prior to the termination. 12444

(2) If a nonparticipating manufacturer's agent terminates the 12445
agent's appointment, the manufacturer shall provide notice of the 12446
termination to the attorney general and include proof, to the 12447
satisfaction of the attorney general, of the appointment of a new 12448
agent within five calendar days of the termination. 12449

(C)(1) Any nonparticipating manufacturer whose cigarettes are 12450
sold in the state and who has not appointed and continually 12451
engaged an agent in accordance with divisions (A) and (B) of this 12452
section shall be deemed to have appointed the secretary of state 12453
as the manufacturer's agent and may be proceeded against in any 12454
action or proceeding in the courts of the state described in 12455
division (A) of this section by service of process on the 12456
secretary of state. 12457

(2) The deemed appointment of the secretary of state as a 12458
nonparticipating manufacturer's agent does not satisfy the 12459
requirements of divisions (A)(3)(b) and (B)(1) of section 1346.05 12460
of the Revised Code that a nonparticipating manufacturer that has 12461
not registered to do business in the state shall appoint an agent 12462
for service of process as a condition precedent to the existence 12463
of an accurate certification permitting the manufacturer's brand 12464

families to be included or retained in the directory. 12465

Sec. 1346.07. (A) Not later than the last day of each month 12466
or less frequently if so directed by the tax commissioner, each 12467
stamping agent shall submit information for the previous month or 12468
for the relevant time period, if directed by the tax commissioner 12469
to make the submission less frequently, which the tax commissioner 12470
requires to facilitate compliance with sections 1346.05 to 1346.10 12471
of the Revised Code. The information shall include, but is not 12472
limited to, a list by brand family of the total number of 12473
cigarettes, or, in the case of roll-your-own, the equivalent stick 12474
count, for which the stamping agent during the period covered by 12475
the report affixed stamps or otherwise paid the tax due. 12476

The stamping agent shall maintain and make available to the 12477
tax commissioner all invoices and documentations of sales of all 12478
nonparticipating manufacturer cigarettes and any other information 12479
the agent relies upon in submitting information under this 12480
division to the tax commissioner. This duty shall be for a period 12481
of five years from the date of each submission of information 12482
under this division. 12483

(B) The attorney general at any time may require a 12484
nonparticipating manufacturer to provide proof, from the financial 12485
institution in which the manufacturer has established a qualified 12486
escrow fund under section 1346.02 of the Revised Code, of the 12487
amount of money in the fund, exclusive of interest, the amount and 12488
date of each deposit in the fund, and the amount and date of each 12489
withdrawal from the fund. 12490

(C) In addition to the information required to be submitted 12491
or provided to the tax commissioner and the attorney general under 12492
divisions (A) and (B) of this section, the attorney general may 12493
require a stamping agent or tobacco product manufacturer to submit 12494
any additional information necessary to enable the attorney 12495

general to determine whether a manufacturer is in compliance with 12496
sections 1346.05 to 1346.10 of the Revised Code. The information 12497
shall include, but is not limited to, samples of the packaging or 12498
labeling of each brand family. 12499

(D) The tax commissioner and the attorney general shall share 12500
information received under sections 1346.05 to 1346.10 of the 12501
Revised Code for purposes of determining compliance with and 12502
enforcement of those sections. The tax commissioner and the 12503
attorney general also may share information received under these 12504
sections with federal, state, or local agencies for purposes of 12505
the enforcement of this chapter or corresponding laws of other 12506
states. 12507

Sec. 1346.08. (A) The tax commissioner and the attorney 12508
general may adopt administrative rules necessary to implement 12509
sections 1346.05 to 1346.10 of the Revised Code. 12510

(B) Subject to the requirements of section 1346.05 of the 12511
Revised Code, the attorney general may adopt an administrative 12512
rule requiring a tobacco product manufacturer to make required 12513
escrow deposits in quarterly installments during the year in which 12514
the sales covered by the deposits are made. If the attorney 12515
general adopts such a rule, the tax commissioner may require a 12516
tobacco product manufacturer or a stamping agent to produce 12517
information sufficient to enable the tax commissioner and the 12518
attorney general to determine the adequacy of the amount of an 12519
installment deposit. 12520

Sec. 1346.09. (A) The attorney general, on behalf of the tax 12521
commissioner, may seek an injunction to restrain a threatened or 12522
actual violation of division (C)(1) of section 1346.05 of the 12523
Revised Code or division (A) or (C) of section 1346.07 of the 12524
Revised Code by a stamping agent and to compel the stamping agent 12525

to comply with those divisions. 12526

(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. 12527
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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. 12531
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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. 12536
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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 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. 12540
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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. 12547
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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 12554
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cigarettes in violation of division (C)(1) of section 1346.05 of 12556
the Revised Code shall constitute a separate violation. 12557

Sec. 1501.04. There is hereby created in the department of 12558
natural resources a recreation and resources commission composed 12559
of the ~~chairman~~ chairperson of the wildlife council created under 12560
section 1531.03 of the Revised Code, the ~~chairman~~ chairperson of 12561
the parks and recreation council created under section 1541.40 of 12562
the Revised Code, the ~~chairman~~ chairperson of the waterways safety 12563
council created under section 1547.73 of the Revised Code, the 12564
~~chairman~~ chairperson of the technical advisory council on oil and 12565
gas created under section 1509.38 of the Revised Code, the 12566
chairman of the forestry advisory council created under section 12567
1503.40 of the Revised Code, the ~~chairman~~ chairperson of the Ohio 12568
soil and water conservation commission created under section 12569
1515.02 of the Revised Code, the ~~chairman~~ chairperson of the Ohio 12570
natural areas council created under section 1517.03 of the Revised 12571
Code, the ~~chairman~~ chairperson of the Ohio water advisory council 12572
created under section 1521.031 of the Revised Code, the 12573
chairperson of the recycling and litter prevention advisory 12574
council created under section 1502.04 of the Revised Code, ~~the~~ 12575
~~chairperson of the civilian conservation advisory council created~~ 12576
~~under section 1553.10 of the Revised Code,~~ the ~~chairman~~ 12577
chairperson of the Ohio geology advisory council created under 12578
section 1505.11 of the Revised Code, and five members appointed by 12579
the governor with the advice and consent of the senate, not more 12580
than three of whom shall belong to the same political party. The 12581
director of natural resources shall be an ex officio member of the 12582
commission, with a voice in its deliberations, but without the 12583
power to vote. 12584

Terms of office of members of the commission appointed by the 12585
governor shall be for five years, commencing on the second day of 12586
February and ending on the first day of February. Each member 12587

shall hold office from the date of ~~his~~ appointment until the end 12588
of the term for which ~~he~~ the member was appointed. 12589

In the event of the death, removal, resignation, or 12590
incapacity of a member of the commission, the governor, with the 12591
advice and consent of the senate, shall appoint a successor who 12592
shall hold office for the remainder of the term for which ~~his~~ the 12593
member's predecessor was appointed. Any member shall continue in 12594
office subsequent to the expiration date of ~~his~~ the member's term 12595
until ~~his~~ the member's successor takes office, or until a period 12596
of sixty days has elapsed, whichever occurs first. 12597

The governor may remove any appointed member of the 12598
commission for misfeasance, nonfeasance, or malfeasance in office. 12599

The commission shall exercise no administrative function, but 12600
may: 12601

(A) Advise with and recommend to the director ~~of natural~~ 12602
~~resources~~ as to plans and programs for the management, 12603
development, utilization, and conservation of the natural 12604
resources of the state; 12605

(B) Advise with and recommend to the director as to methods 12606
of coordinating the work of the divisions of the department; 12607

(C) Consider and make recommendations upon any matter ~~which~~ 12608
that the director may submit to it; 12609

(D) Submit to the governor biennially recommendations for 12610
amendments to the conservation laws of the state. 12611

~~Before~~ Each member of the commission, before entering upon 12612
the discharge of ~~his~~ the member's duties, ~~each member of the~~ 12613
~~commission~~ shall take and subscribe to an oath of office, which 12614
oath, in writing, shall be filed in the office of the secretary of 12615
state. 12616

The members of the commission shall serve without 12617

compensation, but shall be entitled to receive their actual and 12618
necessary expenses incurred in the performance of their official 12619
duties. 12620

The commission, by a majority vote of all its members, shall 12621
adopt and amend bylaws. 12622

To be eligible for appointment, a person shall be a citizen 12623
of the United States and an elector of the state and shall possess 12624
a knowledge of and have an interest in the natural resources of 12625
this state. 12626

The commission shall hold at least four regular quarterly 12627
meetings each year. Special meetings shall be held at such times 12628
as the bylaws of the commission provide. Notices of all meetings 12629
shall be given in such manner as the bylaws provide. The 12630
commission shall choose annually from among its members a ~~chairman~~ 12631
chairperson to preside over its meetings and a secretary to keep a 12632
record of its proceedings. A majority of the members of the 12633
commission constitutes a quorum. No advice shall be given or 12634
recommendation made without a majority of the members of the 12635
commission concurring therein. 12636

Sec. 1501.25. (A) There is hereby created the Muskingum river 12637
advisory council consisting of the following members: 12638

(1) Two members of the house of representatives, one from 12639
each party to be appointed by the speaker of the house of 12640
representatives after conferring with the minority leader of the 12641
house, and two members of the senate, one from each party to be 12642
appointed by the president of the senate after conferring with the 12643
minority leader of the senate; 12644

(2) Four persons interested in the development of 12645
recreational and commercial uses of the Muskingum river, to be 12646
appointed by the governor; 12647

(3) Two representatives of the department of natural resources to be appointed by the director of natural resources, one representative of the department of development to be appointed by the director of development, one representative of the environmental protection agency to be appointed by the director of environmental protection, one representative of the department of transportation to be appointed by the director of transportation, and one representative of the Ohio historical society to be appointed by the director of the society; 12648
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(4) Twelve persons to be appointed from the four counties through which the Muskingum river flows, who shall be appointed in the following manner. The board of county commissioners of Coshocton county shall appoint two members, and the mayor of the city of Coshocton shall appoint one member. The board of county commissioners of Muskingum county shall appoint two members, and the mayor of the city of Zanesville shall appoint one member. The board of county commissioners of Morgan county shall appoint two members, and the mayor of the city of McConelsville shall appoint one member. The board of county commissioners of Washington county shall appoint two members, and the mayor of the city of Marietta shall appoint one member. 12657
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(5) One member representing the Muskingum watershed conservancy district, to be appointed by the board of directors of the district. 12669
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Members shall serve at the pleasure of their appointing authority. Vacancies shall be filled in the manner of the original appointment. 12672
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The council biennially shall elect from among its members a chairperson and a vice-chairperson. One of the representatives of the department of natural resources shall serve as secretary of the council unless a majority of the members elect another member 12675
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to that position. The council shall meet at least once each year 12679
for the purpose of taking testimony from residents of the 12680
Muskingum river area, users of the river and adjacent lands, and 12681
the general public and may hold additional meetings at the call of 12682
the chairperson. 12683

The chairperson may appoint members of the council and other 12684
persons to committees and study groups as needed. 12685

The council shall submit an annual report to the general 12686
assembly, the governor, and the director of natural resources. The 12687
report shall include, without limitation, a description of the 12688
conditions of the Muskingum river area, a discussion of the 12689
council's activities, any recommendations for actions by the 12690
general assembly or any state agency that the council determines 12691
are needed, and estimates of the costs of those recommendations. 12692

The department of natural resources shall provide staff 12693
assistance to the council as needed. 12694

(B) The council may do any of the following: 12695

(1) Provide coordination among political subdivisions, state 12696
agencies, and federal agencies involved in dredging, debris 12697
removal or disposal, and recreational, commercial, tourism, and 12698
economic development; 12699

(2) Provide aid to civic groups and individuals who want to 12700
make improvements to the Muskingum river if the council determines 12701
that the improvements would be beneficial to the residents of the 12702
area and to the state; 12703

(3) Provide information and planning aid to state and local 12704
agencies responsible for historic, commercial, and recreational 12705
development of the Muskingum river area, including, without 12706
limitation, suggestions as to priorities for pending Muskingum 12707
river projects of the department of natural resources; 12708

(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.

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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.

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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 twenty-five per cent of the highest value cutting section. All bonds shall be given in a form prescribed by the chief and shall run to the state as obligee.

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The chief shall not approve any bond until it is personally signed and acknowledged by both principal and surety, or as to either by the attorney in fact thereof, with a certified copy of the power of attorney attached. The chief shall not approve the bond unless there is attached a certificate of the superintendent of insurance that the company is authorized to transact a fidelity and surety business in this state.

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In lieu of a bond, the bidder may deposit any of the following:

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(1) Cash in an amount equal to the amount of the bond;

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(2) United States government securities having a par value 12739
equal to or greater than the amount of the bond; 12740

(3) Negotiable certificates of deposit or irrevocable letters 12741
of credit issued by any bank organized or transacting business in 12742
this state having a par value equal to or greater than the amount 12743
of the bond. 12744

The cash or securities shall be deposited on the same terms 12745
as bonds. If one or more certificates of deposit are deposited in 12746
lieu of a bond, the chief shall require the bank that issued any 12747
of the certificates to pledge securities of the aggregate market 12748
value equal to the amount of the certificate or certificates that 12749
is in excess of the amount insured by the federal deposit 12750
insurance corporation. The securities to be pledged shall be those 12751
designated as eligible under section 135.18 of the Revised Code. 12752
The securities shall be security for the repayment of the 12753
certificate or certificates of deposit. 12754

Immediately upon a deposit of cash, securities, certificates 12755
of deposit, or letters of credit, the chief shall deliver them to 12756
the treasurer of state, who shall hold them in trust for the 12757
purposes for which they have been deposited. The treasurer of 12758
state is responsible for the safekeeping of the deposits. A bidder 12759
making a deposit of cash, securities, certificates of deposit, or 12760
letters of credit may withdraw and receive from the treasurer of 12761
state, on the written order of the chief, all or any portion of 12762
the cash, securities, certificates of deposit, or letters of 12763
credit upon depositing with the treasurer of state cash, other 12764
United States government securities, or other negotiable 12765
certificates of deposit or irrevocable letters of credit issued by 12766
any bank organized or transacting business in this state, equal in 12767
par value to the par value of the cash, securities, certificates 12768
of deposit, or letters of credit withdrawn. 12769

A bidder may demand and receive from the treasurer of state 12770
all interest or other income from any such securities or 12771
certificates as it becomes due. If securities so deposited with 12772
and in the possession of the treasurer of state mature or are 12773
called for payment by their issuer, the treasurer of state, at the 12774
request of the bidder who deposited them, shall convert the 12775
proceeds of the redemption or payment of the securities into other 12776
United States government securities, negotiable certificates of 12777
deposit, or cash as the bidder designates. 12778

When the chief finds that a person or governmental agency has 12779
failed to comply with the conditions of the person's or 12780
governmental agency's bond, the chief shall make a finding of that 12781
fact and declare the bond, cash, securities, certificates, or 12782
letters of credit forfeited. The chief thereupon shall certify the 12783
total forfeiture to the attorney general, who shall proceed to 12784
collect the amount of the bond, cash, securities, certificates, or 12785
letters of credit. 12786

In lieu of total forfeiture, the surety, at its option, may 12787
cause the timber sale to be completed or pay to the treasurer of 12788
state the cost thereof. 12789

All moneys collected as a result of forfeitures of bonds, 12790
cash, securities, certificates, and letters of credit under this 12791
section shall be credited to the state forest fund created in this 12792
section. 12793

(C) The chief may grant easements and leases on portions of 12794
the state forest lands and state forest nurseries under terms that 12795
are advantageous to the state, and the chief may grant mineral 12796
rights on a royalty basis on those lands and nurseries, with the 12797
approval of the attorney general and the director. 12798

(D) All moneys received from the sale of state forest lands, 12799
or in payment for easements or leases on or as rents from those 12800

lands or from state forest nurseries, shall be paid into the state 12801
treasury to the credit of the state forest fund, which is hereby 12802
created. All moneys received from the sale of standing timber 12803
taken from the state forest lands shall be deposited into the 12804
state treasury. Twenty-five per cent of the moneys so deposited 12805
shall be credited to the state forest fund. Seventy-five per cent 12806
of the moneys so deposited shall be credited to the general 12807
revenue fund. All moneys received from the sale of forest 12808
products, other than standing timber, and minerals taken from the 12809
state forest lands and state forest nurseries, together with 12810
royalties from mineral rights, shall be paid into the state 12811
treasury to the credit of the state forest fund. 12812

At the time of making such a ~~payment or~~ deposit into the 12813
state treasury to the credit of the general revenue fund, the 12814
chief shall determine the amount and ~~gross net~~ value of all such 12815
~~products standing timber~~ sold ~~or royalties received~~ from lands and 12816
nurseries in each county, in each township within the county, and 12817
in each school district within the county. Afterward the chief 12818
shall send to each county treasurer a copy of the determination 12819
and shall provide for payment to the county treasurer, for the use 12820
of the general fund of that county from the amount so received as 12821
provided in this division, an amount equal to ~~eighty~~ sixty-five 12822
per cent of the ~~gross net~~ value of the ~~products standing timber~~ 12823
sold ~~or royalties received~~ from lands and nurseries located in 12824
that county. The county auditor shall do all of the following: 12825

(1) Retain for the use of the general fund of the county 12826
one-fourth of the amount received by the county under division (D) 12827
of this section; 12828

(2) Pay into the general fund of any township located within 12829
the county and containing such lands and nurseries one-fourth of 12830
the amount received by the county from ~~products standing timber~~ 12831
sold ~~or royalties received~~ from lands and nurseries located in the 12832

township; 12833

(3) Request the board of education of any school district 12834
located within the county and containing such lands and nurseries 12835
to identify which fund or funds of the district should receive the 12836
moneys available to the school district under division (D)(3) of 12837
this section. After receiving notice from the board, the county 12838
auditor shall pay into the fund or funds so identified one-half of 12839
the amount received by the county from ~~products~~ standing timber 12840
~~sold or royalties received~~ from lands and nurseries located in the 12841
school district, distributed proportionately as identified by the 12842
board. 12843

The division of forestry shall not supply logs, lumber, or 12844
other forest products or minerals, taken from the state forest 12845
lands or state forest nurseries, to any other agency or 12846
subdivision of the state unless payment is made therefor in the 12847
amount of the actual prevailing value thereof. This section is 12848
applicable to the moneys so received. All moneys received from the 12849
sale of reforestation tree stock or other revenues derived from 12850
the operation of the state forests, facilities, or equipment shall 12851
be paid into the state forest fund. 12852

The fund shall not be expended for any purpose other than the 12853
administration, operation, maintenance, development, or 12854
utilization of the state forests, forest nurseries, and forest 12855
programs, for facilities or equipment incident to them, or for the 12856
further purchase of lands for state forest or forest nursery 12857
purposes. 12858

Sec. 1513.05. There is hereby created a reclamation 12859
commission consisting of seven members appointed by the governor 12860
with the advice and consent of the senate. For the purposes of 12861
hearing appeals under section 1513.13 of the Revised Code that 12862
involve mine safety issues, the reclamation commission shall 12863

consist of two additional members appointed specifically for that 12864
function by the governor with the advice and consent of the 12865
senate. All terms of office shall be for five years, commencing on 12866
the twenty-ninth day of June and ending on the twenty-eighth day 12867
of June. Each member shall hold office from the date of 12868
appointment until the end of the term for which the appointment 12869
was made. Each vacancy occurring on the commission shall be filled 12870
by appointment within sixty days after the vacancy occurs. Any 12871
member appointed to fill a vacancy occurring prior to the 12872
expiration of the term for which the member's predecessor was 12873
appointed shall hold office for the remainder of such term. Any 12874
member shall continue in office subsequent to the expiration date 12875
of the member's term until the member's successor takes office, or 12876
until a period of sixty days has elapsed, whichever occurs first. 12877

Two of the appointees to the commission shall be persons who, 12878
at the time of their appointment, own and operate a farm or are 12879
retired farmers. Notwithstanding section 1513.04 of the Revised 12880
Code, one of the appointees to the commission shall be a person 12881
who, at the time of appointment, is the representative of an 12882
operator of a coal mine. One of the appointees to the commission 12883
shall be a person who, by reason of the person's previous 12884
vocation, employment, or affiliations, can be classed as a 12885
representative of the public. One of the appointees to the 12886
commission shall be a person who, by reason of previous training 12887
and experience, can be classed as one learned and experienced in 12888
modern forestry practices. One of the appointees to the commission 12889
shall be a person who, by reason of previous training and 12890
experience, can be classed as one learned and experienced in 12891
agronomy. One of the appointees to the commission shall be either 12892
a person who, by reason of previous training and experience, can 12893
be classed as one capable and experienced in earth-grading 12894
problems, or a civil engineer. Beginning not later than five years 12895
after the effective date of this amendment, at least one of the 12896

seven appointees to the commission shall be an attorney at law who 12897
is admitted to practice in this state and is familiar with mining 12898
issues. Not more than four members shall be members of the same 12899
political party. 12900

The two additional members of the commission who are 12901
appointed specifically to hear appeals that involve mine safety 12902
issues shall be individuals who, because of previous vocation, 12903
employment, or affiliation, can be classified as representatives 12904
of employees currently engaged in mining operations. One shall be 12905
a representative of coal miners, and one shall be a representative 12906
of aggregates miners. Prior to making the appointment, the 12907
governor shall request the highest ranking officer in the major 12908
employee organization representing coal miners in this state to 12909
submit to the governor the names and qualifications of three 12910
nominees and shall request the highest ranking officer in the 12911
major employee organization representing aggregates miners in this 12912
state to do the same. The governor shall appoint one person 12913
nominated by each organization to the commission. The nominees 12914
shall have not less than five years of practical experience in 12915
dealing with mine health and safety issues and at the time of the 12916
nomination shall be employed in positions that involve the 12917
protection of the health and safety of miners. The major employee 12918
organization representing coal miners and the major employee 12919
organization representing aggregates miners shall represent a 12920
membership consisting of the largest number of coal miners and 12921
aggregates miners, respectively, in this state compared to other 12922
employee organizations in the year prior to the year in which the 12923
appointments are made. 12924

When the commission hears an appeal that involves a coal 12925
mining safety issue, one of the commission members who owns and 12926
operates a farm or is a retired farmer shall be replaced by the 12927
additional member who is a representative of coal miners. When the 12928

commission hears an appeal that involves an aggregates mining 12929
safety issue, one of the commission members who owns and operates 12930
a farm or is a retired farmer shall be replaced by the additional 12931
member who is a representative of aggregates miners. Neither of 12932
the additional members who are appointed specifically to hear 12933
appeals that involve mine safety issues shall be considered to be 12934
members of the commission for any other purpose, and they shall 12935
not participate in any other matters that come before the 12936
commission. 12937

The commission may appoint a secretary to hold office at its 12938
pleasure. A commission member may serve as secretary. The 12939
secretary shall perform such duties as the commission prescribes, 12940
and shall receive such compensation as the commission fixes in 12941
accordance with such schedules as are provided by law for the 12942
compensation of state employees. 12943

The commission shall appoint one or more hearing officers who 12944
shall be attorneys at law admitted to practice in this state to 12945
conduct hearings under this chapter. 12946

Four members constitute a quorum, and no action of the 12947
commission shall be valid unless it has the concurrence of at 12948
least four members. The commission shall keep a record of its 12949
proceedings. 12950

Each member shall be paid as compensation for work as a 12951
member one hundred fifty dollars per day when actually engaged in 12952
the performance of work as a member and when engaged in travel 12953
necessary in connection with such work. In addition to such 12954
compensation each member shall be reimbursed for all traveling, 12955
hotel, and other expenses, in accordance with the current travel 12956
rules of the office of budget and management, necessarily incurred 12957
in the performance of the member's work as a member. 12958

Annually one member shall be elected as chairperson and 12959

another member shall be elected as vice-chairperson for terms of 12960
one year. 12961

The governor may remove any member of the commission from 12962
office for inefficiency, neglect of duty, malfeasance, 12963
misfeasance, or nonfeasance, after delivering to the member the 12964
charges against the member in writing with at least ten days' 12965
written notice of the time and place at which the governor will 12966
publicly hear the member, either in person or by counsel, in 12967
defense of the charges against the member. If the member is 12968
removed from office, the governor shall file in the office of the 12969
secretary of state a complete statement of the charges made 12970
against the member and a complete report of the proceedings. The 12971
action of the governor removing a member from office is final. 12972

The commission shall adopt rules governing procedure of 12973
appeals under section 1513.13 of the Revised Code and may, for its 12974
own internal management, adopt rules that do not affect private 12975
rights. 12976

Sec. 1515.08. The supervisors of a soil and water 12977
conservation district have the following powers in addition to 12978
their other powers: 12979

(A) To conduct surveys, investigations, and research relating 12980
to the character of soil erosion, floodwater and sediment damages, 12981
and the preventive and control measures and works of improvement 12982
for flood prevention and the conservation, development, 12983
utilization, and disposal of water needed within the district, and 12984
to publish the results of those surveys, investigations, or 12985
research, provided that no district shall initiate any research 12986
program except in cooperation or after consultation with the Ohio 12987
agricultural research and development center; 12988

(B) To develop plans for the conservation of soil resources, 12989
for the control and prevention of soil erosion, and for works of 12990

improvement for flood prevention and the conservation, 12991
development, utilization, and disposal of water within the 12992
district, and to publish those plans and information; 12993

(C) To implement, construct, repair, maintain, and operate 12994
preventive and control measures and other works of improvement for 12995
natural resource conservation and development and flood 12996
prevention, and the conservation, development, utilization, and 12997
disposal of water within the district on lands owned or controlled 12998
by this state or any of its agencies and on any other lands within 12999
the district, which works may include any facilities authorized 13000
under state or federal programs, and to acquire, by purchase or 13001
gift, to hold, encumber, or dispose of, and to lease real and 13002
personal property or interests in such property for those 13003
purposes; 13004

(D) To cooperate or enter into agreements with any occupier 13005
of lands within the district in the carrying on of natural 13006
resource conservation operations and works of improvement for 13007
flood prevention and the conservation, development, utilization, 13008
and management of natural resources within the district, subject 13009
to such conditions as the supervisors consider necessary; 13010

(E) To accept donations, gifts, grants, and contributions in 13011
money, service, materials, or otherwise, and to use or expend them 13012
according to their terms; 13013

(F) To adopt, amend, and rescind rules to carry into effect 13014
the purposes and powers of the district; 13015

(G) To sue and plead in the name of the district, and be sued 13016
and impleaded in the name of the district, with respect to its 13017
contracts and, as indicated in section 1515.081 of the Revised 13018
Code, certain torts of its officers, employees, or agents acting 13019
within the scope of their employment or official responsibilities, 13020
or with respect to the enforcement of its obligations and 13021

covenants made under this chapter; 13022

(H) To make and enter into all contracts, leases, and 13023
agreements and execute all instruments necessary or incidental to 13024
the performance of the duties and the execution of the powers of 13025
the district under this chapter, provided that all of the 13026
following apply: 13027

(1) Except as provided in section 307.86 of the Revised Code 13028
regarding expenditures by boards of county commissioners, when the 13029
cost under any such contract, lease, or agreement, other than 13030
compensation for personal services or rental of office space, 13031
involves an expenditure of more than the amount established in 13032
that section regarding expenditures by boards of county 13033
commissioners, the supervisors shall make a written contract with 13034
the lowest and best bidder after advertisement, for not less than 13035
two nor more than four consecutive weeks preceding the day of the 13036
opening of bids, in a newspaper of general circulation within the 13037
district and in such other publications as the supervisors 13038
determine. The notice shall state the general character of the 13039
work and materials to be furnished, the place where plans and 13040
specifications may be examined, and the time and place of 13041
receiving bids. 13042

(2) Each bid for a contract shall contain the full name of 13043
every person interested in it. 13044

(3) Each bid for a contract for the construction, demolition, 13045
alteration, repair, or reconstruction of an improvement shall meet 13046
the requirements of section 153.54 of the Revised Code. 13047

(4) Each bid for a contract, other than a contract for the 13048
construction, demolition, alteration, repair, or reconstruction of 13049
an improvement, at the discretion of the supervisors, may be 13050
accompanied by a bond or certified check on a solvent bank in an 13051
amount not to exceed five per cent of the bid, conditioned that, 13052

if the bid is accepted, a contract shall be entered into.	13053
(5) The supervisors may reject any and all bids.	13054
(I) To make agreements with the department of natural resources giving it control over lands of the district for the purpose of construction of improvements by the department under section 1501.011 of the Revised Code;	13055 13056 13057 13058
(J) To charge, alter, and collect rentals and other charges for the use or services of any works of the district;	13059 13060
(K) To enter, either in person or by designated representatives, upon lands, private or public, in the necessary discharge of their duties;	13061 13062 13063
(L) To enter into agreements or contracts with the department for the determination, implementation, inspection, and funding of agricultural pollution abatement and urban sediment pollution abatement measures whereby landowners, operators, managers, and developers may meet adopted state standards for a quality environment, except that failure of a district board of supervisors to negotiate an agreement or contract with the department shall authorize the division of soil and water conservation to implement the required program;	13064 13065 13066 13067 13068 13069 13070 13071 13072
(M) To conduct demonstrations and provide information to the public regarding practices and methods for natural resource conservation, development, and utilization;	13073 13074 13075
(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;	13076 13077 13078 13079 13080
(O) Until June 1, 1996, to develop plans for the control of the multiflora rose within the district and to publish those plans	13081 13082

and information related to control of the multiflora rose; 13083

(P) Until June 1, 1996, to enter into contracts or agreements 13084
with the chief of the division of soil and water conservation to 13085
implement and administer a program for control of the multiflora 13086
rose and to receive and expend funds provided by the chief for 13087
that purpose; 13088

(Q) Until June 1, 1996, to enter into cost-sharing agreements 13089
with landowners for control of the multiflora rose. Before 13090
entering into any such agreement, the board of supervisors shall 13091
determine that the landowner's application meets the eligibility 13092
criteria established under division (E)(6) of section 1511.02 of 13093
the Revised Code. The cost-sharing agreements shall contain the 13094
contract provisions required by the rules adopted under that 13095
division and such other provisions as the board of supervisors 13096
considers appropriate to ensure effective control of the 13097
multiflora rose. 13098

(R) To enter into contracts or agreements with the chief to 13099
implement and administer a program for urban sediment pollution 13100
abatement and to receive and expend moneys provided by the chief 13101
for that purpose; 13102

(S) To develop operation and management plans, as defined in 13103
section 1511.01 of the Revised Code, as necessary; 13104

(T) To determine whether operation and management plans 13105
developed under division (A) of section 1511.021 of the Revised 13106
Code comply with the standards established under division (E)(1) 13107
of section 1511.02 of the Revised Code and to approve or 13108
disapprove the plans, based on such compliance. If an operation 13109
and management plan is disapproved, the board shall provide a 13110
written explanation to the person who submitted the plan. The 13111
person may appeal the plan disapproval to the chief, who shall 13112
afford the person a hearing. Following the hearing, the chief 13113

shall uphold the plan disapproval or reverse it. If the chief 13114
reverses the plan disapproval, the plan shall be deemed approved 13115
under this division. In the event that any person operating or 13116
owning agricultural land or a concentrated animal feeding 13117
operation in accordance with an approved operation and management 13118
plan who, in good faith, is following that plan, causes 13119
agricultural pollution, the plan shall be revised in a fashion 13120
necessary to mitigate the agricultural pollution, as determined 13121
and approved by the board of supervisors of the soil and water 13122
conservation district. 13123

(U) With regard to composting conducted in conjunction with 13124
agricultural operations, to do all of the following: 13125

(1) Upon request or upon their own initiative, inspect 13126
composting at any such operation to determine whether the 13127
composting is being conducted in accordance with section 1511.022 13128
of the Revised Code; 13129

(2) If the board determines that composting is not being so 13130
conducted, request the chief to issue an order under division (G) 13131
of section 1511.02 of the Revised Code requiring the person who is 13132
conducting the composting to prepare a composting plan in 13133
accordance with rules adopted under division (E)(10)(c) of that 13134
section and to operate in accordance with that plan or to operate 13135
in accordance with a previously prepared plan, as applicable; 13136

(3) In accordance with rules adopted under division 13137
(E)(10)(c) of section 1511.02 of the Revised Code, review and 13138
approve or disapprove any such composting plan. If a plan is 13139
disapproved, the board shall provide a written explanation to the 13140
person who submitted the plan. 13141

As used in division (U) of this section, "composting" has the 13142
same meaning as in section 1511.01 of the Revised Code. 13143

(V) With regard to conservation activities that are conducted 13144

in conjunction with agricultural operations, to assist the county auditor, upon request, in determining whether a conservation activity is a conservation practice for purposes of Chapter 929, or sections 5713.30 to 5713.37 and 5715.01 of the Revised Code.

As used in this division, "conservation practice" has the same meaning as in section 5713.30 of the Revised Code.

(W) To do all acts necessary or proper to carry out the powers granted in this chapter.

The director of natural resources shall make recommendations to reduce the adverse environmental effects of each project that a soil and water conservation district plans to undertake under division (A), (B), (C), or (D) of this section and that will be funded in whole or in part by moneys authorized under section 1515.16 of the Revised Code and shall disapprove any such project that the director finds will adversely affect the environment without equal or greater benefit to the public. The director's disapproval or recommendations, upon the request of the district filed in accordance with rules adopted by the Ohio soil and water conservation commission, shall be reviewed by the commission, which may confirm the director's decision, modify it, or add recommendations to or approve a project the director has disapproved.

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. 1519.05. (A) As used in this section, "local political subdivision" and "nonprofit organization" have the same meanings as in section 164.20 of the Revised Code.

(B) There is hereby created in the state treasury the clean

Ohio trail fund. Twelve and one-half per cent of the net proceeds 13175
of obligations issued and sold pursuant to sections 151.01 and 13176
151.09 of the Revised Code shall be deposited into the fund. 13177

Investment earnings of the fund shall be credited to the 13178
fund. ~~For two years after the effective date of this section,~~ 13179
~~investment earnings credited to the fund~~ and may be used to pay 13180
costs incurred by the director of natural resources in 13181
administering this section. 13182

Money in the clean Ohio trail fund shall not be used for the 13183
appropriation of land, rights, rights-of-way, franchises, 13184
easements, or other property through the exercise of the right of 13185
eminent domain. 13186

The director shall use moneys in the fund exclusively to 13187
provide matching grants to nonprofit organizations and to local 13188
political subdivisions for the purposes of purchasing land or 13189
interests in land for recreational trails and for the construction 13190
of such trails. A matching grant may provide up to seventy-five 13191
per cent of the cost of a recreational trail project, and the 13192
recipient of the matching grant shall provide not less than 13193
twenty-five per cent of that cost. 13194

(C) The director shall establish policies for the purposes of 13195
this section. The policies shall establish all of the following: 13196

(1) Procedures for providing matching grants to nonprofit 13197
organizations and local political subdivisions for the purposes of 13198
purchasing land or interests in land for recreational trails and 13199
for the construction of such trails, including, without 13200
limitation, procedures for both of the following: 13201

(a) Developing a grant application form and soliciting, 13202
accepting, and approving grant applications; 13203

(b) Participation by nonprofit organizations and local 13204
political subdivisions in the application process. 13205

(2) A requirement that an application for a matching grant	13206
for a recreational trail project include a copy of a resolution	13207
supporting the project from each county in which the proposed	13208
project is to be conducted and whichever of the following is	13209
applicable:	13210
(a) If the proposed project is to be conducted wholly within	13211
the geographical boundaries of one township, a copy of a	13212
resolution supporting the project from the township;	13213
(b) If the proposed project is to be conducted wholly within	13214
the geographical boundaries of one municipal corporation, a copy	13215
of a resolution supporting the project from the municipal	13216
corporation;	13217
(c) If the proposed project is to be conducted in more than	13218
one, but fewer than five townships or municipal corporations, a	13219
copy of a resolution supporting the project from at least one-half	13220
of the total number of townships and municipal corporations in	13221
which the proposed project is to be conducted;	13222
(d) If the proposed project is to be conducted in five or	13223
more municipal corporations, a copy of a resolution supporting the	13224
project from at least three-fifths of the total number of	13225
townships and municipal corporations in which the proposed project	13226
is to be conducted.	13227
(3) Eligibility criteria that must be satisfied by an	13228
applicant in order to receive a matching grant and that emphasize	13229
the following:	13230
(a) Synchronization with the statewide trail plan;	13231
(b) Complete regional systems and links to the statewide	13232
trail system;	13233
(c) A combination of funds from various state agencies;	13234
(d) The provision of links in urban areas that support	13235

commuter access and show economic impact on local communities;	13236
(e) The linkage of population centers with public outdoor recreation areas and facilities;	13237 13238
(f) The purchase of rail lines that are linked to the statewide trail plan;	13239 13240
(g) The preservation of natural corridors.	13241
(4) Items of value, such as in-kind contributions of land, easements or other interests in land, labor, or materials, that may be considered as contributing toward the percentage of the cost of a recreational trails project that must be provided by a matching grant recipient.	13242 13243 13244 13245 13246
Sec. 1521.06. (A) No dam may be constructed for the purpose of storing, conserving, or retarding water, or for any other purpose, nor shall any dike or levee be constructed for the purpose of diverting or retaining flood water, unless the person or governmental agency desiring the construction has a construction permit for the dam, dike, or levee issued by the chief of the division of water.	13247 13248 13249 13250 13251 13252 13253
A construction permit is not required under this section for:	13254
(1) A dam which <u>that</u> is or will be less than ten feet in height and which <u>that</u> has or will have a storage capacity of not more than fifty acre-feet at the elevation of the top of the dam, as determined by the chief. For the purposes of this section, the height of a dam shall be measured from the natural stream bed or lowest ground elevation at the downstream or outside limit of the dam to the elevation of the top of the dam.	13255 13256 13257 13258 13259 13260 13261
(2) A dam, regardless of height, which <u>that</u> has or will have a storage capacity of not more than fifteen acre-feet at the elevation of the top of the dam, as determined by the chief;	13262 13263 13264
(3) A dam, regardless of storage capacity, which <u>that</u> is or	13265

will be six feet or less in height, as determined by the chief;	13266
(4) A dam, dike, or levee which <u>that</u> belongs to a class exempted by the chief;	13267 13268
(5) The repair, maintenance, improvement, alteration, or removal of a dam, dike, or levee which <u>that</u> is subject to section 1521.062 of the Revised Code, unless the construction constitutes an enlargement of the structure as determined by the chief;	13269 13270 13271 13272
(6) A dam or impoundment constructed under Chapter 1513. of the Revised Code.	13273 13274
(B) Before a construction permit may be issued, three copies of the plans and specifications, including a detailed cost estimate, for the proposed construction, prepared by a registered professional engineer, together with the filing fee specified by this section and the bond or other security required by section 1521.061 of the Revised Code, shall be filed with the chief. The detailed estimate of the cost shall include all costs associated with the construction of the dam, dike, or levee, including supervision and inspection of the construction by a registered professional engineer. Except for a political subdivision, the <u>The</u> filing fee shall be based on the detailed cost estimate for the proposed construction as filed with and approved by the chief, and shall be determined by the following schedule <u>unless otherwise</u> <u>provided by rules adopted under this section:</u>	13275 13276 13277 13278 13279 13280 13281 13282 13283 13284 13285 13286 13287 13288
(1) For the first one hundred thousand dollars of estimated cost, a fee of two <u>four</u> per cent;	13289 13290
(2) For the next four hundred thousand dollars of estimated cost, a fee of one and one-half <u>three</u> per cent;	13291 13292
(3) For the next five hundred thousand dollars of estimated cost, a fee of one <u>two</u> per cent;	13293 13294
(4) For all costs in excess of one million dollars, a fee of	13295

~~one-quarter~~ one-half of one per cent. 13296

In no case shall the filing fee be less than ~~two hundred~~ one 13297

thousand dollars or more than ~~fifty~~ one hundred thousand dollars. 13298

If the actual cost exceeds the estimated cost by more than fifteen 13299

per cent, an additional filing fee shall be required equal to the 13300

fee determined by the preceding schedule less the original filing 13301

fee. ~~The filing fee for a political subdivision shall be two~~ 13302

~~hundred dollars.~~ All fees collected pursuant to this section, and 13303

all fines collected pursuant to section 1521.99 of the Revised 13304

Code, shall be deposited in the state treasury to the credit of 13305

the dam safety fund, which is hereby created. Expenditures from 13306

the fund shall be made by the chief for the purpose of 13307

administering this section and sections 1521.061 and 1521.062 of 13308

the Revised Code. 13309

(C) The chief shall, within thirty days from the date of the 13310

receipt of the application, fee, and bond or other security, issue 13311

or deny a construction permit for the construction or may issue a 13312

construction permit conditioned upon the making of such changes in 13313

the plans and specifications for the construction as ~~he~~ the chief 13314

considers advisable if ~~he~~ the chief determines that the 13315

construction of the proposed dam, dike, or levee, in accordance 13316

with the plans and specifications filed, would endanger life, 13317

health, or property. 13318

(D) The chief may deny a construction permit ~~if he finds~~ 13319

after finding that a dam, dike, or levee built in accordance with 13320

the plans and specifications would endanger life, health, or 13321

property, because of improper or inadequate design, or for such 13322

other reasons as the chief may determine. 13323

In the event the chief denies a permit for the construction 13324

of the dam, dike, or levee, or issues a permit conditioned upon a 13325

making of changes in the plans or specifications for the 13326

construction, ~~he~~ the chief shall state ~~his~~ the reasons therefor 13327

and so notify, in writing, the person or governmental agency 13328
making the application for a permit. If the permit is denied, the 13329
chief shall return the bond or other security to the person or 13330
governmental agency making application for the permit. 13331

The decision of the chief conditioning or denying a 13332
construction permit is subject to appeal as provided in Chapter 13333
119. of the Revised Code. A dam, dike, or levee built 13334
substantially at variance from the plans and specifications upon 13335
which a construction permit was issued is in violation of this 13336
section. The chief may at any time inspect any dam, dike, or 13337
levee, or site upon which any dam, dike, or levee is to be 13338
constructed, in order to determine whether it complies with this 13339
section. 13340

(E) A registered professional engineer shall inspect the 13341
construction for which the permit was issued during all phases of 13342
construction and shall furnish to the chief such regular reports 13343
of ~~his~~ the engineer's inspections as the chief may require. When 13344
the chief finds that construction has been fully completed in 13345
accordance with the terms of the permit and the plans and 13346
specifications approved by ~~him~~ the chief, ~~he~~ the chief shall 13347
approve the construction. When one year has elapsed after approval 13348
of the completed construction, and the chief finds that within 13349
this period no fact has become apparent to indicate that the 13350
construction was not performed in accordance with the terms of the 13351
permit and the plans and specifications approved by the chief, or 13352
that the construction as performed would endanger life, health, or 13353
property, ~~he~~ the chief shall release the bond or other security. 13354
No bond or other security shall be released until one year after 13355
final approval by the chief, unless the dam, dike, or levee has 13356
been modified so that it will not retain water and has been 13357
approved as nonhazardous after determination by the chief that the 13358
dam, dike, or levee as modified will not endanger life, health, or 13359

property. 13360

(F) When inspections required by this section are not being 13361
performed, the chief shall notify the person or governmental 13362
agency to which the permit has been issued that inspections are 13363
not being performed by the registered professional engineer and 13364
that the chief will inspect the remainder of the construction. 13365
Thereafter, the chief shall inspect the construction and the cost 13366
of inspection shall be charged against the owner. Failure of the 13367
registered professional engineer to submit required inspection 13368
reports shall be deemed notice that ~~his~~ the engineer's inspections 13369
are not being performed. 13370

(G) The chief may order construction to cease on any dam, 13371
dike, or levee ~~which~~ that is being built in violation of ~~the~~ 13372
~~provisions of~~ this section, and may prohibit the retention of 13373
water behind any dam, dike, or levee ~~which~~ that has been built in 13374
violation of ~~the provisions of~~ this section. The attorney general, 13375
upon written request of the chief, may bring an action for an 13376
injunction against any person who violates this section or to 13377
enforce an order or prohibition of the chief made pursuant to this 13378
section. 13379

(H) The chief may adopt rules in accordance with Chapter 119. 13380
of the Revised Code, for the design and construction of dams, 13381
dikes, and levees for which a construction permit is required by 13382
this section or for which periodic inspection is required by 13383
section 1521.062 of the Revised Code, for establishing a filing 13384
fee schedule in lieu of the schedule established under division 13385
(B) of this section, for deposit and forfeiture of bonds and other 13386
securities required by section 1521.061 of the Revised Code, for 13387
the periodic inspection, operation, repair, improvement, 13388
alteration, or removal of all dams, dikes, and levees, as 13389
specified in section 1521.062 of the Revised Code, and for 13390
establishing classes of dams, dikes, or levees ~~which~~ that are 13391

exempt from the requirements of sections 1521.06 and 1521.062 of 13392
the Revised Code as being of a size, purpose, or situation ~~which~~ 13393
that does not present a substantial hazard to life, health, or 13394
property. The chief may, by rule, limit the period during which a 13395
construction permit issued under this section is valid. If a 13396
construction permit expires before construction is completed, the 13397
person or agency shall apply for a new permit, and shall not 13398
continue construction until the new permit is issued. 13399

~~(I) As used in this section and section 1521.063 of the 13400
Revised Code, "political subdivision" includes townships, 13401
municipal corporations, counties, school districts, municipal 13402
universities, park districts, sanitary districts, and conservancy 13403
districts and subdivisions thereof. 13404~~

Sec. 1521.063. (A) Except for a ~~political subdivision~~ the 13405
federal government, the owner of any dam subject to section 13406
1521.062 of the Revised Code shall pay an annual fee, based upon 13407
the height of the dam, to the division of water on or before June 13408
30, 1988, and on or before the thirtieth day of June of each 13409
succeeding year. The annual fee shall be as follows until 13410
otherwise provided by rules adopted under this section: 13411

(1) For any dam classified as a class I dam under rules 13412
adopted by the chief of the division of water under section 13413
1521.06 of the Revised Code, thirty dollars plus ~~three~~ ten dollars 13414
per foot of height of dam; 13415

(2) For any dam classified as a class II dam under those 13416
rules, thirty dollars plus one dollar per foot of height of dam; 13417

(3) For any dam classified as a class III dam under those 13418
rules, thirty dollars. 13419

For purposes of this section, the height of a dam is the 13420
vertical height, to the nearest foot, as determined by the 13421

division under section 1521.062 of the Revised Code. All fees 13422
collected under this section shall be deposited in the dam safety 13423
fund created in section 1521.06 of the Revised Code. Any owner who 13424
fails to pay any annual fee required by this section within sixty 13425
days after the due date shall be assessed a penalty of ten per 13426
cent of the annual fee plus interest at the rate of one-half per 13427
cent per month from the due date until the date of payment. 13428

(B) The chief shall, in accordance with Chapter 119. of the 13429
Revised Code, adopt, and may amend or rescind, rules for the 13430
collection of fees and the administration, implementation, and 13431
enforcement of this section and for the establishment of an annual 13432
fee schedule in lieu of the schedule established under division 13433
(A) of this section. 13434

(C)(1) No person, political subdivision, or state 13435
governmental agency shall violate or fail to comply with this 13436
section or any rule or order adopted or issued under it. 13437

(2) The attorney general, upon written request of the chief, 13438
may commence an action against any such violator. Any action under 13439
division (C)(2) of this section is a civil action. 13440

(D) As used in this section, "political subdivision" includes 13441
townships, municipal corporations, counties, school districts, 13442
municipal universities, park districts, sanitary districts, and 13443
conservancy districts and subdivisions thereof. 13444

Sec. 1531.26. There is hereby created in the state treasury 13445
the nongame and endangered wildlife fund, which shall consist of 13446
moneys paid into it by the tax commissioner under section 5747.113 13447
of the Revised Code, moneys deposited in the fund from the 13448
issuance of wildlife conservation license plates under section 13449
4503.57 of the Revised Code, moneys deposited in the fund from the 13450
issuance of bald eagle license plates under section 4503.572 of 13451
the Revised Code, moneys credited to the fund under section 13452

1533.151 of the Revised Code, and ~~of~~ contributions made directly 13453
to it. Any person may contribute directly to the fund in addition 13454
to or independently of the income tax refund contribution system 13455
established in section 5747.113 of the Revised Code. Moneys in the 13456
fund shall be disbursed pursuant to vouchers approved by the 13457
director of natural resources for use by the division of wildlife 13458
solely for the purchase, management, preservation, propagation, 13459
protection, and stocking of wild animals that are not commonly 13460
taken for sport or commercial purposes, including the acquisition 13461
of title and easements to lands, biological investigations, law 13462
enforcement, production of educational materials, sociological 13463
surveys, habitat development, and personnel and equipment costs; 13464
and for carrying out section 1531.25 of the Revised Code. Moneys 13465
in the fund also may be used to promote and develop nonconsumptive 13466
wildlife recreational opportunities involving wild animals. Moneys 13467
in the fund from the issuance of bald eagle license plates under 13468
section 4503.572 of the Revised Code shall be expended by the 13469
division only to pay the costs of acquiring, developing, and 13470
restoring habitat for bald eagles within this state. Moneys in the 13471
fund from any other source also may be used to pay the costs of 13472
acquiring, developing, and restoring habitat for bald eagles 13473
within this state. 13474

All investment earnings of the fund shall be credited to the 13475
fund. Subject to the approval of the director, the chief of the 13476
division of wildlife may enter into agreements that the chief 13477
considers appropriate to obtain additional moneys for the 13478
protection of nongame native wildlife under the "Endangered 13479
Species Act of 1973," 87 Stat. 884, 16 U.S.C.A. 1541-1543, as 13480
amended, and the "Fish and Wildlife Conservation Act of 1980," 94 13481
Stat. 1322, 16 U.S.C.A. 2901-2911, as amended. Moneys appropriated 13482
from the fund are not intended to replace other moneys 13483
appropriated for these purposes. 13484

Sec. 1533.08. Except as otherwise provided by division rule, 13485
any person desiring to collect wild animals that are protected by 13486
law or their nests or eggs for scientific study, school 13487
instruction, other educational uses, or rehabilitation shall make 13488
application to the chief of the division of wildlife for a wild 13489
animal collecting permit on a form furnished by the chief. Each 13490
applicant for a wild animal collecting permit, other than an 13491
applicant desiring to rehabilitate wild animals, shall pay an 13492
annual fee of ~~ten~~ twenty-five dollars for each permit. No fee 13493
shall be charged to an applicant desiring to rehabilitate wild 13494
animals. When it appears that the application is made in good 13495
faith, the chief shall issue to the applicant a permit to take, 13496
possess, and transport at any time and in any manner specimens of 13497
wild animals protected by law or their nests and eggs for 13498
scientific study, school instruction, other educational uses, or 13499
rehabilitation and under any additional rules recommended by the 13500
wildlife council. Upon the receipt of a permit, the holder may 13501
take, possess, and transport those wild animals in accordance with 13502
the permit. 13503

Each holder of a permit engaged in collecting such wild 13504
animals shall carry the permit at all times and shall exhibit it 13505
upon demand to any wildlife officer, constable, sheriff, deputy 13506
sheriff, or police officer, to the owner or person in lawful 13507
control of the land upon which the permit holder is collecting, or 13508
to any other person. Failure to so carry or exhibit the permit 13509
constitutes an offense under this section. 13510

Each permit holder shall keep a daily record of all specimens 13511
collected under the permit and the disposition of the specimens 13512
and shall exhibit the daily record to any official of the division 13513
upon demand. 13514

Each permit shall remain in effect for one year from the date 13515

of issuance unless it is revoked sooner by the chief. 13516

All moneys received as fees for the issuance of a wild animal 13517
collecting permit shall be transmitted to the director of natural 13518
resources to be paid into the state treasury to the credit of the 13519
fund created by section 1533.15 of the Revised Code. 13520

Sec. 1533.10. Except as provided in this section or division 13521
(A) of section 1533.12 of the Revised Code, no person shall hunt 13522
any wild bird or wild quadruped without a hunting license. Each 13523
day that any person hunts within the state without procuring such 13524
a license constitutes a separate offense. Every applicant for a 13525
hunting license who is a resident of the state and sixteen years 13526
of age or more shall procure a resident hunting license, the fee 13527
for which shall be ~~fourteen~~ eighteen dollars, unless the rules 13528
adopted under division (B) of section 1533.12 of the Revised Code 13529
provide for issuance of a resident hunting license to the 13530
applicant free of charge. Every applicant who is a resident of the 13531
state and under the age of sixteen years shall procure a special 13532
youth hunting license, the fee for which shall be one-half of the 13533
regular hunting license fee. The owner of lands in the state and 13534
the owner's children of any age and grandchildren under eighteen 13535
years of age may hunt on the lands without a hunting license. The 13536
tenant ~~or manager~~ and children of the tenant ~~or manager~~, residing 13537
on lands in the state, may hunt on them without a hunting license. 13538
Every applicant for a hunting license who is a nonresident of the 13539
state shall procure a nonresident hunting license, the fee for 13540
which shall be ~~ninety~~ one hundred twenty-four dollars, unless the 13541
applicant is a resident of a state that is a party to an agreement 13542
under section 1533.91 of the Revised Code, in which case the fee 13543
shall be ~~fourteen~~ eighteen dollars. 13544

The chief of the division of wildlife may issue a ~~tourist's~~ 13545
small game hunting license expiring three days from the effective 13546

date of the license to a nonresident of the state, the fee for 13547
which shall be ~~twenty-four~~ thirty-nine dollars. No person shall 13548
take or possess deer, wild turkeys, fur-bearing animals, ducks, 13549
geese, brant, or any nongame animal while possessing only a 13550
~~tourist's~~ small game hunting license. A ~~tourist's~~ small game 13551
hunting license does not authorize the taking or possessing of 13552
ducks, geese, or brant without having obtained, in addition to the 13553
~~tourist's~~ small game hunting license, a wetlands habitat stamp as 13554
provided in section 1533.112 of the Revised Code. A ~~tourist's~~ 13555
small game hunting license does not authorize the taking or 13556
possessing of deer, wild turkeys, or fur-bearing animals. A 13557
nonresident of the state who wishes to take or possess deer, wild 13558
turkeys, or fur-bearing animals in this state shall procure, 13559
respectively, a special deer or wild turkey permit as provided in 13560
section 1533.11 of the Revised Code or a fur taker permit as 13561
provided in section 1533.111 of the Revised Code in addition to a 13562
nonresident hunting license as provided in this section. 13563

No person shall procure or attempt to procure a hunting 13564
license by fraud, deceit, misrepresentation, or any false 13565
statement. 13566

This section does not authorize the taking and possessing of 13567
deer or wild turkeys without first having obtained, in addition to 13568
the hunting license required by this section, a special deer or 13569
wild turkey permit as provided in section 1533.11 of the Revised 13570
Code or the taking and possessing of ducks, geese, or brant 13571
without first having obtained, in addition to the hunting license 13572
required by this section, a wetlands habitat stamp as provided in 13573
section 1533.112 of the Revised Code. 13574

This section does not authorize the hunting or trapping of 13575
fur-bearing animals without first having obtained, in addition to 13576
a hunting license required by this section, a fur taker permit as 13577
provided in section 1533.111 of the Revised Code. 13578

No hunting license shall be issued unless it is accompanied 13579
by a written explanation of the law in section 1533.17 of the 13580
Revised Code and the penalty for its violation, including a 13581
description of terms of imprisonment and fines that may be 13582
imposed. 13583

No hunting license shall be issued unless the applicant 13584
presents to the agent authorized to issue the license a previously 13585
held hunting license or evidence of having held such a license in 13586
content and manner approved by the chief, a certificate of 13587
completion issued upon completion of a hunter education and 13588
conservation course approved by the chief, or evidence of 13589
equivalent training in content and manner approved by the chief. 13590

No person shall issue a hunting license to any person who 13591
fails to present the evidence required by this section. No person 13592
shall purchase or obtain a hunting license without presenting to 13593
the issuing agent the evidence required by this section. Issuance 13594
of a hunting license in violation of the requirements of this 13595
section is an offense by both the purchaser of the illegally 13596
obtained hunting license and the clerk or agent who issued the 13597
hunting license. Any hunting license issued in violation of this 13598
section is void. 13599

The chief, with approval of the wildlife council, shall adopt 13600
rules prescribing a hunter education and conservation course for 13601
first-time hunting license buyers and for volunteer instructors. 13602
The course shall consist of subjects including, but not limited 13603
to, hunter safety and health, use of hunting implements, hunting 13604
tradition and ethics, the hunter and conservation, the law in 13605
section 1533.17 of the Revised Code along with the penalty for its 13606
violation, including a description of terms of imprisonment and 13607
fines that may be imposed, and other law relating to hunting. 13608
Authorized personnel of the division or volunteer instructors 13609
approved by the chief shall conduct such courses with such 13610

frequency and at such locations throughout the state as to 13611
reasonably meet the needs of license applicants. The chief shall 13612
issue a certificate of completion to each person who successfully 13613
completes the course and passes an examination prescribed by the 13614
chief. 13615

Sec. 1533.101. Any person who has been issued a hunting or 13616
fishing license, a wetlands habitat stamp, a deer or wild turkey 13617
permit, or a fur taker permit for the current license, stamp, or 13618
permit year or for the license, stamp, or permit year next 13619
preceding the current such year pursuant to this chapter, and if 13620
the license, stamp, or permit has been lost, destroyed, or stolen, 13621
may be issued a reissued hunting or fishing license, wetlands 13622
habitat stamp, deer or wild turkey permit, or fur taker permit. 13623
The person shall file with the clerk of the court of common pleas 13624
an application in affidavit form or, if the chief of the division 13625
of wildlife authorizes it, apply for a reissued license, stamp, or 13626
permit to an authorized agent designated by the chief, and pay a 13627
fee for each license, stamp, or permit of ~~two~~ four dollars plus 13628
one dollar to the clerk or agent, who shall issue a reissued 13629
license, stamp, or permit that shall allow the applicant to hunt, 13630
fish, or trap, as the case may be. The clerk or agent shall 13631
administer the oath to the applicant and shall send a copy of the 13632
reissued license, stamp, or permit to the division of wildlife. 13633

All moneys received as fees for the issuance of reissued 13634
licenses, stamps, or permits shall be transmitted to the director 13635
of natural resources to be paid into the state treasury to the 13636
credit of the funds to which the fees for the original licenses, 13637
stamps, and permits were credited. 13638

No person shall knowingly or willfully secure, attempt to 13639
secure, or use a reissued hunting or fishing license, wetlands 13640
habitat stamp, deer or wild turkey permit, or fur taker permit to 13641

which the person is not entitled. No person shall knowingly or 13642
willfully issue a reissued hunting or fishing license, wetlands 13643
habitat stamp, deer or wild turkey permit, or fur taker permit 13644
under this section to any person who is not entitled to receive 13645
and use such a reissued license, stamp, or permit. 13646

Sec. 1533.11. (A) Except as provided in this section, no 13647
person shall hunt deer on lands of another without first obtaining 13648
an annual special deer permit. Except as provided in this section, 13649
no person shall hunt wild turkeys on lands of another without 13650
first obtaining an annual special wild turkey permit. Each 13651
applicant for a special deer or wild turkey permit shall pay an 13652
annual fee of ~~nineteen~~ twenty-three dollars for each permit, 13653
together with the one-dollar ~~as a~~ fee to the clerk or other 13654
issuing agent established in section 1533.13 of the Revised Code, 13655
for the permit unless the rules adopted under division (B) of 13656
section 1533.12 of the Revised Code provide for issuance of a deer 13657
or wild turkey permit to the applicant free of charge. Except as 13658
provided in division (A) of section 1533.12 of the Revised Code, a 13659
deer or wild turkey permit shall run concurrently with the hunting 13660
license. The money received, other than the ~~one-dollar~~ issuing 13661
agent's fee ~~provided for above~~, shall be paid into the state 13662
treasury to the credit of the wildlife fund, created in section 13663
1531.17 of the Revised Code, exclusively for the use of the 13664
division of wildlife in the acquisition and development of land 13665
for deer or wild turkey management, for investigating deer or wild 13666
turkey problems, and for the stocking, management, and protection 13667
of deer or wild turkey. Every person, while hunting deer or wild 13668
turkey on lands of another, shall carry the person's special deer 13669
or wild turkey permit and exhibit it to any enforcement officer so 13670
requesting. Failure to so carry and exhibit such a permit 13671
constitutes an offense under this section. The chief of the 13672
division of wildlife shall adopt any additional rules the chief 13673

considers necessary to carry out this section and section 1533.10 13674
of the Revised Code. 13675

The owner and the children of the owner of lands in this 13676
state may hunt deer or wild turkey thereon without a special deer 13677
or wild turkey permit. The tenant ~~or manager~~ and children of the 13678
tenant ~~or manager~~ may hunt deer or wild turkey on lands where they 13679
reside without a special deer or wild turkey permit. 13680

(B) A special deer or wild turkey permit is not transferable. 13681
No person shall carry a special deer or wild turkey permit issued 13682
in the name of another person. 13683

(C) The wildlife refunds fund is hereby created in the state 13684
treasury. The fund shall consist of money received from 13685
application fees for special deer permits that are not issued. 13686
Money in the fund shall be used to make refunds of such 13687
application fees. 13688

Sec. 1533.111. Except as provided in this section or division 13689
(A) of section 1533.12 of the Revised Code, no person shall hunt 13690
or trap fur-bearing animals on land of another without first 13691
obtaining an annual fur taker permit. Each applicant for a fur 13692
taker permit shall pay an annual fee of ~~ten~~ fourteen dollars, 13693
together with one dollar as a fee to the clerk or other issuing 13694
agent, for the permit, except as otherwise provided in this 13695
section or unless the rules adopted under division (B) of section 13696
1533.12 of the Revised Code provide for issuance of a fur taker 13697
permit to the applicant free of charge. Each applicant who is a 13698
resident of the state and under the age of sixteen years shall 13699
procure a special youth fur taker permit, the fee for which shall 13700
be one-half of the regular fur taker permit fee and which shall be 13701
paid together with the one-dollar ~~as a~~ fee to the clerk or other 13702
issuing agent established in section 1533.13 of the Revised Code. 13703
The fur taker permit shall run concurrently with the hunting 13704

license. The money received, other than the ~~one-dollar~~ issuing 13705
agent's fee ~~provided for in this section~~, shall be paid into the 13706
state treasury to the credit of the fund established in section 13707
1533.15 of the Revised Code. 13708

No fur taker permit shall be issued unless it is accompanied 13709
by a written explanation of the law in section 1533.17 of the 13710
Revised Code and the penalty for its violation, including a 13711
description of terms of imprisonment and fines that may be 13712
imposed. 13713

No fur taker permit shall be issued unless the applicant 13714
presents to the agent authorized to issue a fur taker permit a 13715
previously held hunting license or trapping or fur taker permit or 13716
evidence of having held such a license or permit in content and 13717
manner approved by the chief of the division of wildlife, a 13718
certificate of completion issued upon completion of a trapper 13719
education course approved by the chief, or evidence of equivalent 13720
training in content and manner approved by the chief. 13721

No person shall issue a fur taker permit to any person who 13722
fails to present the evidence required by this section. No person 13723
shall purchase or obtain a fur taker permit without presenting to 13724
the issuing agent the evidence required by this section. Issuance 13725
of a fur taker permit in violation of the requirements of this 13726
section is an offense by both the purchaser of the illegally 13727
obtained permit and the clerk or agent who issued the permit. Any 13728
fur taker permit issued in violation of this section is void. 13729

The chief, with approval of the wildlife council, shall adopt 13730
rules prescribing a trapper education course for first-time fur 13731
taker permit buyers and for volunteer instructors. The course 13732
shall consist of subjects that include, but are not limited to, 13733
trapping techniques, animal habits and identification, trapping 13734
tradition and ethics, the trapper and conservation, the law in 13735
section 1533.17 of the Revised Code along with the penalty for its 13736

violation, including a description of terms of imprisonment and 13737
fines that may be imposed, and other law relating to trapping. 13738
Authorized personnel of the division of wildlife or volunteer 13739
instructors approved by the chief shall conduct the courses with 13740
such frequency and at such locations throughout the state as to 13741
reasonably meet the needs of permit applicants. The chief shall 13742
issue a certificate of completion to each person who successfully 13743
completes the course and passes an examination prescribed by the 13744
chief. 13745

Every person, while hunting or trapping fur-bearing animals 13746
on lands of another, shall carry the person's fur taker permit 13747
affixed to the person's hunting license with the person's 13748
signature written across the face of the permit. Failure to carry 13749
such a signed permit constitutes an offense under this section. 13750
The chief shall adopt any additional rules the chief considers 13751
necessary to carry out this section. 13752

The owner and the children of the owner of lands in this 13753
state may hunt or trap fur-bearing animals thereon without a fur 13754
taker permit. The tenant ~~or manager~~ and children of the tenant ~~or~~ 13755
~~manager~~ may hunt or trap fur-bearing animals on lands where they 13756
reside without a fur taker permit. 13757

A fur taker permit is not transferable. No person shall carry 13758
a fur taker permit issued in the name of another person. 13759

A fur taker permit entitles a nonresident to take from this 13760
state fur-bearing animals taken and possessed by the nonresident 13761
as provided by law or division rule. 13762

Sec. 1533.112. Except as provided in this section or unless 13763
otherwise provided by division rule, no person shall hunt ducks, 13764
geese, or brant on the lands of another without first obtaining an 13765
annual wetlands habitat stamp. The annual fee for the wetlands 13766
habitat stamp shall be ~~ten~~ fourteen dollars for each stamp, 13767

together with the one-dollar ~~as a~~ fee to the clerk or other 13768
issuing agent established in section 1533.13 of the Revised Code, 13769
unless the rules adopted under division (B) of section 1533.12 13770
provide for issuance of a wetlands habitat stamp to the applicant 13771
free of charge. 13772

Moneys received from the stamp fee, other than the ~~one-~~ 13773
~~dollar clerk's~~ issuing agent's fee, shall be paid into the state 13774
treasury to the credit of the wetlands habitat fund, which is 13775
hereby established. Moneys shall be paid from the fund on the 13776
order of the director of natural resources for the following 13777
purposes: 13778

(A) Sixty per cent for projects that the division approves 13779
for the acquisition, development, management, or preservation of 13780
waterfowl areas within the state; 13781

(B) Forty per cent for contribution by the division to an 13782
appropriate nonprofit organization for the acquisition, 13783
development, management, or preservation of lands and waters 13784
within the United States or Canada that provide or will provide 13785
habitat for waterfowl with migration routes that cross this state. 13786

No moneys derived from the issuance of wetlands habitat 13787
stamps shall be spent for purposes other than those specified by 13788
this section. All investment earnings of the fund shall be 13789
credited to the fund. 13790

Wetlands habitat stamps shall be furnished by and in a form 13791
prescribed by the chief of the division of wildlife and issued by 13792
clerks and other agents authorized to issue licenses and permits 13793
under section 1533.13 of the Revised Code. The record of stamps 13794
kept by the clerks and other agents shall be uniform throughout 13795
the state, in such form or manner as the director prescribes, and 13796
open at all reasonable hours to the inspection of any person. 13797
Unless otherwise provided by rule, each stamp shall remain in 13798

force until midnight of the thirty-first day of August next 13799
ensuing. Wetlands habitat stamps may be issued in any manner to 13800
any person on any date, whether or not that date is within the 13801
period in which they are effective. 13802

Every person to whom this section applies, while hunting 13803
ducks, geese, or brant, shall carry an unexpired wetlands habitat 13804
stamp that is validated by the person's signature written on the 13805
stamp in ink and shall exhibit the stamp to any enforcement 13806
officer so requesting. No person shall fail to carry and exhibit 13807
the person's stamp. 13808

A wetlands habitat stamp is not transferable. 13809

The chief shall establish a procedure to obtain subject 13810
matter to be printed on the wetlands habitat stamp and shall use, 13811
dispose of, or distribute the subject matter as the chief 13812
considers necessary. The chief also shall adopt rules necessary to 13813
administer this section. 13814

This section does not apply to persons under sixteen years of 13815
age nor to persons exempted from procuring a hunting license under 13816
section 1533.10 or division (A) of section 1533.12 of the Revised 13817
Code. 13818

Sec. 1533.13. Hunting and fishing licenses, wetlands habitat 13819
stamps, deer and wild turkey permits, and fur taker permits shall 13820
be issued by the clerk of the court of common pleas, village and 13821
township clerks, and other authorized agents designated by the 13822
chief of the division of wildlife. When required by the chief, a 13823
clerk or agent shall give bond in the manner provided by the 13824
chief. All bonds, reports, except records prescribed by the 13825
auditor of state, and moneys received by those persons shall be 13826
handled under rules adopted by the director of natural resources. 13827

The premium of any bond prescribed by the chief under this 13828

section may be paid by the chief. Any person who is designated and 13829
authorized by the chief to issue licenses, stamps, and permits as 13830
provided in this section, except the clerk of the court of common 13831
pleas and the village and township clerks, shall pay to the chief 13832
a premium in an amount that represents the person's portion of the 13833
premium paid by the chief under this section, which amount shall 13834
be established by the chief and approved by the wildlife council 13835
created under section 1531.03 of the Revised Code. The chief shall 13836
pay all moneys that the chief receives as premiums under this 13837
section into the state treasury to the credit of the wildlife fund 13838
created under section 1531.17 of the Revised Code. 13839

Every authorized agent, for the purpose of issuing hunting 13840
and fishing licenses, deer and wild turkey permits, and fur taker 13841
permits, may administer oaths to and take affidavits from 13842
applicants for the licenses or permits when required. An 13843
authorized agent may appoint deputies to perform any acts that the 13844
agent is authorized to perform, consistent with division rules. 13845

Every applicant for a hunting or fishing license, deer or 13846
wild turkey permit, or fur taker permit, unless otherwise provided 13847
by division rule, shall make and subscribe an affidavit setting 13848
forth the applicant's name, age, weight, height, occupation, place 13849
of residence, personal description, and citizenship. The clerk or 13850
other agent authorized to issue licenses, stamps, and permits 13851
shall charge each applicant a fee of one dollar for taking the 13852
affidavit and issuing the license, stamp, or permit unless a 13853
different fee for the issuance of a fishing license is established 13854
in division rule as authorized by section 1533.32 of the Revised 13855
Code. The application, license, permit, and other blanks required 13856
by this section shall be prepared and furnished by the chief, in 13857
such form as the chief provides, to the clerk or other agent 13858
authorized to issue them. The licenses and permits shall be issued 13859
to applicants by the clerk or other agent. The record of licenses 13860

and permits kept by the clerk and other authorized agents shall be 13861
uniform throughout the state and in such form or manner as the 13862
auditor of state prescribes and shall be open at all reasonable 13863
hours to the inspection of any person. Unless otherwise provided 13864
by division rule, each hunting license, deer or wild turkey 13865
permit, and fur taker permit issued shall remain in force until 13866
midnight of the thirty-first day of August next ensuing. 13867
Application for any such license or permit may be made and a 13868
license or permit issued prior to the date upon which it becomes 13869
effective. 13870

The chief may require an applicant who wishes to purchase a 13871
license, stamp, or permit by mail or telephone to pay a nominal 13872
fee for postage and handling. 13873

The court before whom a violator of any laws or division 13874
rules for the protection of wild animals is tried, as a part of 13875
the punishment, shall revoke the license, stamp, or permit of any 13876
person convicted. The license, stamp, or permit fee paid by that 13877
person shall not be returned to the person. The person shall not 13878
procure or use any other license, stamp, or permit or engage in 13879
hunting wild animals or trapping fur-bearing animals during the 13880
period of revocation as ordered by the court. 13881

No person under sixteen years of age shall engage in hunting 13882
unless accompanied by the person's parent or another adult person. 13883

Sec. 1533.151. The chief of the division of wildlife, with 13884
the approval of the director of natural resources, ~~is hereby~~ 13885
~~authorized to~~ may print and issue stamps portraying wild animals 13886
of the state. This stamp shall be identified as a wildlife 13887
conservation stamp ~~and the~~. The fee for each stamp shall be ~~five~~ 13888
~~dollars~~ not more than the fee for a wetlands habitat stamp issued 13889
under section 1533.112 of the Revised Code together with the 13890
one-dollar fee to the issuing agent established in section 1533.13 13891

of the Revised Code unless otherwise provided by division rule. 13892

The purchase of wildlife conservation stamps shall provide no 13893
privileges to the purchaser, but merely recognizes ~~such~~ the person 13894
as voluntarily contributing to the management, protection, and the 13895
perpetuation of the wildlife resources of the state. All moneys 13896
received from the sale of wildlife conservation stamps shall be 13897
paid into the state treasury to the credit of the nongame and 13898
endangered wildlife fund to be used exclusively by the division of 13899
wildlife for the purposes outlined in section ~~1533.15~~ 1531.26 of 13900
the Revised Code ~~and for the management of all forms of wildlife~~ 13901
~~for its ecological and non-consumptive recreational value.~~ 13902

Sec. 1533.19. Except as otherwise provided by division rule, 13903
recognized field trial clubs may shoot domestically raised quails, 13904
chukar partridges, ducks, pheasants, or other game birds and 13905
common pigeons at any time during the daylight hours from the 13906
first day of September to the thirtieth day of April of the 13907
following year, both dates inclusive. Such domestically raised 13908
quails, chukar partridges, ducks, pheasants, and other game birds 13909
shall be banded prior to release and approved by the division of 13910
wildlife for field trial use, provided that permission for the 13911
holding of such a trial shall be obtained from the division. 13912
Permission shall be requested in writing at least thirty days in 13913
advance of the trial. The request shall contain the name of the 13914
recognized field trial club and the names of its officers, the 13915
date and location of the trial, and the name of the licensed 13916
breeders from whom the quails, chukar partridges, ducks, 13917
pheasants, or other game birds will be obtained. The division may 13918
grant a written permit when it is satisfied that the trial is a 13919
bona fide one conducted by a bona fide club under this section. 13920
When an application is approved, a permit shall be issued after 13921
the payment of a fee of ~~twenty-five~~ fifty dollars for each day 13922
upon which the trials are conducted. Participants in such trials 13923

need not possess a hunter's license while participating in the 13924
trials. The division shall supervise all such trials and shall 13925
enforce all laws and division rules governing them. If unbanded 13926
quails, chukar partridges, ducks, pheasants, or other game birds 13927
are accidentally shot during such trials, they immediately shall 13928
be replaced by the club by the releasing of an equal number of 13929
live quails, chukar partridges, ducks, pheasants, or other game 13930
birds under the supervision of the division. 13931

Sec. 1533.23. No person shall deal in or buy green or dried 13932
furs, skins, or parts thereof, taken from fur-bearing animals of 13933
the state, except domesticated rabbits, without a fur dealer's 13934
permit. Every applicant for a fur dealer's permit shall make and 13935
subscribe a statement setting forth ~~his~~ the applicant's name, 13936
place of residence, and whom ~~he~~ the applicant represents. Every 13937
applicant for a dealer's permit who is a nonresident of the state, 13938
or who is a resident of the state and is an agent or 13939
representative of a nonresident person, firm, or corporation, 13940
shall pay an annual fee of two hundred dollars to the chief of the 13941
division of wildlife issuing such permit, and every applicant for 13942
a dealer's permit who is a resident of the state shall pay an 13943
annual fee of ~~fifty~~ seventy-five dollars to the chief ~~of the~~ 13944
~~division of wildlife~~ issuing such permit, ~~and every.~~ Every fur 13945
dealer shall operate under such additional ~~regulations~~ rules as 13946
are provided by the chief ~~of the division of wildlife~~. The chief 13947
shall pay ~~such~~ the fees into the state treasury to the credit of 13948
the fund created by section 1533.15 of the Revised Code for the 13949
use of the division of wildlife in the purchase, preservation, 13950
protection, and stocking of fur-bearing animals and for the 13951
necessary clerical help and forms required by this section and 13952
section 1533.24 of the Revised Code. 13953

All permits shall be procured from the chief and the 13954
application, license, and other blanks required by this section 13955

and section 1533.24 of the Revised Code shall be in such form as 13956
the chief prescribes. Each such permit shall expire on the 13957
thirtieth day of April next after its issuance. 13958

Sec. 1533.301. Any person may apply for a permit to transport 13959
fish that are for sale, sold, or purchased. The chief of the 13960
division of wildlife shall issue an annual permit granting the 13961
applicant the privilege to transport such fish, upon filing of an 13962
application on a form prescribed by the chief and payment of a fee 13963
of ~~fifty~~ sixty-five dollars. No person shall transport any fish or 13964
part thereof that is for sale, sold, or purchased, whether 13965
acquired in or outside this state, unless the consignor has a 13966
permit ~~issued to him~~ for the calendar year in which the fish is 13967
transported, except that no such permit is required for any of the 13968
following: 13969

(A) Fish transported from a point outside this state to 13970
another point outside this state if the fish are not unloaded in 13971
this state. A fish is not to be considered unloaded for purposes 13972
of this section if it remains under the control of a common 13973
carrier. 13974

(B) Fish being transported by a person holding a valid 13975
license under section 1533.34 of the Revised Code from the place 13976
of taking to ~~his~~ the person's usual place of processing or 13977
temporary storage as designated by ~~him~~ the person in the 13978
application for the license under that section; 13979

(C) Fish being transported from a premises designated in a 13980
valid permit issued under section 1533.631 of the Revised Code to 13981
a premises where fish are to be sold at retail, sold for immediate 13982
consumption, or consumed if inspection of the designated premises 13983
as required by that section has not been denied during the 13984
preceding thirty days; 13985

(D) Any quantity of fish the total weight of which does not 13986

exceed five hundred pounds in one vehicle; 13987

(E) Minnows for which a permit is required under section 13988
1533.40 of the Revised Code. 13989

If a fish for which a permit is required under this section 13990
is transported in this state from a consignor who does not have a 13991
valid permit at the time of transportation, or if such a fish is 13992
transported in this state from a consignor who has a valid permit 13993
at the time of transportation, but the fish is part of the 13994
contents of a box, package, or receptacle that was or could be the 13995
basis for conviction of a violation of this chapter or a division 13996
rule, the fish may be seized by any law enforcement officer 13997
authorized by section 1531.13 of the Revised Code to enforce laws 13998
and division rules, and the fish shall escheat to the state unless 13999
a court of this state makes a specific finding that the consignor 14000
at the time of seizure had a valid permit under this section 14001
~~1533.301 of the Revised Code~~ and that the fish are lawful under 14002
the requirements of this chapter or a division rule relating 14003
thereto. 14004

A fish for which a permit is required under this section may 14005
be transported only if each box, package, or other receptacle 14006
bears a label showing the total weight in pounds, the species of 14007
the fish, the name of the consignor and consignee, the initial 14008
point of billing, the destination, and a statement that each 14009
species of fish by weight in the box, package, or other receptacle 14010
that are undersized under ~~the provisions of~~ section 1533.63 of the 14011
Revised Code or division rule is ten per cent or less or is in 14012
excess of ten per cent, whichever the fact may be. If fish are not 14013
boxed or packaged, each compartment of a tank or other receptacle 14014
shall be considered a separate receptacle, but in lieu of a label 14015
on the compartment or tank a written statement containing the same 14016
information required to be contained on a label, and clearly 14017
identifying the tank or receptacle concerned, may be carried in 14018

the vehicle. Species may be designated in any manner, but the 14019
label also shall bear either the common name indicated in section 14020
1533.63 of the Revised Code or the scientific name contained in 14021
section 1531.01 of the Revised Code. The consignor shall ascertain 14022
that labels are attached or statements carried as required herein 14023
and that the facts stated thereon are true. 14024

The permit required by this section may be suspended by the 14025
chief for a period not to exceed five days upon conviction of the 14026
permittee of a violation of this chapter or Chapter 1531. of the 14027
Revised Code or a division rule if the permittee has been 14028
convicted of another such violation during the preceding 14029
twelve-month period. If the permittee has had two or more such 14030
convictions during the twelve-month period preceding such a 14031
conviction, ~~his~~ the permittee's permit may be suspended as 14032
provided herein for a period not to exceed twenty days. A permit 14033
is invalid during the period of suspension, but in no case is a 14034
permit invalid until fifteen days after mailing by certified mail 14035
a notice of the rule of suspension by the chief. 14036

The chief may not suspend more than one permit of the same 14037
permittee, or suspend a permit of the same permittee more than 14038
once, for convictions resulting from violations that occur in a 14039
load in one vehicle. 14040

A driver or other person in charge of a vehicle transporting 14041
fish that are for sale, sold, or purchased, upon demand by any law 14042
enforcement officer authorized by section 1531.13 of the Revised 14043
Code to enforce laws and division rules, shall stop and open the 14044
vehicle and allow inspection of the load, and any box, package, or 14045
receptacle, and the contents thereof, for the purpose of 14046
determining whether this chapter or a division rule is being 14047
violated. 14048

The word "fish" in the English language, at least eight 14049
inches high and maintained in a clear, conspicuous, and legible 14050

condition at all times, shall appear on both sides of the vehicle 14051
body of all vehicles transporting fresh water fish in this state 14052
when the fish are for sale or sold, except those fish exempt from 14053
a transportation permit in divisions (A), (B), and (E) of this 14054
section. 14055

The chief may refuse to issue a permit to any person whose 14056
purpose in applying for the permit is to allow it to be used by 14057
another person to whom a permit has been refused or revoked. The 14058
chief also may revoke a person's permit when it is used for that 14059
purpose. 14060

No civil action may be brought in any court in the state for 14061
the value or agreed price of fish that have escheated to the state 14062
under this section. 14063

No person shall fail to comply with any provision of this 14064
section or a division rule adopted pursuant thereto. 14065

In addition to other penalties provided in the Revised Code, 14066
the permit of any person who is convicted of two violations of 14067
this section that occurred within a twelve-month period is 14068
suspended upon the second such conviction by operation of law for 14069
a period of five fishing season days immediately following that 14070
conviction. 14071

In addition to other penalties provided in the Revised Code, 14072
the permit of any person who is convicted of three or more 14073
violations of this section that occurred within a twelve-month 14074
period is suspended upon the third or subsequent conviction by 14075
operation of law for a period of twenty fishing season days 14076
immediately following that conviction. 14077

During any period of suspension, no person shall use or 14078
engage in hauling or transporting fish with equipment owned, used, 14079
or controlled at the time of conviction by the permittee whose 14080
permit has been suspended. 14081

Sec. 1533.32. Except as provided in this section or division 14082
(A) or (C) of section 1533.12 of the Revised Code, no person, 14083
including nonresidents, shall take or catch any fish by angling in 14084
any of the waters in the state or engage in fishing in those 14085
waters without a license. No person shall take or catch frogs or 14086
turtles without a valid fishing license, except as provided in 14087
this section. Persons fishing in privately owned ponds, lakes, or 14088
reservoirs to or from which fish are not accustomed to migrate are 14089
exempt from the license requirements set forth in this section. 14090
Persons fishing in privately owned ponds, lakes, or reservoirs 14091
that are open to public fishing through an agreement or lease with 14092
the division of wildlife shall comply with the license 14093
requirements set forth in this section. 14094

The fee for an annual license shall be ~~twenty-three~~ 14095
thirty-nine dollars, unless otherwise provided by division rule, 14096
for a resident of a state that is not a party to an agreement 14097
under section 1533.91 of the Revised Code. The fee for an annual 14098
license shall be ~~fourteen~~ eighteen dollars, unless otherwise 14099
provided by division rule, for a resident of a state that is a 14100
party to such an agreement. The fee for an annual license for 14101
residents of this state shall be ~~fourteen~~ eighteen dollars unless 14102
otherwise provided by division rule or unless the rules adopted 14103
under division (B) of section 1533.12 of the Revised Code provide 14104
for issuance of a resident fishing license to the applicant free 14105
of charge. 14106

Any person under the age of sixteen years may take or catch 14107
frogs and turtles and take or catch fish by angling without a 14108
license. Any resident of this state sixty-six years of age or 14109
older may take or catch frogs and turtles without a license. 14110

The chief of the division of wildlife may issue a tourist's 14111
license expiring three days from the effective date of the license 14112

to a resident of a state that is not a party to an agreement under 14113
section 1533.91 of the Revised Code. The fee for a tourist's 14114
license shall be ~~fourteen~~ eighteen dollars unless otherwise 14115
provided by division rule. 14116

The chief shall adopt rules under section 1531.10 of the 14117
Revised Code providing for the issuance of a one-day fishing 14118
license to a resident of this state or of any other state. The fee 14119
for such a license shall be ~~forty~~ fifty-five per cent of the 14120
amount established under this section for a tourist's license, 14121
rounded up to the nearest whole dollar. A one-day fishing license 14122
shall allow the holder to take or catch fish by angling in the 14123
waters in the state, engage in fishing in those waters, or take or 14124
catch frogs or turtles in those waters for one day without 14125
obtaining an annual license or a tourist's license under this 14126
section. At the request of a holder of a one-day fishing license 14127
who wishes to obtain an annual license, a clerk or agent 14128
authorized to issue licenses under section 1533.13 of the Revised 14129
Code, not later than the last day on which the one-day license 14130
would be valid if it were an annual license, shall credit the 14131
amount of the fee paid for the one-day license toward the fee 14132
charged for the annual license if so authorized by the chief. The 14133
clerk or agent shall issue the annual license upon presentation of 14134
the one-day license and payment of a fee in an amount equal to the 14135
difference between the fee for the annual license and the fee for 14136
the one-day license. 14137

A fee of one dollar for each license issued under this 14138
section shall be paid to the issuing clerk or agent in accordance 14139
with section 1533.13 of the Revised Code unless otherwise provided 14140
by division rule. 14141

Unless otherwise provided by division rule, each annual 14142
license shall begin on the first day of March of the current year 14143
and expire on the last day of February of the following year. 14144

No person shall alter a fishing license or possess a fishing license that has been altered. 14145
14146

No person shall procure or attempt to procure a fishing license by fraud, deceit, misrepresentation, or any false statement. 14147
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Owners of land over, through, upon, or along which any water flows or stands, except where the land is in or borders on state parks or state-owned lakes, together with the members of the immediate families of such owners, may take frogs and turtles and may take or catch fish of the kind permitted to be taken or caught therefrom without procuring a license provided for in this section. This exemption extends to tenants actually residing upon such lands and to the members of the immediate families of the tenants. Residents of state or county institutions, charitable institutions, and military homes in this state may take frogs and turtles without procuring the required license, provided that a member of the institution or home has an identification card, which shall be carried on that person when fishing. 14150
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Every fisher required to be licensed, while fishing or taking or attempting to take frogs or turtles, shall carry the license and exhibit it to any person. Failure to so carry and exhibit the license constitutes an offense under this section. 14163
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Sec. 1533.35. (A) Commercial fishing devices shall be annually licensed as follows: 14167
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(1) Trap and fyke nets, for the first twenty nets or any portion thereof, eight hundred dollars; and for each additional group of ten such nets or any portion thereof, four hundred dollars; 14169
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(2) For each seine of one hundred fifty rods or less in length other than an inland fishing district seine, four hundred 14173
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dollars;	14175
(3) For each seine over one hundred fifty rods in length other than an inland fishing district seine, six hundred dollars;	14176 14177
(4) For each inland fishing district seine, one hundred dollars;	14178 14179
(5) For each carp apron, one hundred dollars;	14180
(6) For one trotline with seventy hooks or less attached thereto, twenty dollars;	14181 14182
(7) For each trotline, or trotlines, with a total of more than seventy hooks attached thereto, one hundred dollars;	14183 14184
(8) For each dip net, one hundred dollars.	14185
The license fee for other commercial fishing gear not mentioned in this section, as approved by the chief of the division of wildlife, shall be set by the chief with approval of the wildlife council.	14186 14187 14188 14189
Commercial fishing gear owned or used by a nonresident may be licensed in this state only if a reciprocal agreement is in effect as provided for in section 1533.352 of the Revised Code.	14190 14191 14192
All commercial license fees shall be paid upon application or shall be paid one-fourth upon application with the balance due and owing within ninety days of the date of application, except that those license fees of one hundred dollars or less shall be paid in full at the time of application.	14193 14194 14195 14196 14197
(B) Royalty fees are hereby established as set forth on the following species of fish when taken commercially: catfish, white bass, and yellow perch.	14198 14199 14200
The amount of the royalty fees shall be as follows: on the species taken for which an allowable catch or quota has been established by division rule, two <u>five</u> cents per pound. On the species taken for which an allowable catch or quota has not been	14201 14202 14203 14204

established by division rule, ~~one cent~~ two cents per pound ~~on that~~ 14205
~~portion taken that exceeds one half of the previous year's taking~~ 14206
~~of the species.~~ 14207

~~For the purpose of this section, the previous year's taking~~ 14208
~~shall be the amount reported for that previous year by the license~~ 14209
~~holder to the division pursuant to reporting procedures set forth~~ 14210
~~in this chapter and Chapter 1531. of the Revised Code.~~ 14211

All royalty fees established or provided for in this section 14212
shall be paid by the license holder to the division. No person may 14213
be issued a commercial fishing license until all royalty fees due 14214
from that person for the preceding fishing season have been paid 14215
in full. The chief may request the attorney general to recover any 14216
royalty fee or amount thereof that is not paid by the opening date 14217
of the next fishing season, and the attorney general shall 14218
commence appropriate legal proceedings to recover the unpaid fee 14219
or amount. 14220

All commercial fishing license moneys and all other fees 14221
collected from commercial ~~fishermen~~ fishers shall be deposited in 14222
the state treasury in accordance with section 1533.33 of the 14223
Revised Code. 14224

No person shall fail to comply with any provision of this 14225
section or a division rule adopted pursuant to it. 14226

In addition to other penalties provided in the Revised Code, 14227
the license of any person who is convicted of one or more 14228
violations of this section shall be suspended upon the conviction 14229
by operation of law for a period of eighteen fishing season months 14230
immediately following the conviction. 14231

During any period of suspension, no person shall use or 14232
engage in fishing with commercial gear owned, used, or controlled 14233
at the time of conviction by the licensee whose license has been 14234
suspended. 14235

Sec. 1533.40. Each person, firm, partnership, association, or corporation ~~which~~ that buys, sells, or deals in minnows, crayfish, or hellgrammites or collects the listed species for sale shall obtain, annually, from the chief of the division of wildlife a permit and shall operate under such rules as the chief ~~of the division of wildlife prescribes~~ adopts. ~~Such~~ A permit shall be issued upon application and the payment of a fee of ~~twenty-five~~ forty dollars. This permit expires at midnight, on the thirty-first day of December ~~31~~. Nonresidents engaging in the collecting, seining, or picking of minnows, crayfish, or hellgrammites for bait shall have a nonresident fishing license as prescribed in section 1533.32 of the Revised Code.

Sec. 1533.54. No person shall draw, set, place, locate, maintain, or possess a pound net, crib net, trammel net, fyke net, set net, seine, bar net, or fish trap, or any part thereof, or throw or hand line, with more than three hooks attached thereto, or any other device for catching fish, except a line with not more than three hooks attached thereto or lure with not more than three sets of three hooks each, in the inland fishing district of this state, except for taking carp, mullet, sheepshead, and grass pike as provided in section 1533.62 of the Revised Code, and except as provided in section 1533.60 of the Revised Code, or as otherwise provided for by division rule. No person shall catch or kill a fish in that fishing district with what are known as bob lines, trotlines, or float lines, or by grabbing with the hands, or by spearing or shooting, or with any other device other than by angling. In the waters of the inland fishing district, except those lakes, harbors, and reservoirs controlled by the state, a trotline may be used with not more than fifty hooks, and no two hooks less than three feet apart, by the owner or person having the owner's consent in that part of the stream bordering on or

running through that owner's lands. 14267

Notwithstanding this section, any resident who is licensed to 14268
fish with nets in the Ohio river may possess fish nets for the 14269
sole purpose of storage, repair, drying, and tarring in the area 14270
between United States route fifty and the Ohio river from the 14271
Indiana state line to Cincinnati, Ohio, and in the area between 14272
United States route fifty-two and the Ohio river from Cincinnati, 14273
Ohio, to Chesapeake, Ohio, and in the area between state route 14274
seven and the Ohio river from Chesapeake, Ohio, to East Liverpool, 14275
Ohio. 14276

Any person possessing a net in this reserve district shall 14277
have an Ohio permit for each net in ~~his~~ the person's possession. 14278
The permit shall be issued annually by the chief of the division 14279
of wildlife upon application of the owner of the net and 14280
submission of evidence by ~~him~~ the owner of ~~his~~ possession of a 14281
valid fishing license permitting ~~him~~ the owner to fish with nets 14282
in the Ohio river, and the payment of ~~ten~~ fifty dollars for each 14283
net for which an application is made and a permit is issued. The 14284
permit shall expire at twelve midnight on the fifteenth day of 14285
March of each year. 14286

Sec. 1533.631. Any person may apply for a permit to handle 14287
commercial fish, or other fish that may be bought or sold under 14288
the Revised Code or division rule, at wholesale. The chief of the 14289
division of wildlife shall issue an annual permit granting the 14290
applicant the privilege to handle such fish at wholesale at one or 14291
more designated premises upon filing of an application on a form 14292
prescribed by the chief and payment of a fee of ~~fifty~~ sixty-five 14293
dollars. No person or ~~his~~ a person's agent shall handle at 14294
wholesale any fresh water fish or part thereof unless a permit has 14295
been issued for the calendar year in which the fish is handled at 14296
wholesale for the premises at which the fish is handled. 14297

A fish is handled at wholesale for purposes of this section 14298
when it is on a premises within the state and is being held, 14299
stored, handled, or processed for the purpose of sale to a person 14300
who ordinarily resells the fish. 14301

The permit required by this section shall be issued subject 14302
to the right of entry and inspection of the designated premises of 14303
the permittee by any law enforcement officer authorized by section 14304
1531.13 of the Revised Code to enforce the laws and rules of the 14305
division of wildlife. Such an officer may enter and inspect the 14306
designated premises and any box, package, or receptacle, and the 14307
contents thereof, for the purpose of determining whether any 14308
provision of this chapter or Chapter 1531. of the Revised Code or 14309
division rule is being violated. 14310

No person holding a permit under this section shall remove a 14311
label required by section 1533.301 of the Revised Code unless the 14312
box, package, or receptacle bearing the label has been opened or 14313
unless the label is replaced with another label that meets the 14314
requirements of that section. 14315

No person shall fail to comply with any provision of this 14316
section or division rule adopted pursuant to it. 14317

In addition to other penalties provided in the Revised Code, 14318
the permit of any person who is convicted of two violations of 14319
this section that occurred within a twelve-month period is 14320
suspended upon the second such conviction by operation of law for 14321
a period of five fishing season days immediately following that 14322
conviction. 14323

In addition to other penalties provided in the Revised Code, 14324
the permit of any person who is convicted of three or more 14325
violations of this section that occurred within a twelve-month 14326
period is suspended upon the third or subsequent such conviction 14327
by operation of law for a period of twenty fishing season days 14328

immediately following that conviction. 14329

During any period of suspension, no person shall use or 14330
engage in handling commercial fish at wholesale with equipment or 14331
facilities owned, used, or controlled at the time of conviction by 14332
the permittee whose permit has been suspended. 14333

Sec. 1533.632. (A) As used in this section: 14334

(1) "Aquaculture" means a form of agriculture that involves 14335
the propagation and rearing of aquatic species in controlled 14336
environments under private control, including, but not limited to, 14337
for the purpose of sale for consumption as food. 14338

(2) "Aquaculture species" means any aquatic species that may 14339
be raised through aquaculture that is either a class A aquaculture 14340
species or a class B aquaculture species. 14341

(3) "Class A aquaculture species" includes all of the 14342
following: 14343

(a) Trout and salmon (*Onchorhynchus* sp., *Salmo* sp., 14344
Salvelinus sp.); 14345

(b) Walleye (*Stizostedion vitreum*); 14346

(c) Sauger (*Stizostedion canadense*); 14347

(d) Bluegill (*Lepomis machrochirus*); 14348

(e) Redear sunfish (*Lepomis microlophus*); 14349

(f) Green sunfish (*Lepomis cyanellus*); 14350

(g) White crappie (*Pomoxis annularis*); 14351

(h) Black crappie (*Pomoxis nigromaculatus*); 14352

(i) Blue catfish (*Ictalurus furcatus*); 14353

(j) Any species added by rule under division (B) of this 14354
section or listed as commercial fish under section 1531.01 of the 14355
Revised Code except white perch (*Morone americana*). 14356

(4) "Class B aquaculture species" includes any species, 14357
except for class A aquaculture species, designated as such by the 14358
chief of the division of wildlife. 14359

(5) "Aquaculture production facility" means a facility used 14360
for aquaculture. 14361

(B) The chief, in accordance with Chapter 119. of the Revised 14362
Code, shall adopt rules for the regulation of aquaculture and may 14363
issue permits to persons wishing to engage in aquaculture for the 14364
production of aquaculture species. Rules adopted under this 14365
section shall ensure the protection and preservation of the 14366
wildlife and natural resources of this state. The legal length and 14367
weight limitations established under section 1533.63 of the 14368
Revised Code do not apply to class A or class B aquaculture 14369
species. 14370

A permit may be issued upon application to any person who 14371
satisfies the chief that the person has suitable equipment, of 14372
which ~~he~~ the person is the owner or lessee, to engage in 14373
aquaculture for a given aquaculture species or group of 14374
aquaculture species. Each permit shall be in such form as the 14375
chief prescribes. The permits shall be classified as either class 14376
A or class B. A class A permit shall be required for all class A 14377
aquaculture species that are specified in this section or 14378
designated by rule as a class A aquaculture species. Class B 14379
permits shall be issued on a case-by-case basis. In determining 14380
whether to issue a class B permit, the chief shall take into 14381
account the species for which the class B permit is requested, the 14382
location of the aquaculture production facility, and any other 14383
information determined by the chief to be necessary to protect the 14384
wildlife and natural resources of this state. The annual fee for a 14385
class A permit shall be fifty dollars unless otherwise provided by 14386
rule by the chief. The annual fee for a class B permit shall be 14387
set by the chief at a level between one hundred and five hundred 14388

dollars. In determining the fee to be charged for a class B 14389
permit, the chief shall take into account the additional costs to 14390
the division for the inspection of aquaculture facilities used to 14391
raise a given class B aquaculture species. 14392

The chief may revoke a permit upon a determination that the 14393
person to whom the permit was issued has violated any rule adopted 14394
under this section. The permit shall be reissued upon a showing by 14395
the person that ~~he~~ the person is in compliance with the rules 14396
adopted under this section. A holder of an aquaculture permit may 14397
receive a permit issued under section 1533.301, ~~1533.39~~, or 14398
1533.40 of the Revised Code without payment of the fee for that 14399
permit if the conditions for the issuance of the permit have been 14400
met. 14401

(C) No person shall knowingly sell any aquatic species under 14402
an aquaculture permit issued under this section that was not 14403
raised in an aquaculture production facility. In addition to any 14404
other penalties prescribed for violation of this division, the 14405
chief may revoke the permit of any person convicted of a violation 14406
of this division for any period of time ~~he~~ the chief considers 14407
necessary. 14408

(D) No person who does not hold a current valid aquaculture 14409
permit shall knowingly sell an aquaculture species while claiming 14410
to possess an aquaculture permit. 14411

Sec. 1533.71. Unless otherwise provided by division rule, any 14412
person desiring to engage in the business of raising and selling 14413
game birds, game quadrupeds, reptiles, amphibians, or fur-bearing 14414
animals in a wholly enclosed preserve of which the person is the 14415
owner or lessee, or to have game birds, game quadrupeds, reptiles, 14416
amphibians, or fur-bearing animals in captivity, shall apply in 14417
writing to the division of wildlife for a license to do so. 14418
14419

The division, when it appears that the application is made in good faith and upon the payment of the fee for each license, ~~shall~~ may issue to the applicant any of the following licenses that may be applied for:

(A) "Commercial propagating license" permitting the licensee to propagate game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals in the wholly enclosed preserve the location of which is stated in the license and the application therefor, and to sell the propagated game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals and ship them from the state alive at any time, and permitting the licensee and the licensee's employees to kill the propagated game birds, game quadrupeds, or fur-bearing animals and sell the carcasses for food subject to sections 1533.70 to 1533.80 of the Revised Code. The fee for such a license is ~~twenty-five~~ forty dollars per annum.

(B) "Noncommercial propagating license" permitting the licensee to propagate game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals and to hold the animals in captivity. Game birds, game quadrupeds, reptiles, amphibians, and fur-bearing animals propagated or held in captivity by authority of a noncommercial propagating license are for the licensee's own use and shall not be sold. The fee for such a license is ~~ten~~ twenty-five dollars per annum.

(C) A free "raise to release license" permitting duly organized clubs, associations, or individuals approved by the division to engage in the raising of game birds, game quadrupeds, or fur-bearing animals for release only and not for sale or personal use.

Except as provided by law, no person shall possess game birds, game quadrupeds, or fur-bearing animals in closed season, provided that municipal or governmental zoological parks are not

required to obtain the licenses provided for in this section. 14451

All licenses issued under this section shall expire on the 14452
fifteenth day of March of each year. 14453

The chief of the division of wildlife shall pay all moneys 14454
received as fees for the issuance of licenses under this section 14455
into the state treasury to the credit of the fund created by 14456
section 1533.15 of the Revised Code for the use of the division in 14457
the purchase, preservation, and protection of wild animals and for 14458
the necessary clerical help and forms required by sections 1533.70 14459
to 1533.80 of the Revised Code. 14460

This section does not authorize the taking or the release for 14461
taking of the following: 14462

(1) Game birds, without first obtaining a commercial bird 14463
shooting preserve license issued under section 1533.72 of the 14464
Revised Code; 14465

(2) Game or nonnative wildlife, without first obtaining a 14466
wild animal hunting preserve license issued under section 1533.721 14467
of the Revised Code. 14468

Sec. 1533.82. (A) On receipt of a notice pursuant to section 14469
3123.43 of the Revised Code, the chief of the division of wildlife 14470
shall comply with sections 3123.41 to 3123.50 of the Revised Code 14471
and any applicable rules adopted under section 3123.63 of the 14472
Revised Code with respect to a license, permit, or certificate 14473
issued pursuant to section 1533.23, 1533.34, 1533.342, ~~1533.39,~~ 14474
1533.40, 1533.51, 1533.631, 1533.71, 1533.72, 1533.81, 1533.88, or 14475
1533.881 of the Revised Code. 14476

(B) On receipt of a notice pursuant to section 3123.62 of the 14477
Revised Code, the chief shall comply with that section and any 14478
applicable rules adopted under section 3123.63 of the Revised Code 14479
with respect to a license, permit, or stamp issued pursuant to 14480

section 1533.10, 1533.11, 1533.111, 1533.112, or 1533.32 of the 14481
Revised Code. 14482

Sec. 1541.10. Any person selected by the chief of the 14483
division of parks and recreation for custodial or patrol service 14484
on the lands and waters operated or administered by the division 14485
of parks and recreation shall be employed in conformity with the 14486
law applicable to the classified civil service of the state. 14487
Subject to section 1541.11 of the Revised Code, the chief may 14488
designate that person as a park officer. A park officer, on any 14489
lands and waters owned, controlled, maintained, or administered by 14490
the department of natural resources and on highways, as defined in 14491
section 4511.01 of the Revised Code, adjacent to lands and waters 14492
owned, controlled, maintained, or administered by the division, 14493
has the authority specified under section 2935.03 of the Revised 14494
Code for peace officers of the department of natural resources to 14495
keep the peace, to enforce all laws and rules governing those 14496
lands and waters, and to make arrests for violation of those laws 14497
and rules, provided that the authority shall be exercised on lands 14498
or waters administered by another division of the department only 14499
pursuant to an agreement with the chief of that division or to a 14500
request for assistance by an enforcement officer of that division 14501
in an emergency. A park officer, in or along any watercourse 14502
within, abutting, or upstream from the boundary of any area 14503
administered by the department, has the authority to enforce 14504
section 3767.32 of the Revised Code and any other laws prohibiting 14505
the dumping of refuse into or along waters and to make arrests for 14506
violation of those laws. The jurisdiction of park officers shall 14507
be concurrent with that of the peace officers of the county, 14508
township, or municipal corporation in which the violation occurs. 14509
A state park, for purposes of this section, is any area that is 14510
administered as a state park by the division of parks and 14511
recreation. 14512

The ~~governor~~ secretary of state, upon the recommendation of 14513
the chief, shall issue to each park officer a commission 14514
indicating authority to make arrests as provided in this section. 14515

The chief shall furnish a suitable badge to each commissioned 14516
park officer as evidence of that park officer's authority. 14517

If any person employed under this section is designated by 14518
the chief to act as an agent of the state in the collection of 14519
moneys resulting from the sale of licenses, fees of any nature, or 14520
other moneys belonging to the state, the chief shall require a 14521
surety bond from that person in an amount not less than one 14522
thousand dollars. 14523

A park officer may render assistance to a state or local law 14524
enforcement officer at the request of that officer or may render 14525
assistance to a state or local law enforcement officer in the 14526
event of an emergency. 14527

Park officers serving outside the division of parks and 14528
recreation under this section or serving under the terms of a 14529
mutual aid compact authorized under section 1501.02 of the Revised 14530
Code shall be considered as performing services within their 14531
regular employment for the purposes of compensation, pension or 14532
indemnity fund rights, workers' compensation, and other rights or 14533
benefits to which they may be entitled as incidents of their 14534
regular employment. 14535

Park officers serving outside the division of parks and 14536
recreation under this section or under a mutual aid compact retain 14537
personal immunity from civil liability as specified in section 14538
9.86 of the Revised Code and shall not be considered an employee 14539
of a political subdivision for purposes of Chapter 2744. of the 14540
Revised Code. A political subdivision that uses park officers 14541
under this section or under the terms of a mutual aid compact 14542
authorized under section 1501.02 of the Revised Code is not 14543

subject to civil liability under Chapter 2744. of the Revised Code 14544
as the result of any action or omission of any park officer acting 14545
under this section or under a mutual aid compact. 14546

Sec. 1563.42. The operator of a mine, before the pillars are 14547
drawn previous to the abandonment of any part of the mine, shall 14548
have a correct map of such part of the mine made, showing its area 14549
and workings to the day of the abandonment and the pillars drawn 14550
previous to abandonment, and file such map within ninety days 14551
after the abandonment of such mine, in the office of the county 14552
recorder of the county where such mine is located, and with the 14553
chief of the division of mineral resources management. Such map 14554
shall have attached the usual certificate of the mining engineer 14555
making it, and the mine foreperson in charge of the underground 14556
workings of the mine, and such operator shall pay to the recorder 14557
for filing such map, a base fee of five dollars for services and a 14558
housing trust fee of five dollars pursuant to section 317.36 of 14559
the Revised Code. 14560

No operator of a mine shall refuse or neglect to comply with 14561
this section. 14562

Sec. 1702.59. (A) Every nonprofit corporation, incorporated 14563
under the general corporation laws of this state, or previous 14564
laws, or under special provisions of the Revised Code, or created 14565
before September 1, 1851, which corporation has expressedly or 14566
impliedly elected to be governed by the laws passed since that 14567
date, and whose articles or other documents are filed with the 14568
secretary of state, shall file with the secretary of state a 14569
verified statement of continued existence, signed by a director, 14570
officer, or three members in good standing, setting forth the 14571
corporate name, the place where the principal office of the 14572
corporation is located, the date of incorporation, the fact that 14573
the corporation is still actively engaged in exercising its 14574

corporate privileges, and the name and address of its agent 14575
appointed pursuant to section 1702.06 of the Revised Code. 14576

(B) Each corporation required to file a statement of 14577
continued existence shall file it with the secretary of state 14578
within each five years after the date of incorporation or of the 14579
last corporate filing. 14580

(C) Corporations specifically exempted by division (N) of 14581
section 1702.06 of the Revised Code, or whose activities are 14582
regulated or supervised by another state official, agency, bureau, 14583
department, or commission are exempted from this section. 14584

(D) The secretary of state shall give notice in writing and 14585
provide a form for compliance with this section to each 14586
corporation required by this section to file the statement of 14587
continued existence, such notice and form to be mailed to the last 14588
known address of the corporation as it appears on the records of 14589
the secretary of state or which the secretary of state may 14590
ascertain upon a reasonable search. 14591

(E) If any nonprofit corporation required by this section to 14592
file a statement of continued existence fails to file the 14593
statement required every fifth year, then the secretary of state 14594
shall cancel the articles of such corporation, make a notation of 14595
the cancellation on the records, and mail to the corporation a 14596
certificate of the action so taken. 14597

(F) A corporation whose articles have been canceled may be 14598
reinstated by filing an application for reinstatement and paying 14599
to the secretary of state the fee specified in division (Q) of 14600
section 111.16 of the Revised Code. The name of a corporation 14601
whose articles have been canceled shall be reserved for a period 14602
of one year after the date of cancellation. If the reinstatement 14603
is not made within one year from the date of the cancellation of 14604
its articles of incorporation and it appears that a corporate 14605

name, limited liability company name, limited liability 14606
partnership name, limited partnership name, or trade name has been 14607
filed, the name of which is not distinguishable upon the record as 14608
provided in section 1702.06 of the Revised Code, the applicant for 14609
reinstatement shall be required by the secretary of state, as a 14610
condition prerequisite to such reinstatement, to amend its 14611
articles by changing its name. A certificate of reinstatement may 14612
be filed in the recorder's office of any county in the state, for 14613
which the recorder shall charge and collect a base fee of one 14614
dollar for services and a housing trust fund fee of one dollar 14615
pursuant to section 317.36 of the Revised Code. The rights, 14616
privileges, and franchises of a corporation whose articles have 14617
been reinstated are subject to section 1702.60 of the Revised 14618
Code. 14619

(G) The secretary of state shall furnish the tax commissioner 14620
a list of all corporations failing to file the required statement 14621
of continued existence. 14622

Sec. 1711.13. County agricultural societies are hereby 14623
declared bodies corporate and politic, and as such they shall be 14624
capable of suing and being sued and of holding in fee simple any 14625
real estate purchased by them as sites for their fairs. They In 14626
addition, they may mortgage do either or both of the following: 14627

(A) Mortgage their grounds for the purpose of renewing or 14628
extending pre-existing debts, and for the purpose of furnishing 14629
money to purchase additional land~~+~~, but if the board of county 14630
commissioners has caused money to be paid out of the county 14631
treasury to aid in the purchase of ~~such~~ the grounds, no mortgage 14632
shall be given without the consent of ~~such~~ the board. 14633

Deeds, conveyances, and agreements in writing, made to and by 14634
such societies, for the purchase of real estate as sites for their 14635
fairs, shall vest a title in fee simple to the real estate ~~therein~~ 14636

described in those documents, without words of inheritance. 14637

(B) Enter into agreements to obtain loans and credit for 14638
expenses related to the purposes of the county agricultural 14639
society, provided that the agreements are in writing and are first 14640
approved by the board of directors of the society. The total net 14641
indebtedness incurred by a county agricultural society pursuant to 14642
this division shall not exceed an amount equal to twenty-five per 14643
cent of its annual revenues. 14644

Sec. 1711.131. (A) The board of directors of a county 14645
agricultural society or an independent agricultural society may 14646
authorize by resolution an officer or employee of the agricultural 14647
society to use a credit card held by the board to pay for expenses 14648
related to the purposes of the agricultural society. If a board 14649
elects to authorize the use of a credit card held by the board as 14650
described in this section, the board first shall adopt a policy 14651
specifying the purposes for which the credit card may be used. 14652

(B) An officer or employee of an agricultural society who 14653
makes unauthorized use of a credit card held by the society's 14654
board of directors is personally liable for the unauthorized use. 14655
The prosecuting attorney of the appropriate county shall recover 14656
the amount of any unauthorized expenses incurred by the officer or 14657
employee through the misuse of the credit card in a civil action 14658
in any court of competent jurisdiction. This section does not 14659
limit any other liability of the officer or employee for the 14660
unauthorized use of a credit card held by the board of directors. 14661

(C) An officer or employee who is authorized to use a credit 14662
card held by the board of directors of an agricultural society and 14663
who suspects the loss, theft, or possibility of unauthorized use 14664
of the credit card immediately shall notify the board in writing 14665
of the suspected loss, theft, or possible unauthorized use. The 14666
officer or employee may be held personally liable for not more 14667

than fifty dollars in unauthorized debt incurred before the board 14668
receives the notification. 14669

(D) The misuse by an officer or employee of an agricultural 14670
society of a credit card held by the society's board of directors 14671
is a violation of section 2913.21 of the Revised Code. 14672

Sec. 1711.15. In any county in which there is a duly 14673
organized county agricultural society, the board of county 14674
commissioners or the county agricultural society itself may 14675
purchase or lease, for a term of not less than twenty years, real 14676
estate on which to hold fairs under the management and control of 14677
the county agricultural society, and may erect ~~thereon~~ suitable 14678
buildings on the real estate and otherwise improve it. 14679

In counties in which there is a county agricultural society 14680
that has purchased, or leased, for a term of not less than twenty 14681
years, real estate as a site on which to hold fairs or in which 14682
the title to the site is vested in fee in the county, the board of 14683
county commissioners may erect or repair buildings or otherwise 14684
improve the site and pay the rental ~~thereof~~ of it, or contribute 14685
to or pay any other form of indebtedness of the society, if the 14686
director of agriculture has certified to the board that the county 14687
agricultural society is complying with all laws and rules 14688
governing the operation of county agricultural societies. The 14689
board may appropriate from the general fund any amount that it 14690
considers necessary for any of those purposes. 14691

Sec. 1711.17. (A) In any counties in which there is a duly 14692
organized independent agricultural society, the respective boards 14693
of county commissioners may purchase or lease jointly, for a term 14694
of not less than twenty years, real estate on which to hold fairs 14695
under the management and control of the society, and may erect 14696
suitable buildings and otherwise improve the property, and pay the 14697

rental thereof, or contribute to or pay any other form of 14698
indebtedness of the society, if the director of agriculture has 14699
certified to the board that the independent agricultural society 14700
is complying with all laws and rules governing the operation of 14701
county agricultural societies. The boards may appropriate from 14702
their respective general funds such an amount as they consider 14703
necessary for any of those purposes. 14704

(B) An independent agricultural society may purchase or 14705
lease, for a term of not less than twenty years, real estate on 14706
which to hold fairs under its management and control and may erect 14707
suitable buildings on the real estate and otherwise improve it. 14708

Sec. 2101.16. (A) The fees enumerated in this division shall 14709
be charged and collected, if possible, by the probate judge and 14710
shall be in full for all services rendered in the respective 14711
proceedings: 14712

- | | | |
|--|---------|-------|
| (1) Account, in addition to advertising charges | \$12.00 | 14713 |
| Waivers and proof of notice of hearing on account, per | | 14714 |
| page, minimum one dollar | \$ 1.00 | 14715 |
| (2) Account of distribution, in addition to | | 14716 |
| advertising charges | \$ 7.00 | 14717 |
| (3) Adoption of child, petition for | \$50.00 | 14718 |
| (4) Alter or cancel contract for sale or purchase of | | 14719 |
| real estate, petition to | \$20.00 | 14720 |
| (5) Application and order not otherwise provided | | 14721 |
| for in this section or by rule adopted pursuant to | | 14722 |
| division (E) of this section | \$ 5.00 | 14723 |
| (6) Appropriation suit, per day, hearing in | \$20.00 | 14724 |
| (7) Birth, application for registration of | \$ 7.00 | 14725 |
| (8) Birth record, application to correct | \$ 5.00 | 14726 |
| (9) Bond, application for new or additional | \$ 5.00 | 14727 |
| (10) Bond, application for release of surety or | | 14728 |
| reduction of | \$ 5.00 | 14729 |

(11) Bond, receipt for securities deposited in lieu of	\$ 5.00	14730
(12) Certified copy of journal entry, record, or proceeding, per page, minimum fee one dollar	\$ 1.00	14731 14732
(13) Citation and issuing citation, application for	\$ 5.00	14733
(14) Change of name, petition for	\$20.00	14734
(15) Claim, application of administrator or executor for allowance of administrator's or executor's own	\$10.00	14735 14736
(16) Claim, application to compromise or settle	\$10.00	14737
(17) Claim, authority to present	\$10.00	14738
(18) Commissioner, appointment of	\$ 5.00	14739
(19) Compensation for extraordinary services and attorney's fees for fiduciary, application for	\$ 5.00	14740 14741
(20) Competency, application to procure adjudication of ...	\$20.00	14742
(21) Complete contract, application to	\$10.00	14743
(22) Concealment of assets, citation for	\$10.00	14744
(23) Construction of will, petition for	\$20.00	14745
(24) Continue decedent's business, application to	\$10.00	14746
Monthly reports of operation	\$ 5.00	14747
(25) Declaratory judgment, petition for	\$20.00	14748
(26) Deposit of will	\$ 5.00	14749
(27) Designation of heir	\$20.00	14750
(28) Distribution in kind, application, assent, and order for	\$ 5.00	14751 14752
(29) Distribution under section 2109.36 of the Revised Code, application for an order of	\$ 7.00	14753 14754
(30) Docketing and indexing proceedings, including the filing and noting of all necessary documents, maximum fee, fifteen dollars	\$15.00	14755 14756 14757
(31) Exceptions to any proceeding named in this section, contest of appointment or	\$10.00	14758 14759
(32) Election of surviving partner to purchase assets of partnership, proceedings relating to	\$10.00	14760 14761
(33) Election of surviving spouse under will	\$ 5.00	14762

(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	14763 14764 14765
(35) Foreign will, application to record	\$10.00	14766
Record of foreign will, additional, per page	\$ 1.00	14767
(36) Forms when supplied by the probate court, not to exceed	\$10.00	14768 14769
(37) Heirship, petition to determine	\$20.00	14770
(38) Injunction proceedings	\$20.00	14771
(39) Improve real estate, petition to	\$20.00	14772
(40) Inventory with appraisement	\$10.00	14773
(41) Inventory without appraisement	\$ 7.00	14774
(42) Investment or expenditure of funds, application for ..	\$10.00	14775
(43) Invest in real estate, application to	\$10.00	14776
(44) Lease for oil, gas, coal, or other mineral, petition to	\$20.00	14777 14778
(45) Lease or lease and improve real estate, petition to ..	\$20.00	14779
(46) Marriage license	\$10.00	14780
Certified abstract of each marriage	\$ 2.00	14781
(47) Minor or mentally ill person, etc., disposal of estate under ten thousand dollars of	\$10.00	14782 14783
(48) Mortgage or mortgage and repair or improve real estate, petition to	\$20.00	14784 14785
(49) Newly discovered assets, report of	\$ 7.00	14786
(50) Nonresident executor or administrator to bar creditors' claims, proceedings by	\$20.00	14787 14788
(51) Power of attorney or revocation of power, bonding company	\$10.00	14789 14790
(52) Presumption of death, petition to establish	\$20.00	14791
(53) Probating will	\$15.00	14792
Proof of notice to beneficiaries	\$ 5.00	14793
(54) Purchase personal property, application of surviving spouse to	\$10.00	14794 14795

(55) Purchase real estate at appraised value, petition of surviving spouse to		14796
	\$20.00	14797
(56) Receipts in addition to advertising charges, application and order to record	\$ 5.00	14798
		14799
Record of those receipts, additional, per page	\$ 1.00	14800
(57) Record in excess of fifteen hundred words in any proceeding in the probate court, per page	\$ 1.00	14801
		14802
(58) Release of estate by mortgagee or other lienholder ...	\$ 5.00	14803
(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	14804
		14805
		14806
		14807
(60) Removal of fiduciary, application for	\$10.00	14808
(61) Requalification of executor or administrator	\$10.00	14809
(62) Resignation of fiduciary	\$ 5.00	14810
(63) Sale bill, public sale of personal property	\$10.00	14811
(64) Sale of personal property and report, application for	\$10.00	14812
		14813
(65) Sale of real estate, petition for	\$25.00	14814
(66) Terminate guardianship, petition to	\$10.00	14815
(67) Transfer of real estate, application, entry, and certificate for	\$ 7.00	14816
		14817
(68) Unclaimed money, application to invest	\$ 7.00	14818
(69) Vacate approval of account or order of distribution, motion to	\$10.00	14819
		14820
(70) Writ of execution	\$ 5.00	14821
(71) Writ of possession	\$ 5.00	14822
(72) Wrongful death, application and settlement of claim for	\$20.00	14823
		14824
(73) Year's allowance, petition to review	\$ 7.00	14825
(74) Guardian's report, filing and review of	\$ 5.00	14826
(B)(1) In relation to an application for the appointment of a guardian or the review of a report of a guardian under section		14827
		14828

2111.49 of the Revised Code, the probate court, pursuant to court order or in accordance with a court rule, may direct that the applicant or the estate pay any or all of the expenses of an investigation conducted pursuant to section 2111.041 or division (A)(2) of section 2111.49 of the Revised Code. If the investigation is conducted by a public employee or investigator who is paid by the county, the fees for the investigation shall be paid into the county treasury. If the court finds that an alleged incompetent or a ward is indigent, the court may waive the costs, fees, and expenses of an investigation.

(2) In relation to the appointment or functioning of a guardian for a minor or the guardianship of a minor, the probate court may direct that the applicant or the estate pay any or all of the expenses of an investigation conducted pursuant to section 2111.042 of the Revised Code. If the investigation is conducted by a public employee or investigator who is paid by the county, the fees for the investigation shall be paid into the county treasury. If the court finds that the guardian or applicant is indigent, the court may waive the costs, fees, and expenses of an investigation.

(C) Thirty dollars of the thirty-five-dollar fee collected pursuant to division (A)(34) of this section and twenty dollars of the sixty-dollar fee collected pursuant to division (A)(59) of this section shall be deposited by the county treasurer in the indigent guardianship fund created pursuant to section 2111.51 of the Revised Code.

(D) The fees of witnesses, jurors, sheriffs, coroners, and constables for services rendered in the probate court or by order of the probate judge shall be the same as provided for like services in the court of common pleas.

(E) The probate court, by rule, may require an advance deposit for costs, not to exceed one hundred twenty-five dollars, at the time application is made for an appointment as executor or

administrator or at the time a will is presented for probate. 14861

(F) The probate court, by rule, shall establish a reasonable 14862
fee, not to exceed fifty dollars, for the filing of a petition for 14863
the release of information regarding an adopted person's name by 14864
birth and the identity of the adopted person's biological parents 14865
and biological siblings pursuant to section 3107.41 of the Revised 14866
Code, all proceedings relative to the petition, the entry of an 14867
order relative to the petition, and all services required to be 14868
performed in connection with the petition. The probate court may 14869
use a reasonable portion of a fee charged under authority of this 14870
division to reimburse any agency, as defined in section 3107.39 of 14871
the Revised Code, for any services it renders in performing a task 14872
described in section 3107.41 of the Revised Code relative to or in 14873
connection with the petition for which the fee was charged. 14874

(G)(1) Thirty dollars of the fifty-dollar fee collected 14875
pursuant to division (A)(3) of this section shall be deposited 14876
into the "putative father registry fund," which is hereby created 14877
in the state treasury. The department of job and family services 14878
shall use the money in the fund to fund the department's costs of 14879
performing its duties related to the putative father registry 14880
established under section 3107.062 of the Revised Code. 14881

(2) If the department determines that money in the putative 14882
father registry fund is more than is needed for its duties related 14883
to the putative father registry, the department may use the 14884
surplus moneys in the fund as permitted in division (C) of section 14885
2151.3529, division (B) of section 2151.3530, or section 5103.155 14886
of the Revised Code. 14887

Sec. 2113.041. (A) The administrator of the estate recovery 14888
program established pursuant to section 5111.11 of the Revised 14889
Code may present an affidavit to a financial institution 14890
requesting that the financial institution release account proceeds 14891

<u>to recover the cost of services correctly provided to a medicaid</u>	14892
<u>recipient. The affidavit shall include all of the following</u>	14893
<u>information:</u>	14894
<u>(1) The name of the decedent;</u>	14895
<u>(2) The name of any person who gave notice that the decedent</u>	14896
<u>was a medicaid recipient and that person's relationship to the</u>	14897
<u>decedent;</u>	14898
<u>(3) The name of the financial institution;</u>	14899
<u>(4) The account number;</u>	14900
<u>(5) A description of the claim for estate recovery;</u>	14901
<u>(6) The amount of funds to be recovered.</u>	14902
<u>(B) A financial institution may release account proceeds to</u>	14903
<u>the administrator of the estate recovery program if all of the</u>	14904
<u>following apply:</u>	14905
<u>(1) The decedent held an account at the financial institution</u>	14906
<u>that was in the decedent's name only.</u>	14907
<u>(2) No estate has been, and it is reasonable to assume that</u>	14908
<u>no estate will be, opened for the decedent.</u>	14909
<u>(3) The decedent has no outstanding debts known to the</u>	14910
<u>administrator of the estate recovery program.</u>	14911
<u>(4) The financial institution has received no objections or</u>	14912
<u>has determined that no valid objections to release of proceeds</u>	14913
<u>have been received.</u>	14914
<u>(C) If proceeds have been released pursuant to division (B)</u>	14915
<u>of this section and the department of job and family services</u>	14916
<u>receives notice of a valid claim to the proceeds that has a higher</u>	14917
<u>priority under section 2117.25 of the Revised Code than the claim</u>	14918
<u>of the estate recovery program, the department may refund the</u>	14919
<u>proceeds to the financial institution or pay them to the person or</u>	14920

government entity with the claim. 14921

Sec. 2117.06. (A) All creditors having claims against an 14922
estate, including claims arising out of contract, out of tort, on 14923
cognovit notes, or on judgments, whether due or not due, secured 14924
or unsecured, liquidated or unliquidated, shall present their 14925
claims in one of the following manners: 14926

(1) To the executor or administrator in a writing; 14927

(2) To the executor or administrator in a writing, and to the 14928
probate court by filing a copy of the writing with it; 14929

(3) In a writing that is sent by ordinary mail addressed to 14930
the decedent and that is actually received by the executor or 14931
administrator within the appropriate time specified in division 14932
(B) of this section. For purposes of this division, if an executor 14933
or administrator is not a natural person, the writing shall be 14934
considered as being actually received by the executor or 14935
administrator only if the person charged with the primary 14936
responsibility of administering the estate of the decedent 14937
actually receives the writing within the appropriate time 14938
specified in division (B) of this section. 14939

(B) ~~All~~ Except as provided in section 2117.061 of the Revised 14940
Code, all claims shall be presented within one year after the 14941
death of the decedent, whether or not the estate is released from 14942
administration or an executor or administrator is appointed during 14943
that one-year period. Every claim presented shall set forth the 14944
claimant's address. 14945

(C) ~~A~~ Except as provided in section 2117.061 of the Revised 14946
Code, a claim that is not presented within one year after the 14947
death of the decedent shall be forever barred as to all parties, 14948
including, but not limited to, devisees, legatees, and 14949
distributees. No payment shall be made on the claim and no action 14950

shall be maintained on the claim, except as otherwise provided in 14951
sections 2117.37 to 2117.42 of the Revised Code with reference to 14952
contingent claims. 14953

(D) In the absence of any prior demand for allowance, the 14954
executor or administrator shall allow or reject all claims, except 14955
tax assessment claims, within thirty days after their 14956
presentation, provided that failure of the executor or 14957
administrator to allow or reject within that time shall not 14958
prevent the executor or administrator from doing so after that 14959
time and shall not prejudice the rights of any claimant. Upon the 14960
allowance of a claim, the executor or the administrator, on demand 14961
of the creditor, shall furnish the creditor with a written 14962
statement or memorandum of the fact and date of the allowance. 14963

(E) If the executor or administrator has actual knowledge of 14964
a pending action commenced against the decedent prior to the 14965
decedent's death in a court of record in this state, the executor 14966
or administrator shall file a notice of the appointment of the 14967
executor or administrator in the pending action within ten days 14968
after acquiring that knowledge. If the administrator or executor 14969
is not a natural person, actual knowledge of a pending suit 14970
against the decedent shall be limited to the actual knowledge of 14971
the person charged with the primary responsibility of 14972
administering the estate of the decedent. Failure to file the 14973
notice within the ten-day period does not extend the claim period 14974
established by this section. 14975

(F) This section applies to any person who is required to 14976
give written notice to the executor or administrator of a motion 14977
or application to revive an action pending against the decedent at 14978
the date of the death of the decedent. 14979

(G) Nothing in this section or in section 2117.07 of the 14980
Revised Code shall be construed to reduce the time mentioned in 14981
section 2125.02, 2305.09, 2305.10, 2305.11, 2305.113, or 2305.12 14982

of the Revised Code, provided that no portion of any recovery on a 14983
claim brought pursuant to any of those sections shall come from 14984
the assets of an estate unless the claim has been presented 14985
against the estate in accordance with Chapter 2117. of the Revised 14986
Code. 14987

(H) Any person whose claim has been presented and has not 14988
been rejected after presentment is a creditor as that term is used 14989
in Chapters 2113. to 2125. of the Revised Code. Claims that are 14990
contingent need not be presented except as provided in sections 14991
2117.37 to 2117.42 of the Revised Code, but, whether presented 14992
pursuant to those sections or this section, contingent claims may 14993
be presented in any of the manners described in division (A) of 14994
this section. 14995

(I) If a creditor presents a claim against an estate in 14996
accordance with division (A)(2) of this section, the probate court 14997
shall not close the administration of the estate until that claim 14998
is allowed or rejected. 14999

(J) The probate court shall not require an executor or 15000
administrator to make and return into the court a schedule of 15001
claims against the estate. 15002

(K) If the executor or administrator makes a distribution of 15003
the assets of the estate prior to the expiration of the time for 15004
the filing of claims as set forth in this section, the executor or 15005
administrator shall provide notice on the account delivered to 15006
each distributee that the distributee may be liable to the estate 15007
up to the value of the distribution and may be required to return 15008
all or any part of the value of the distribution if a valid claim 15009
is subsequently made against the estate within the time permitted 15010
under this section. 15011

Sec. 2117.061. (A) As used in this section, "person 15012
responsible for the estate" means the executor, administrator, 15013

commissioner, or person who filed pursuant to section 2113.03 of 15014
the Revised Code for release from administration of an estate. 15015

(B) If the decedent was fifty-five years of age or older at 15016
the time of death, the person responsible for an estate shall 15017
determine whether the decedent was a recipient of medical 15018
assistance under Chapter 5111. of the Revised Code. If the 15019
decedent was a recipient, the person responsible for the estate 15020
shall give written notice to that effect to the administrator of 15021
the estate recovery program instituted under section 5111.11 of 15022
the Revised Code not later than thirty days after the occurrence 15023
of any of the following: 15024

(1) The granting of letters testamentary; 15025

(2) The administration of the estate; 15026

(3) The filing of an application for release from 15027
administration or summary release from administration. 15028

(C) The person responsible for an estate shall mark the 15029
appropriate box on the appropriate probate form to indicate 15030
compliance with the requirements of division (B) of this section. 15031

(D) The estate recovery program administrator shall present a 15032
claim for estate recovery to the person responsible for the estate 15033
or the person's legal representative not later than ninety days 15034
after the date on which notice is received under division (B) of 15035
this section or one year after the decedent's death, whichever is 15036
later. 15037

Sec. 2117.25. (A) Every executor or administrator shall 15038
proceed with diligence to pay the debts of the decedent and shall 15039
apply the assets in the following order: 15040

(1) Costs and expenses of administration; 15041

(2) An amount, not exceeding two thousand dollars, for 15042
funeral expenses that are included in the bill of a funeral 15043

director, funeral expenses other than those in the bill of a 15044
funeral director that are approved by the probate court, and an 15045
amount, not exceeding two thousand dollars, for burial and 15046
cemetery expenses, including that portion of the funeral 15047
director's bill allocated to cemetery expenses that have been paid 15048
to the cemetery by the funeral director. 15049

For purposes of this division, burial and cemetery expenses 15050
shall be limited to the following: 15051

(a) The purchase of a place of interment; 15052

(b) Monuments or other markers; 15053

(c) The outer burial container; 15054

(d) The cost of opening and closing the place of interment; 15055

(e) The urn. 15056

(3) The allowance for support made to the surviving spouse, 15057
minor children, or both under section 2106.13 of the Revised Code; 15058

(4) Debts entitled to a preference under the laws of the 15059
United States; 15060

(5) Expenses of the last sickness of the decedent; 15061

(6) If the total bill of a funeral director for funeral 15062
expenses exceeds two thousand dollars, then, in addition to the 15063
amount described in division (A)(2) of this section, an amount, 15064
not exceeding one thousand dollars, for funeral expenses that are 15065
included in the bill and that exceed two thousand dollars; 15066

(7) Personal property taxes, claims made under the estate 15067
recovery program instituted pursuant to section 5111.11 of the 15068
Revised Code, and obligations for which the decedent was 15069
personally liable to the state or any of its subdivisions; 15070

(8) Debts for manual labor performed for the decedent within 15071
twelve months preceding the decedent's death, not exceeding three 15072

hundred dollars to any one person; 15073

(9) Other debts for which claims have been presented and 15074
finally allowed. 15075

(B) The part of the bill of a funeral director that exceeds 15076
the total of three thousand dollars as described in divisions 15077
(A)(2) and (6) of this section, and the part of a claim included 15078
in division (A)(8) of this section that exceeds three hundred 15079
dollars shall be included as a debt under division (A)(9) of this 15080
section, depending upon the time when the claim for the additional 15081
amount is presented. 15082

(C) Any natural person or fiduciary who pays a claim of any 15083
creditor described in division (A) of this section shall be 15084
subrogated to the rights of that creditor proportionate to the 15085
amount of the payment and shall be entitled to reimbursement for 15086
that amount in accordance with the priority of payments set forth 15087
in that division. 15088

(D)(1) Chapters 2113. to 2125. of the Revised Code, relating 15089
to the manner in which and the time within which claims shall be 15090
presented, shall apply to claims set forth in divisions (A)(2), 15091
(6), and (8) of this section. Claims for an expense of 15092
administration or for the allowance for support need not be 15093
presented. The executor or administrator shall pay debts included 15094
in divisions (A)(4) and (7) of this section, of which the executor 15095
or administrator has knowledge, regardless of presentation. 15096

(2) The giving of written notice to an executor or 15097
administrator of a motion or application to revive an action 15098
pending against the decedent at the date of death shall be 15099
equivalent to the presentation of a claim to the executor or 15100
administrator for the purpose of determining the order of payment 15101
of any judgment rendered or decree entered in such an action. 15102

(E) No payments shall be made to creditors of one class until 15103

all those of the preceding class are fully paid or provided for. 15104
If the assets are insufficient to pay all the claims of one class, 15105
the creditors of that class shall be paid ratably. 15106

(F) If it appears at any time that the assets have been 15107
exhausted in paying prior or preferred charges, allowances, or 15108
claims, those payments shall be a bar to an action on any claim 15109
not entitled to that priority or preference. 15110

Sec. 2133.01. Unless the context otherwise requires, as used 15111
in sections 2133.01 to 2133.15 of the Revised Code: 15112

(A) "Adult" means an individual who is eighteen years of age 15113
or older. 15114

(B) "Attending physician" means the physician to whom a 15115
declarant or other patient, or the family of a declarant or other 15116
patient, has assigned primary responsibility for the treatment or 15117
care of the declarant or other patient, or, if the responsibility 15118
has not been assigned, the physician who has accepted that 15119
responsibility. 15120

(C) "Comfort care" means any of the following: 15121

(1) Nutrition when administered to diminish the pain or 15122
discomfort of a declarant or other patient, but not to postpone 15123
the declarant's or other patient's death; 15124

(2) Hydration when administered to diminish the pain or 15125
discomfort of a declarant or other patient, but not to postpone 15126
the declarant's or other patient's death; 15127

(3) Any other medical or nursing procedure, treatment, 15128
intervention, or other measure that is taken to diminish the pain 15129
or discomfort of a declarant or other patient, but not to postpone 15130
the declarant's or other patient's death. 15131

(D) "Consulting physician" means a physician who, in 15132
conjunction with the attending physician of a declarant or other 15133

patient, makes one or more determinations that are required to be 15134
made by the attending physician, or to be made by the attending 15135
physician and one other physician, by an applicable provision of 15136
this chapter, to a reasonable degree of medical certainty and in 15137
accordance with reasonable medical standards. 15138

(E) "Declarant" means any adult who has executed a 15139
declaration in accordance with section 2133.02 of the Revised 15140
Code. 15141

(F) "Declaration" means a written document executed in 15142
accordance with section 2133.02 of the Revised Code. 15143

(G) "Durable power of attorney for health care" means a 15144
document created pursuant to sections 1337.11 to 1337.17 of the 15145
Revised Code. 15146

(H) "Guardian" means a person appointed by a probate court 15147
pursuant to Chapter 2111. of the Revised Code to have the care and 15148
management of the person of an incompetent. 15149

(I) "Health care facility" means any of the following: 15150

(1) A hospital; 15151

(2) A hospice care program or other institution that 15152
specializes in comfort care of patients in a terminal condition or 15153
in a permanently unconscious state; 15154

(3) A nursing home or residential care facility, as defined 15155
in section 3721.01 of the Revised Code; 15156

(4) A home health agency and any residential facility where a 15157
person is receiving care under the direction of a home health 15158
agency; 15159

(5) An intermediate care facility for the mentally retarded. 15160

(J) "Health care personnel" means physicians, nurses, 15161
physician assistants, emergency medical technicians-basic, 15162
emergency medical technicians-intermediate, emergency medical 15163

technicians-paramedic, medical technicians, dietitians, other	15164
authorized persons acting under the direction of an attending	15165
physician, and administrators of health care facilities.	15166
(K) "Home health agency" has the same meaning as in section	15167
3701.88 <u>3701.881</u> of the Revised Code.	15168
(L) "Hospice care program" has the same meaning as in section	15169
3712.01 of the Revised Code.	15170
(M) "Hospital" has the same meanings as in sections 2108.01,	15171
3701.01, and 5122.01 of the Revised Code.	15172
(N) "Hydration" means fluids that are artificially or	15173
technologically administered.	15174
(O) "Incompetent" has the same meaning as in section 2111.01	15175
of the Revised Code.	15176
(P) "Intermediate care facility for the mentally retarded"	15177
has the same meaning as in section 5111.20 of the Revised Code.	15178
(Q) "Life-sustaining treatment" means any medical procedure,	15179
treatment, intervention, or other measure that, when administered	15180
to a qualified patient or other patient, will serve principally to	15181
prolong the process of dying.	15182
(R) "Nurse" means a person who is licensed to practice	15183
nursing as a registered nurse or to practice practical nursing as	15184
a licensed practical nurse pursuant to Chapter 4723. of the	15185
Revised Code.	15186
(S) "Nursing home" has the same meaning as in section 3721.01	15187
of the Revised Code.	15188
(T) "Nutrition" means sustenance that is artificially or	15189
technologically administered.	15190
(U) "Permanently unconscious state" means a state of	15191
permanent unconsciousness in a declarant or other patient that, to	15192
a reasonable degree of medical certainty as determined in	15193

accordance with reasonable medical standards by the declarant's or 15194
other patient's attending physician and one other physician who 15195
has examined the declarant or other patient, is characterized by 15196
both of the following: 15197

(1) Irreversible unawareness of one's being and environment. 15198

(2) Total loss of cerebral cortical functioning, resulting in 15199
the declarant or other patient having no capacity to experience 15200
pain or suffering. 15201

(V) "Person" has the same meaning as in section 1.59 of the 15202
Revised Code and additionally includes political subdivisions and 15203
governmental agencies, boards, commissions, departments, 15204
institutions, offices, and other instrumentalities. 15205

(W) "Physician" means a person who is authorized under 15206
Chapter 4731. of the Revised Code to practice medicine and surgery 15207
or osteopathic medicine and surgery. 15208

(X) "Political subdivision" and "state" have the same 15209
meanings as in section 2744.01 of the Revised Code. 15210

(Y) "Professional disciplinary action" means action taken by 15211
the board or other entity that regulates the professional conduct 15212
of health care personnel, including the state medical board and 15213
the board of nursing. 15214

(Z) "Qualified patient" means an adult who has executed a 15215
declaration and has been determined to be in a terminal condition 15216
or in a permanently unconscious state. 15217

(AA) "Terminal condition" means an irreversible, incurable, 15218
and untreatable condition caused by disease, illness, or injury 15219
from which, to a reasonable degree of medical certainty as 15220
determined in accordance with reasonable medical standards by a 15221
declarant's or other patient's attending physician and one other 15222
physician who has examined the declarant or other patient, both of 15223

the following apply:	15224
(1) There can be no recovery.	15225
(2) Death is likely to occur within a relatively short time if life-sustaining treatment is not administered.	15226 15227
(BB) "Tort action" means a civil action for damages for injury, death, or loss to person or property, other than a civil action for damages for breach of a contract or another agreement between persons.	15228 15229 15230 15231
<u>Sec. 2151.352. A Except as otherwise provided in this</u>	15232
<u>section, a child, or the child's parents, or custodian, or <u>any</u></u>	15233
<u>other person in loco parentis of such the child is entitled to</u>	15234
<u>representation by legal counsel at all stages of the proceedings</u>	15235
<u>under this chapter or Chapter 2152. of the Revised Code and if,</u>	15236
<u>If, as an indigent person, any such person <u>a party</u> is unable to</u>	15237
<u>employ counsel, <u>the party is entitled</u> to have counsel provided for</u>	15238
<u>the person pursuant to Chapter 120. of the Revised Code. If a</u>	15239
<u>party appears without counsel, the court shall ascertain whether</u>	15240
<u>the party knows of the party's right to counsel and of the party's</u>	15241
<u>right to be provided with counsel if the party is an indigent</u>	15242
<u>person. The court may continue the case to enable a party to</u>	15243
<u>obtain counsel or to be represented by the county public defender</u>	15244
<u>or the joint county public defender and shall provide counsel upon</u>	15245
<u>request pursuant to Chapter 120. of the Revised Code. Counsel must</u>	15246
<u>be provided for a child not represented by the child's parent,</u>	15247
<u>guardian, or custodian. If the interests of two or more such</u>	15248
<u>parties conflict, separate counsel shall be provided for each of</u>	15249
<u>them.</u>	15250
<u>This section does not confer the right to court-appointed</u>	15251
<u>counsel in civil actions arising under division (A)(2), (D), or</u>	15252
<u>(F) of section 2151.23 or division (C) of section 3111.13 of the</u>	15253
<u>Revised Code.</u>	15254

Section 2935.14 of the Revised Code applies to any child 15255
taken into custody. The parents, custodian, or guardian of ~~such a~~ 15256
child taken into custody, and any attorney at law representing 15257
them or the child, shall be entitled to visit ~~such the~~ child at 15258
any reasonable time, be present at any hearing involving the 15259
child, and be given reasonable notice of ~~such the~~ hearing. 15260

Any report or part ~~thereof~~ of a report concerning ~~such the~~ 15261
child, which is used in the hearing and is pertinent ~~thereto~~ to 15262
the hearing, shall for good cause shown be made available to any 15263
attorney at law representing ~~such the~~ child and to any attorney at 15264
law representing the parents, custodian, or guardian of ~~such the~~ 15265
child, upon written request prior to any hearing involving ~~such~~ 15266
the child. 15267

Sec. 2151.3529. (A) The director of job and family services 15268
shall promulgate forms designed to gather pertinent medical 15269
information concerning a deserted child and the child's parents. 15270
The forms shall clearly and unambiguously state on each page that 15271
the information requested is to facilitate medical care for the 15272
child, that the forms may be fully or partially completed or left 15273
blank, that completing the forms or parts of the forms is 15274
completely voluntary, and that no adverse legal consequence will 15275
result from failure to complete any part of the forms. 15276

(B) The director shall promulgate written materials to be 15277
given to the parents of a child delivered pursuant to section 15278
2151.3516 of the Revised Code. The materials shall describe 15279
services available to assist parents and newborns and shall 15280
include information directly relevant to situations that might 15281
cause parents to desert a child and information on the procedures 15282
for a person to follow in order to reunite with a child the person 15283
delivered under section 2151.3516 of the Revised Code, including 15284
notice that the person will be required to submit to a DNA test, 15285

at that person's expense, to prove that the person is the parent 15286
of the child. 15287

(C) If the department of job and family services determines 15288
that money in the putative father registry fund created under 15289
section 2101.16 of the Revised Code is more than is needed for its 15290
duties related to the putative father registry, the department may 15291
use surplus moneys in the fund for costs related to the 15292
development and publication of forms and materials promulgated 15293
pursuant to divisions (A) and (B) of this section. 15294

Sec. 2151.3530. (A) The director of job and family services 15295
shall distribute the medical information forms and written 15296
materials promulgated under section 2151.3529 of the Revised Code 15297
to entities permitted to receive a deserted child, to public 15298
children services agencies, and to other public or private 15299
agencies that, in the discretion of the director, are best able to 15300
disseminate the forms and materials to the persons who are most in 15301
need of the forms and materials. 15302

(B) If the department of job and family services determines 15303
that money in the putative father registry fund created under 15304
section 2101.16 of the Revised Code is more than is needed to 15305
perform its duties related to the putative father registry, the 15306
department may use surplus moneys in the fund for costs related to 15307
the distribution of forms and materials pursuant to this section. 15308

Sec. 2151.83. (A) A public children services agency or 15309
private child placing agency, on the request of a young adult, 15310
shall enter into a jointly prepared written agreement with the 15311
young adult that obligates the agency to ensure that independent 15312
living services are provided to the young adult and sets forth the 15313
responsibilities of the young adult regarding the services. The 15314
agreement shall be developed based on the young adult's strengths, 15315

needs, and circumstances ~~and the availability of funds provided~~ 15316
~~pursuant to section 2151.84 of the Revised Code.~~ The agreement 15317
shall be designed to promote the young adult's successful 15318
transition to independent adult living and emotional and economic 15319
self-sufficiency. 15320

(B) If the young adult appears to be eligible for services 15321
from one or more of the following entities, the agency must 15322
contact the appropriate entity to determine eligibility: 15323

(1) An entity, other than the agency, that is represented on 15324
a county family and children first council established pursuant to 15325
section 121.37 of the Revised Code. If the entity is a board of 15326
alcohol, drug addiction, and mental health services, an alcohol 15327
and drug addiction services board, or a community mental health 15328
board, the agency shall contact the provider of alcohol, drug 15329
addiction, or mental health services that has been designated by 15330
the board to determine the young adult's eligibility for services. 15331

(2) The rehabilitation services commission; 15332

(3) A metropolitan housing authority established pursuant to 15333
section 3735.27 of the Revised Code. 15334

If an entity described in this division determines that the 15335
young adult qualifies for services from the entity, that entity, 15336
the young adult, and the agency to which the young adult made the 15337
request for independent living services shall enter into a written 15338
addendum to the jointly prepared agreement entered into under 15339
division (A) of this section. The addendum shall indicate how 15340
services under the agreement and addendum are to be coordinated 15341
and allocate the service responsibilities among the entities and 15342
agency that signed the addendum. 15343

Sec. 2151.84. The department of job and family services shall 15344
establish model agreements that may be used by public children 15345

services agencies and private child placing agencies required to 15346
provide services under an agreement with a young adult pursuant to 15347
section 2151.83 of the Revised Code. The model agreements shall 15348
include provisions describing the specific independent living 15349
services to be provided ~~to the extent funds are provided pursuant~~ 15350
~~to this section~~, the duration of the services and the agreement, 15351
the duties and responsibilities of each party under the agreement, 15352
and grievance procedures regarding disputes that arise regarding 15353
the agreement or services provided under it. 15354

~~To facilitate the provision of independent living services,~~ 15355
~~the department shall provide funds to meet the requirement of~~ 15356
~~state matching funds needed to qualify for federal funds under the~~ 15357
~~"Foster Care Independence Act of 1999," 113 Stat. 1822 (1999), 42~~ 15358
~~U.S.C. 677, as amended. The department shall seek controlling~~ 15359
~~board approval of any fund transfers necessary to meet this~~ 15360
~~requirement.~~ 15361

Sec. 2152.19. (A) If a child is adjudicated a delinquent 15362
child, the court may make any of the following orders of 15363
disposition, in addition to any other disposition authorized or 15364
required by this chapter: 15365

(1) Any order that is authorized by section 2151.353 of the 15366
Revised Code for the care and protection of an abused, neglected, 15367
or dependent child; 15368

(2) Commit the child to the temporary custody of any school, 15369
camp, institution, or other facility operated for the care of 15370
delinquent children by the county, by a district organized under 15371
section 2152.41 or 2151.65 of the Revised Code, or by a private 15372
agency or organization, within or without the state, that is 15373
authorized and qualified to provide the care, treatment, or 15374
placement required, including, but not limited to, a school, camp, 15375
or facility operated under section 2151.65 of the Revised Code; 15376

(3) Place the child in a detention facility or district	15377
detention facility operated under section 2152.41 of the Revised	15378
Code, for up to ninety days;	15379
(4) Place the child on community control under any sanctions,	15380
services, and conditions that the court prescribes. As a condition	15381
of community control in every case and in addition to any other	15382
condition that it imposes upon the child, the court shall require	15383
the child to abide by the law during the period of community	15384
control. As referred to in this division, community control	15385
includes, but is not limited to, the following sanctions and	15386
conditions:	15387
(a) A period of basic probation supervision in which the	15388
child is required to maintain contact with a person appointed to	15389
supervise the child in accordance with sanctions imposed by the	15390
court;	15391
(b) A period of intensive probation supervision in which the	15392
child is required to maintain frequent contact with a person	15393
appointed by the court to supervise the child while the child is	15394
seeking or maintaining employment and participating in training,	15395
education, and treatment programs as the order of disposition;	15396
(c) A period of day reporting in which the child is required	15397
each day to report to and leave a center or another approved	15398
reporting location at specified times in order to participate in	15399
work, education or training, treatment, and other approved	15400
programs at the center or outside the center;	15401
(d) A period of community service of up to five hundred hours	15402
for an act that would be a felony or a misdemeanor of the first	15403
degree if committed by an adult, up to two hundred hours for an	15404
act that would be a misdemeanor of the second, third, or fourth	15405
degree if committed by an adult, or up to thirty hours for an act	15406
that would be a minor misdemeanor if committed by an adult;	15407

(e) A requirement that the child obtain a high school diploma, a certificate of high school equivalence, vocational training, or employment;	15408
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(f) A period of drug and alcohol use monitoring;	15411
(g) A requirement of alcohol or drug assessment or counseling, or a period in an alcohol or drug treatment program with a level of security for the child as determined necessary by the court;	15412
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(h) A period in which the court orders the child to observe a curfew that may involve daytime or evening hours;	15416
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(i) A requirement that the child serve monitored time;	15418
(j) A period of house arrest with or without electronic monitoring;	15419
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(k) A period of electronic monitoring without house arrest or electronically monitored house arrest that does not exceed the maximum sentence of imprisonment that could be imposed upon an adult who commits the same act.	15421
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A period of electronically monitored house arrest imposed under this division shall not extend beyond the child's twenty-first birthday. If a court imposes a period of electronically monitored house arrest upon a child under this division, it shall require the child: to wear, otherwise have attached to the child's person, or otherwise be subject to monitoring by a certified electronic monitoring device or to participate in the operation of and monitoring by a certified electronic monitoring system; to remain in the child's home or other specified premises for the entire period of electronically monitored house arrest except when the court permits the child to leave those premises to go to school or to other specified premises; to be monitored by a central system that can determine	15425
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the child's location at designated times; to report periodically 15438
to a person designated by the court; and to enter into a written 15439
contract with the court agreeing to comply with all requirements 15440
imposed by the court, agreeing to pay any fee imposed by the court 15441
for the costs of the electronically monitored house arrest, and 15442
agreeing to waive the right to receive credit for any time served 15443
on electronically monitored house arrest toward the period of any 15444
other dispositional order imposed upon the child if the child 15445
violates any of the requirements of the dispositional order of 15446
electronically monitored house arrest. The court also may impose 15447
other reasonable requirements upon the child. 15448

Unless ordered by the court, a child shall not receive credit 15449
for any time served on electronically monitored house arrest 15450
toward any other dispositional order imposed upon the child for 15451
the act for which was imposed the dispositional order of 15452
electronically monitored house arrest. 15453

(1) A suspension of the driver's license, probationary 15454
driver's license, or temporary instruction permit issued to the 15455
child or a suspension of the registration of all motor vehicles 15456
registered in the name of the child. A child whose license or 15457
permit is so suspended is ineligible for issuance of a license or 15458
permit during the period of suspension. At the end of the period 15459
of suspension, the child shall not be reissued a license or permit 15460
until the child has paid any applicable reinstatement fee and 15461
complied with all requirements governing license reinstatement. 15462

(5) Commit the child to the custody of the court; 15463

(6) Require the child to not be absent without legitimate 15464
excuse from the public school the child is supposed to attend for 15465
five or more consecutive days, seven or more school days in one 15466
school month, or twelve or more school days in a school year; 15467

(7)(a) If a child is adjudicated a delinquent child for being 15468

a chronic truant or an habitual truant who previously has been 15469
adjudicated an unruly child for being a habitual truant, do either 15470
or both of the following: 15471

(i) Require the child to participate in a truancy prevention 15472
mediation program; 15473

(ii) Make any order of disposition as authorized by this 15474
section, except that the court shall not commit the child to a 15475
facility described in division (A)(2) or (3) of this section 15476
unless the court determines that the child violated a lawful court 15477
order made pursuant to division (C)(1)(e) of section 2151.354 of 15478
the Revised Code or division (A)(6) of this section. 15479

(b) If a child is adjudicated a delinquent child for being a 15480
chronic truant or a habitual truant who previously has been 15481
adjudicated an unruly child for being a habitual truant and the 15482
court determines that the parent, guardian, or other person having 15483
care of the child has failed to cause the child's attendance at 15484
school in violation of section 3321.38 of the Revised Code, do 15485
either or both of the following: 15486

(i) Require the parent, guardian, or other person having care 15487
of the child to participate in a truancy prevention mediation 15488
program; 15489

(ii) Require the parent, guardian, or other person having 15490
care of the child to participate in any community service program, 15491
preferably a community service program that requires the 15492
involvement of the parent, guardian, or other person having care 15493
of the child in the school attended by the child. 15494

(8) Make any further disposition that the court finds proper, 15495
except that the child shall not be placed in any of the following: 15496

(a) A state correctional institution, a county, multicounty, 15497
or municipal jail or workhouse, or another place in which an adult 15498
convicted of a crime, under arrest, or charged with a crime is 15499

held; 15500

(b) A community corrections facility, if the child would be 15501
covered by the definition of public safety beds for purposes of 15502
sections 5139.41 to ~~5139.45~~ 5139.43 of the Revised Code if the 15503
court exercised its authority to commit the child to the legal 15504
custody of the department of youth services for 15505
institutionalization or institutionalization in a secure facility 15506
pursuant to this chapter. 15507

(B) If a child is adjudicated a delinquent child, in addition 15508
to any order of disposition made under division (A) of this 15509
section, the court, in the following situations, shall suspend the 15510
child's temporary instruction permit, restricted license, 15511
probationary driver's license, or nonresident operating privilege, 15512
or suspend the child's ability to obtain such a permit: 15513

(1) The child is adjudicated a delinquent child for violating 15514
section 2923.122 of the Revised Code, with the suspension and 15515
denial being in accordance with division (E)(1)(a), (c), (d), or 15516
(e) of section 2923.122 of the Revised Code. 15517

(2) The child is adjudicated a delinquent child for 15518
committing an act that if committed by an adult would be a drug 15519
abuse offense or for violating division (B) of section 2917.11 of 15520
the Revised Code, with the suspension continuing until the child 15521
attends and satisfactorily completes a drug abuse or alcohol abuse 15522
education, intervention, or treatment program specified by the 15523
court. During the time the child is attending the program, the 15524
court shall retain any temporary instruction permit, probationary 15525
driver's license, or driver's license issued to the child, and the 15526
court shall return the permit or license when the child 15527
satisfactorily completes the program. 15528

(C) The court may establish a victim-offender mediation 15529
program in which victims and their offenders meet to discuss the 15530

offense and suggest possible restitution. If the court obtains the 15531
assent of the victim of the delinquent act committed by the child, 15532
the court may require the child to participate in the program. 15533

(D)(1) If a child is adjudicated a delinquent child for 15534
committing an act that would be a felony if committed by an adult 15535
and if the child caused, attempted to cause, threatened to cause, 15536
or created a risk of physical harm to the victim of the act, the 15537
court, prior to issuing an order of disposition under this 15538
section, shall order the preparation of a victim impact statement 15539
by the probation department of the county in which the victim of 15540
the act resides, by the court's own probation department, or by a 15541
victim assistance program that is operated by the state, a county, 15542
a municipal corporation, or another governmental entity. The court 15543
shall consider the victim impact statement in determining the 15544
order of disposition to issue for the child. 15545

(2) Each victim impact statement shall identify the victim of 15546
the act for which the child was adjudicated a delinquent child, 15547
itemize any economic loss suffered by the victim as a result of 15548
the act, identify any physical injury suffered by the victim as a 15549
result of the act and the seriousness and permanence of the 15550
injury, identify any change in the victim's personal welfare or 15551
familial relationships as a result of the act and any 15552
psychological impact experienced by the victim or the victim's 15553
family as a result of the act, and contain any other information 15554
related to the impact of the act upon the victim that the court 15555
requires. 15556

(3) A victim impact statement shall be kept confidential and 15557
is not a public record. However, the court may furnish copies of 15558
the statement to the department of youth services if the 15559
delinquent child is committed to the department or to both the 15560
adjudicated delinquent child or the adjudicated delinquent child's 15561
counsel and the prosecuting attorney. The copy of a victim impact 15562

statement furnished by the court to the department pursuant to 15563
this section shall be kept confidential and is not a public 15564
record. If an officer is preparing pursuant to section 2947.06 or 15565
2951.03 of the Revised Code or Criminal Rule 32.2 a presentence 15566
investigation report pertaining to a person, the court shall make 15567
available to the officer, for use in preparing the report, a copy 15568
of any victim impact statement regarding that person. The copies 15569
of a victim impact statement that are made available to the 15570
adjudicated delinquent child or the adjudicated delinquent child's 15571
counsel and the prosecuting attorney pursuant to this division 15572
shall be returned to the court by the person to whom they were 15573
made available immediately following the imposition of an order of 15574
disposition for the child under this chapter. 15575

The copy of a victim impact statement that is made available 15576
pursuant to this division to an officer preparing a criminal 15577
presentence investigation report shall be returned to the court by 15578
the officer immediately following its use in preparing the report. 15579

(4) The department of youth services shall work with local 15580
probation departments and victim assistance programs to develop a 15581
standard victim impact statement. 15582

(E) If a child is adjudicated a delinquent child for being a 15583
chronic truant or an habitual truant who previously has been 15584
adjudicated an unruly child for being an habitual truant and the 15585
court determines that the parent, guardian, or other person having 15586
care of the child has failed to cause the child's attendance at 15587
school in violation of section 3321.38 of the Revised Code, in 15588
addition to any order of disposition it makes under this section, 15589
the court shall warn the parent, guardian, or other person having 15590
care of the child that any subsequent adjudication of the child as 15591
an unruly or delinquent child for being an habitual or chronic 15592
truant may result in a criminal charge against the parent, 15593
guardian, or other person having care of the child for a violation 15594

of division (C) of section 2919.21 or section 2919.24 of the Revised Code.

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(F)(1) During the period of a delinquent child's community control granted under this section, authorized probation officers who are engaged within the scope of their supervisory duties or responsibilities may search, with or without a warrant, the person of the delinquent child, the place of residence of the delinquent child, and a motor vehicle, another item of tangible or intangible personal property, or other real property in which the delinquent child has a right, title, or interest or for which the delinquent child has the express or implied permission of a person with a right, title, or interest to use, occupy, or possess if the probation officers have reasonable grounds to believe that the delinquent child is not abiding by the law or otherwise is not complying with the conditions of the delinquent child's community control. The court that places a delinquent child on community control under this section shall provide the delinquent child with a written notice that informs the delinquent child that authorized probation officers who are engaged within the scope of their supervisory duties or responsibilities may conduct those types of searches during the period of community control if they have reasonable grounds to believe that the delinquent child is not abiding by the law or otherwise is not complying with the conditions of the delinquent child's community control. The court also shall provide the written notice described in division (E)(2) of this section to each parent, guardian, or custodian of the delinquent child who is described in that division.

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(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

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permissible search might extend to a motor vehicle, another item 15627
of tangible or intangible personal property, or a place of 15628
residence or other real property in which a notified parent, 15629
guardian, or custodian has a right, title, or interest and that 15630
the parent, guardian, or custodian expressly or impliedly permits 15631
the child to use, occupy, or possess. 15632

(G) If a juvenile court commits a delinquent child to the 15633
custody of any person, organization, or entity pursuant to this 15634
section and if the delinquent act for which the child is so 15635
committed is a sexually oriented offense, the court in the order 15636
of disposition shall do one of the following: 15637

(1) Require that the child be provided treatment as described 15638
in division (A)(2) of section 5139.13 of the Revised Code; 15639

(2) Inform the person, organization, or entity that it is the 15640
preferred course of action in this state that the child be 15641
provided treatment as described in division (A)(2) of section 15642
5139.13 of the Revised Code and encourage the person, 15643
organization, or entity to provide that treatment. 15644

Sec. 2301.58. (A) The director of the community-based 15645
correctional facility or district community-based correctional 15646
facility may establish a commissary for the facility. The 15647
commissary may be established either in-house or by another 15648
arrangement. If a commissary is established, all persons 15649
incarcerated in the facility shall receive commissary privileges. 15650
A person's purchases from the commissary shall be deducted from 15651
the person's account record in the facility's business office. The 15652
commissary shall provide for the distribution to indigent persons 15653
incarcerated in the facility necessary hygiene articles and 15654
writing materials. 15655

(B) If a commissary is established, the director of the 15656
community-based correctional facility or district community-based 15657

correctional facility shall establish a commissary fund for the 15658
facility. The management of funds in the commissary fund shall be 15659
strictly controlled in accordance with procedures adopted by the 15660
auditor of state. Commissary fund revenue over and above operating 15661
costs and reserve shall be considered profits. All profits from 15662
the commissary fund shall be used to purchase supplies and 15663
equipment for the benefit of persons incarcerated in the facility 15664
and to pay salary and benefits for employees of the facility, or 15665
for any other persons, who work in or are employed for the sole 15666
purpose of providing service to the commissary. The director of 15667
the community-based correctional facility or district 15668
community-based correctional facility shall adopt rules and 15669
regulations for the operation of any commissary fund the director 15670
establishes. 15671

Sec. 2305.234. (A) As used in this section: 15672

(1) "Chiropractic claim," "medical claim," and "optometric 15673
claim" have the same meanings as in section 2305.113 of the 15674
Revised Code. 15675

(2) "Dental claim" has the same meaning as in section 15676
2305.113 of the Revised Code, except that it does not include any 15677
claim arising out of a dental operation or any derivative claim 15678
for relief that arises out of a dental operation. 15679

(3) "Governmental health care program" has the same meaning 15680
as in section 4731.65 of the Revised Code. 15681

(4) "Health care professional" means any of the following who 15682
provide medical, dental, or other health-related diagnosis, care, 15683
or treatment: 15684

(a) Physicians authorized under Chapter 4731. of the Revised 15685
Code to practice medicine and surgery or osteopathic medicine and 15686
surgery; 15687

(b) Registered nurses, advanced practice nurses, and licensed practical nurses licensed under Chapter 4723. of the Revised Code;	15688 15689
(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;	15690 15691
(d) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;	15692 15693
(e) Physical therapists licensed under Chapter 4755. of the Revised Code;	15694 15695
(f) Chiropractors licensed under Chapter 4734. of the Revised Code;	15696 15697
(g) Optometrists licensed under Chapter 4725. of the Revised Code;	15698 15699
(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;	15700 15701
(i) Dietitians licensed under Chapter 4759. of the Revised Code;	15702 15703
(j) Pharmacists licensed under Chapter 4729. of the Revised Code;	15704 15705
(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code.	15706 15707 15708 15709
(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.	15710 15711 15712 15713 15714 15715 15716

(6) "Indigent and uninsured person" means a person who meets 15717
all of the following requirements: 15718

(a) The person's income is not greater than one hundred fifty 15719
per cent of the current poverty line as defined by the United 15720
States office of management and budget and revised in accordance 15721
with section 673(2) of the "Omnibus Budget Reconciliation Act of 15722
1981," 95 Stat. 511, 42 U.S.C. 9902, as amended. 15723

(b) The person is not eligible to receive medical assistance 15724
under Chapter 5111., disability ~~assistance~~ medical assistance 15725
under Chapter 5115. of the Revised Code, or assistance under any 15726
other governmental health care program. 15727

(c) Either of the following applies: 15728

(i) The person is not a policyholder, certificate holder, 15729
insured, contract holder, subscriber, enrollee, member, 15730
beneficiary, or other covered individual under a health insurance 15731
or health care policy, contract, or plan. 15732

(ii) The person is a policyholder, certificate holder, 15733
insured, contract holder, subscriber, enrollee, member, 15734
beneficiary, or other covered individual under a health insurance 15735
or health care policy, contract, or plan, but the insurer, policy, 15736
contract, or plan denies coverage or is the subject of insolvency 15737
or bankruptcy proceedings in any jurisdiction. 15738

(7) "Operation" means any procedure that involves cutting or 15739
otherwise infiltrating human tissue by mechanical means, including 15740
surgery, laser surgery, ionizing radiation, therapeutic 15741
ultrasound, or the removal of intraocular foreign bodies. 15742
"Operation" does not include the administration of medication by 15743
injection, unless the injection is administered in conjunction 15744
with a procedure infiltrating human tissue by mechanical means 15745
other than the administration of medicine by injection. 15746

(8) "Nonprofit shelter or health care facility" means a 15747
charitable nonprofit corporation organized and operated pursuant 15748
to Chapter 1702. of the Revised Code, or any charitable 15749
organization not organized and not operated for profit, that 15750
provides shelter, health care services, or shelter and health care 15751
services to indigent and uninsured persons, except that "shelter 15752
or health care facility" does not include a hospital as defined in 15753
section 3727.01 of the Revised Code, a facility licensed under 15754
Chapter 3721. of the Revised Code, or a medical facility that is 15755
operated for profit. 15756

(9) "Tort action" means a civil action for damages for 15757
injury, death, or loss to person or property other than a civil 15758
action for damages for a breach of contract or another agreement 15759
between persons or government entities. 15760

(10) "Volunteer" means an individual who provides any 15761
medical, dental, or other health-care related diagnosis, care, or 15762
treatment without the expectation of receiving and without receipt 15763
of any compensation or other form of remuneration from an indigent 15764
and uninsured person, another person on behalf of an indigent and 15765
uninsured person, any shelter or health care facility, or any 15766
other person or government entity. 15767

(B)(1) Subject to divisions (E) and (F)(3) of this section, a 15768
health care professional who is a volunteer and complies with 15769
division (B)(2) of this section is not liable in damages to any 15770
person or government entity in a tort or other civil action, 15771
including an action on a medical, dental, chiropractic, 15772
optometric, or other health-related claim, for injury, death, or 15773
loss to person or property that allegedly arises from an action or 15774
omission of the volunteer in the provision at a nonprofit shelter 15775
or health care facility to an indigent and uninsured person of 15776
medical, dental, or other health-related diagnosis, care, or 15777
treatment, including the provision of samples of medicine and 15778

other medical products, unless the action or omission constitutes willful or wanton misconduct. 15779
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(2) To qualify for the immunity described in division (B)(1) of this section, a health care professional shall do all of the following prior to providing diagnosis, care, or treatment: 15781
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(a) Determine, in good faith, that the indigent and uninsured person is mentally capable of giving informed consent to the provision of the diagnosis, care, or treatment and is not subject to duress or under undue influence; 15784
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(b) Inform the person of the provisions of this section; 15788

(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. 15789
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(3) A physician or podiatrist who is not covered by medical malpractice insurance, but complies with division (B)(2) of this section, is not required to comply with division (A) of section 4731.143 of the Revised Code. 15796
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(C) Subject to divisions (E) and (F)(3) of this section, health care workers who are volunteers are not liable in damages to any person or government entity in a tort or other civil action, including an action upon a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care worker in the provision at a nonprofit shelter or health care facility to an indigent and uninsured person of medical, dental, or other health-related diagnosis, care, or treatment, unless the action or omission constitutes 15800
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willful or wanton misconduct. 15810

(D) Subject to divisions (E) and (F)(3) of this section and 15811
section 3701.071 of the Revised Code, a nonprofit shelter or 15812
health care facility associated with a health care professional 15813
described in division (B)(1) of this section or a health care 15814
worker described in division (C) of this section is not liable in 15815
damages to any person or government entity in a tort or other 15816
civil action, including an action on a medical, dental, 15817
chiropractic, optometric, or other health-related claim, for 15818
injury, death, or loss to person or property that allegedly arises 15819
from an action or omission of the health care professional or 15820
worker in providing for the shelter or facility medical, dental, 15821
or other health-related diagnosis, care, or treatment to an 15822
indigent and uninsured person, unless the action or omission 15823
constitutes willful or wanton misconduct. 15824

(E)(1) Except as provided in division (E)(2) of this section, 15825
the immunities provided by divisions (B), (C), and (D) of this 15826
section are not available to an individual or to a nonprofit 15827
shelter or health care facility if, at the time of an alleged 15828
injury, death, or loss to person or property, the individuals 15829
involved are providing one of the following: 15830

(a) Any medical, dental, or other health-related diagnosis, 15831
care, or treatment pursuant to a community service work order 15832
entered by a court under division (F) of section 2951.02 of the 15833
Revised Code as a condition of probation or other suspension of a 15834
term of imprisonment or imposed by a court as a community control 15835
sanction pursuant to sections 2929.15 and 2929.17 of the Revised 15836
Code. 15837

(b) Performance of an operation. 15838

(c) Delivery of a baby. 15839

(2) Division (E)(1) of this section does not apply to an 15840

individual who provides, or a nonprofit shelter or health care 15841
facility at which the individual provides, diagnosis, care, or 15842
treatment that is necessary to preserve the life of a person in a 15843
medical emergency. 15844

(F)(1) This section does not create a new cause of action or 15845
substantive legal right against a health care professional, health 15846
care worker, or nonprofit shelter or health care facility. 15847

(2) This section does not affect any immunities from civil 15848
liability or defenses established by another section of the 15849
Revised Code or available at common law to which an individual or 15850
a nonprofit shelter or health care facility may be entitled in 15851
connection with the provision of emergency or other diagnosis, 15852
care, or treatment. 15853

(3) This section does not grant an immunity from tort or 15854
other civil liability to an individual or a nonprofit shelter or 15855
health care facility for actions that are outside the scope of 15856
authority of health care professionals or health care workers. 15857

(4) This section does not affect any legal responsibility of 15858
a health care professional or health care worker to comply with 15859
any applicable law of this state or rule of an agency of this 15860
state. 15861

(5) This section does not affect any legal responsibility of 15862
a nonprofit shelter or health care facility to comply with any 15863
applicable law of this state, rule of an agency of this state, or 15864
local code, ordinance, or regulation that pertains to or regulates 15865
building, housing, air pollution, water pollution, sanitation, 15866
health, fire, zoning, or safety. 15867

Sec. 2329.07. If neither execution on a judgment rendered in 15868
a court of record or certified to the clerk of the court of common 15869
pleas in the county in which the judgment was rendered is issued, 15870

nor a certificate of judgment for obtaining a lien upon lands and 15871
tenements is issued and filed, as provided in sections 2329.02 and 15872
2329.04 of the Revised Code, within five years from the date of 15873
the judgment or within five years from the date of the issuance of 15874
the last execution thereon or the issuance and filing of the last 15875
such certificate, whichever is later, then, unless the judgment is 15876
in favor of the state, the judgment shall be dormant and shall not 15877
operate as a lien upon the estate of the judgment debtor. 15878

If the judgment is in favor of the state, the judgment shall 15879
not become dormant and shall not cease to operate as a lien 15880
against the estate of the judgment debtor ~~unless neither such~~ 15881
provided that either execution on the judgment is issued ~~nor such~~ 15882
or a certificate of judgment is issued and filed, as provided in 15883
sections 2329.02 and 2329.04 of the Revised Code, within ten years 15884
from the date of the judgment ~~or within ten years from the date of~~ 15885
~~the issuance of the last execution thereon or the issuance and~~ 15886
~~filing of the last such certificate, whichever is later.~~ 15887

If, in any county other than that in which a judgment was 15888
rendered, the judgment has become a lien by reason of the filing, 15889
in the office of the clerk of the court of common pleas of that 15890
county, of a certificate of the judgment as provided in sections 15891
2329.02 and 2329.04 of the Revised Code, and if no execution is 15892
issued for the enforcement of the judgment within that county, or 15893
no further certificate of the judgment is filed in that county, 15894
within five years ~~or, if the judgment is in favor of the state,~~ 15895
~~within ten years~~ from the date of issuance of the last execution 15896
for the enforcement of the judgment within that county or the date 15897
of filing of the last certificate in that county, whichever is the 15898
later, then the judgment shall cease to operate as a lien upon 15899
lands and tenements of the judgment debtor within that county, 15900
unless the judgment is in favor of the state, in which case the 15901
judgment shall not become dormant. 15902

~~This section applies to judgments in favor of the state.~~ 15903

Sec. 2329.66. (A) Every person who is domiciled in this state 15904
may hold property exempt from execution, garnishment, attachment, 15905
or sale to satisfy a judgment or order, as follows: 15906

(1)(a) In the case of a judgment or order regarding money 15907
owed for health care services rendered or health care supplies 15908
provided to the person or a dependent of the person, one parcel or 15909
item of real or personal property that the person or a dependent 15910
of the person uses as a residence. Division (A)(1)(a) of this 15911
section does not preclude, affect, or invalidate the creation 15912
under this chapter of a judgment lien upon the exempted property 15913
but only delays the enforcement of the lien until the property is 15914
sold or otherwise transferred by the owner or in accordance with 15915
other applicable laws to a person or entity other than the 15916
surviving spouse or surviving minor children of the judgment 15917
debtor. Every person who is domiciled in this state may hold 15918
exempt from a judgment lien created pursuant to division (A)(1)(a) 15919
of this section the person's interest, not to exceed five thousand 15920
dollars, in the exempted property. 15921

(b) In the case of all other judgments and orders, the 15922
person's interest, not to exceed five thousand dollars, in one 15923
parcel or item of real or personal property that the person or a 15924
dependent of the person uses as a residence. 15925

(2) The person's interest, not to exceed one thousand 15926
dollars, in one motor vehicle; 15927

(3) The person's interest, not to exceed two hundred dollars 15928
in any particular item, in wearing apparel, beds, and bedding, and 15929
the person's interest, not to exceed three hundred dollars in each 15930
item, in one cooking unit and one refrigerator or other food 15931
preservation unit; 15932

(4)(a) The person's interest, not to exceed four hundred 15933
dollars, in cash on hand, money due and payable, money to become 15934
due within ninety days, tax refunds, and money on deposit with a 15935
bank, savings and loan association, credit union, public utility, 15936
landlord, or other person. Division (A)(4)(a) of this section 15937
applies only in bankruptcy proceedings. This exemption may include 15938
the portion of personal earnings that is not exempt under division 15939
(A)(13) of this section. 15940

(b) Subject to division (A)(4)(d) of this section, the 15941
person's interest, not to exceed two hundred dollars in any 15942
particular item, in household furnishings, household goods, 15943
appliances, books, animals, crops, musical instruments, firearms, 15944
and hunting and fishing equipment, that are held primarily for the 15945
personal, family, or household use of the person; 15946

(c) Subject to division (A)(4)(d) of this section, the 15947
person's interest in one or more items of jewelry, not to exceed 15948
four hundred dollars in one item of jewelry and not to exceed two 15949
hundred dollars in every other item of jewelry; 15950

(d) Divisions (A)(4)(b) and (c) of this section do not 15951
include items of personal property listed in division (A)(3) of 15952
this section. 15953

If the person does not claim an exemption under division 15954
(A)(1) of this section, the total exemption claimed under division 15955
(A)(4)(b) of this section shall be added to the total exemption 15956
claimed under division (A)(4)(c) of this section, and the total 15957
shall not exceed two thousand dollars. If the person claims an 15958
exemption under division (A)(1) of this section, the total 15959
exemption claimed under division (A)(4)(b) of this section shall 15960
be added to the total exemption claimed under division (A)(4)(c) 15961
of this section, and the total shall not exceed one thousand five 15962
hundred dollars. 15963

(5) The person's interest, not to exceed an aggregate of	15964
seven hundred fifty dollars, in all implements, professional	15965
books, or tools of the person's profession, trade, or business,	15966
including agriculture;	15967
(6)(a) The person's interest in a beneficiary fund set apart,	15968
appropriated, or paid by a benevolent association or society, as	15969
exempted by section 2329.63 of the Revised Code;	15970
(b) The person's interest in contracts of life or endowment	15971
insurance or annuities, as exempted by section 3911.10 of the	15972
Revised Code;	15973
(c) The person's interest in a policy of group insurance or	15974
the proceeds of a policy of group insurance, as exempted by	15975
section 3917.05 of the Revised Code;	15976
(d) The person's interest in money, benefits, charity,	15977
relief, or aid to be paid, provided, or rendered by a fraternal	15978
benefit society, as exempted by section 3921.18 of the Revised	15979
Code;	15980
(e) The person's interest in the portion of benefits under	15981
policies of sickness and accident insurance and in lump sum	15982
payments for dismemberment and other losses insured under those	15983
policies, as exempted by section 3923.19 of the Revised Code.	15984
(7) The person's professionally prescribed or medically	15985
necessary health aids;	15986
(8) The person's interest in a burial lot, including, but not	15987
limited to, exemptions under section 517.09 or 1721.07 of the	15988
Revised Code;	15989
(9) The person's interest in the following:	15990
(a) Moneys paid or payable for living maintenance or rights,	15991
as exempted by section 3304.19 of the Revised Code;	15992
(b) Workers' compensation, as exempted by section 4123.67 of	15993

the Revised Code;	15994
(c) Unemployment compensation benefits, as exempted by section 4141.32 of the Revised Code;	15995 15996
(d) Cash assistance payments under the Ohio works first program, as exempted by section 5107.75 of the Revised Code;	15997 15998
(e) Benefits and services under the prevention, retention, and contingency program, as exempted by section 5108.08 of the Revised Code;	15999 16000 16001
(f) Disability <u>financial</u> assistance payments, as exempted by section 5115.07 <u>5115.06</u> of the Revised Code.	16002 16003
(10)(a) Except in cases in which the person was convicted of or pleaded guilty to a violation of section 2921.41 of the Revised Code and in which an order for the withholding of restitution from payments was issued under division (C)(2)(b) of that section or in cases in which an order for withholding was issued under section 2907.15 of the Revised Code, and only to the extent provided in the order, and except as provided in sections 3105.171, 3105.63, 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person's right to a pension, benefit, annuity, retirement allowance, or accumulated contributions, the person's right to a participant account in any deferred compensation program offered by the Ohio public employees deferred compensation board, a government unit, or a municipal corporation, or the person's other accrued or accruing rights, as exempted by section 145.56, 146.13, 148.09, 742.47, 3307.41, 3309.66, or 5505.22 of the Revised Code, and the person's right to benefits from the Ohio public safety officers death benefit fund;	16004 16005 16006 16007 16008 16009 16010 16011 16012 16013 16014 16015 16016 16017 16018 16019 16020
(b) Except as provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person's right to receive a payment under any pension, annuity, or similar plan or contract, not including a payment from a stock bonus or	16021 16022 16023 16024

profit-sharing plan or a payment included in division (A)(6)(b) or 16025
(10)(a) of this section, on account of illness, disability, death, 16026
age, or length of service, to the extent reasonably necessary for 16027
the support of the person and any of the person's dependents, 16028
except if all the following apply: 16029

(i) The plan or contract was established by or under the 16030
auspices of an insider that employed the person at the time the 16031
person's rights under the plan or contract arose. 16032

(ii) The payment is on account of age or length of service. 16033

(iii) The plan or contract is not qualified under the 16034
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as 16035
amended. 16036

(c) Except for any portion of the assets that were deposited 16037
for the purpose of evading the payment of any debt and except as 16038
provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 16039
3123.06 of the Revised Code, the person's right in the assets held 16040
in, or to receive any payment under, any individual retirement 16041
account, individual retirement annuity, "Roth IRA," or education 16042
individual retirement account that provides benefits by reason of 16043
illness, disability, death, or age, to the extent that the assets, 16044
payments, or benefits described in division (A)(10)(c) of this 16045
section are attributable to any of the following: 16046

(i) Contributions of the person that were less than or equal 16047
to the applicable limits on deductible contributions to an 16048
individual retirement account or individual retirement annuity in 16049
the year that the contributions were made, whether or not the 16050
person was eligible to deduct the contributions on the person's 16051
federal tax return for the year in which the contributions were 16052
made; 16053

(ii) Contributions of the person that were less than or equal 16054
to the applicable limits on contributions to a Roth IRA or 16055

education individual retirement account in the year that the 16056
contributions were made; 16057

(iii) Contributions of the person that are within the 16058
applicable limits on rollover contributions under subsections 219, 16059
402(c), 403(a)(4), 403(b)(8), 408(b), 408(d)(3), 408A(c)(3)(B), 16060
408A(d)(3), and 530(d)(5) of the "Internal Revenue Code of 1986," 16061
100 Stat. 2085, 26 U.S.C.A. 1, as amended. 16062

(d) Except for any portion of the assets that were deposited 16063
for the purpose of evading the payment of any debt and except as 16064
provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 16065
3123.06 of the Revised Code, the person's right in the assets held 16066
in, or to receive any payment under, any Keogh or "H.R. 10" plan 16067
that provides benefits by reason of illness, disability, death, or 16068
age, to the extent reasonably necessary for the support of the 16069
person and any of the person's dependents. 16070

(11) The person's right to receive spousal support, child 16071
support, an allowance, or other maintenance to the extent 16072
reasonably necessary for the support of the person and any of the 16073
person's dependents; 16074

(12) The person's right to receive, or moneys received during 16075
the preceding twelve calendar months from, any of the following: 16076

(a) An award of reparations under sections 2743.51 to 2743.72 16077
of the Revised Code, to the extent exempted by division (D) of 16078
section 2743.66 of the Revised Code; 16079

(b) A payment on account of the wrongful death of an 16080
individual of whom the person was a dependent on the date of the 16081
individual's death, to the extent reasonably necessary for the 16082
support of the person and any of the person's dependents; 16083

(c) Except in cases in which the person who receives the 16084
payment is an inmate, as defined in section 2969.21 of the Revised 16085
Code, and in which the payment resulted from a civil action or 16086

appeal against a government entity or employee, as defined in 16087
section 2969.21 of the Revised Code, a payment, not to exceed five 16088
thousand dollars, on account of personal bodily injury, not 16089
including pain and suffering or compensation for actual pecuniary 16090
loss, of the person or an individual for whom the person is a 16091
dependent; 16092

(d) A payment in compensation for loss of future earnings of 16093
the person or an individual of whom the person is or was a 16094
dependent, to the extent reasonably necessary for the support of 16095
the debtor and any of the debtor's dependents. 16096

(13) Except as provided in sections 3119.80, 3119.81, 16097
3121.02, 3121.03, and 3123.06 of the Revised Code, personal 16098
earnings of the person owed to the person for services in an 16099
amount equal to the greater of the following amounts: 16100

(a) If paid weekly, thirty times the current federal minimum 16101
hourly wage; if paid biweekly, sixty times the current federal 16102
minimum hourly wage; if paid semimonthly, sixty-five times the 16103
current federal minimum hourly wage; or if paid monthly, one 16104
hundred thirty times the current federal minimum hourly wage that 16105
is in effect at the time the earnings are payable, as prescribed 16106
by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 16107
U.S.C. 206(a)(1), as amended; 16108

(b) Seventy-five per cent of the disposable earnings owed to 16109
the person. 16110

(14) The person's right in specific partnership property, as 16111
exempted by division (B)(3) of section 1775.24 of the Revised 16112
Code; 16113

(15) A seal and official register of a notary public, as 16114
exempted by section 147.04 of the Revised Code; 16115

(16) The person's interest in a tuition credit or a payment 16116
under section 3334.09 of the Revised Code pursuant to a tuition 16117

credit contract, as exempted by section 3334.15 of the Revised Code; 16118
16119

(17) Any other property that is specifically exempted from execution, attachment, garnishment, or sale by federal statutes other than the "Bankruptcy Reform Act of 1978," 92 Stat. 2549, 11 U.S.C.A. 101, as amended; 16120
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(18) The person's interest, not to exceed four hundred dollars, in any property, except that division (A)(18) of this section applies only in bankruptcy proceedings. 16124
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(B) As used in this section: 16127

(1) "Disposable earnings" means net earnings after the garnishee has made deductions required by law, excluding the deductions ordered pursuant to section 3119.80, 3119.81, 3121.02, 3121.03, or 3123.06 of the Revised Code. 16128
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(2) "Insider" means: 16132

(a) If the person who claims an exemption is an individual, a relative of the individual, a relative of a general partner of the individual, a partnership in which the individual is a general partner, a general partner of the individual, or a corporation of which the individual is a director, officer, or in control; 16133
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(b) If the person who claims an exemption is a corporation, a director or officer of the corporation; a person in control of the corporation; a partnership in which the corporation is a general partner; a general partner of the corporation; or a relative of a general partner, director, officer, or person in control of the corporation; 16138
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(c) If the person who claims an exemption is a partnership, a general partner in the partnership; a general partner of the partnership; a person in control of the partnership; a partnership in which the partnership is a general partner; or a relative in, a 16144
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general partner of, or a person in control of the partnership;	16148
(d) An entity or person to which or whom any of the following applies:	16149
	16150
(i) The entity directly or indirectly owns, controls, or holds with power to vote, twenty per cent or more of the outstanding voting securities of the person who claims an exemption, unless the entity holds the securities in a fiduciary or agency capacity without sole discretionary power to vote the securities or holds the securities solely to secure to debt and the entity has not in fact exercised the power to vote.	16151
	16152
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	16157
(ii) The entity is a corporation, twenty per cent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the person who claims an exemption or by an entity to which division (B)(2)(d)(i) of this section applies.	16158
	16159
	16160
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	16162
(iii) A person whose business is operated under a lease or operating agreement by the person who claims an exemption, or a person substantially all of whose business is operated under an operating agreement with the person who claims an exemption.	16163
	16164
	16165
	16166
(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.	16167
	16168
	16169
(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;	16170
	16171
	16172
	16173
(f) A managing agent of the person who claims an exemption.	16174
(3) "Participant account" has the same meaning as in section 148.01 of the Revised Code.	16175
	16176
(4) "Government unit" has the same meaning as in section	16177

148.06 of the Revised Code. 16178

(C) For purposes of this section, "interest" shall be 16179
determined as follows: 16180

(1) In bankruptcy proceedings, as of the date a petition is 16181
filed with the bankruptcy court commencing a case under Title 11 16182
of the United States Code; 16183

(2) In all cases other than bankruptcy proceedings, as of the 16184
date of an appraisal, if necessary under section 2329.68 of the 16185
Revised Code, or the issuance of a writ of execution. 16186

An interest, as determined under division (C)(1) or (2) of 16187
this section, shall not include the amount of any lien otherwise 16188
valid pursuant to section 2329.661 of the Revised Code. 16189

Sec. 2505.13. If a supersedeas bond has been executed and 16190
filed and the surety is one other than a surety company, the clerk 16191
of the court with which the bond has been filed, upon request, 16192
shall issue a certificate that sets forth the fact that the bond 16193
has been filed and that states the style and number of the appeal, 16194
the amount of the bond, and the sureties on it. Such a certificate 16195
may be filed in the office of the county recorder of any county in 16196
which the sureties may own land, and, when filed, the bond shall 16197
be a lien upon the land of the sureties in such county. The lien 16198
shall be extinguished upon the satisfaction, reversal, or vacation 16199
of the final order, judgment, or decree involved, or by an order 16200
of the court that entered the final order, judgment, or decree, 16201
that releases the lien or releases certain land from the operation 16202
of the lien. 16203

The clerk, upon request, shall issue a notice of discharge of 16204
such a lien, which may be filed in the office of any recorder in 16205
whose office the certificate of lien was filed. Such notice shall 16206
state that the final order, judgment, or decree involved is 16207

satisfied, reversed, or vacated, or that an order has been entered 16208
that releases the lien or certain land from the operation of the 16209
lien. Such recorder shall properly keep and file such certificates 16210
and notices as are filed with ~~him~~ the recorder and shall index 16211
them in the book or record provided for in section 2937.27 of the 16212
Revised Code. 16213

The fee for issuing such a certificate or notice shall be as 16214
provided by law, and shall be taxed as part of the costs of the 16215
appeal. A county recorder shall receive a base fee of fifty cents 16216
for filing and indexing such a certificate, which fee shall cover 16217
the filing and the entering on the index of ~~such a~~ the notice and 16218
a housing trust fund fee of fifty cents pursuant to section 317.36 16219
of the Revised Code. 16220

Sec. 2715.041. (A) Upon the filing of a motion for an order 16221
of attachment pursuant to section 2715.03 of the Revised Code, the 16222
plaintiff shall file with the clerk of the court a praecipe 16223
instructing the clerk to issue to the defendant against whom the 16224
motion was filed a notice of the proceeding. Upon receipt of the 16225
praecipe, the clerk shall issue the notice which shall be in 16226
substantially the following form: 16227

"(Name and Address of Court) 16228

Case No..... 16229

(Case Caption) 16230

NOTICE 16231

You are hereby notified that (name and address of plaintiff), 16232
the plaintiff in this proceeding, has applied to this court for 16233
the attachment of property in your possession. The basis for this 16234
application is indicated in the documents that are enclosed with 16235
this notice. 16236

The law of Ohio and the United States provides that certain 16237
benefit payments cannot be taken from you to pay a debt. Typical 16238

among the benefits that cannot be attached or executed on by a	16239
creditor are:	16240
(1) Workers' compensation benefits;	16241
(2) Unemployment compensation payments;	16242
(3) Cash assistance payments under the Ohio works first	16243
program;	16244
(4) Benefits and services under the prevention, retention,	16245
and contingency program;	16246
(5) Disability <u>financial</u> assistance administered by the Ohio	16247
department of job and family services;	16248
(6) Social security benefits;	16249
(7) Supplemental security income (S.S.I.);	16250
(8) Veteran's benefits;	16251
(9) Black lung benefits;	16252
(10) Certain pensions.	16253
Additionally, your wages never can be taken to pay a debt	16254
until a judgment has been obtained against you. There may be other	16255
benefits not included in this list that apply in your case.	16256
If you dispute the plaintiff's claim and believe that you are	16257
entitled to retain possession of the property because it is exempt	16258
or for any other reason, you may request a hearing before this	16259
court by disputing the claim in the request for hearing form	16260
appearing below, or in a substantially similar form, and	16261
delivering the request for the hearing to this court, at the	16262
office of the clerk of this court, not later than the end of the	16263
fifth business day after you receive this notice. You may state	16264
your reasons for disputing the claim in the space provided on the	16265
form, but you are not required to do so. If you do state your	16266
reasons for disputing the claim in the space provided on the form,	16267

you are not prohibited from stating any other reasons at the 16268
hearing, and if you do not state your reasons, it will not be held 16269
against you by the court and you can state your reasons at the 16270
hearing. 16271

If you request a hearing, it will be conducted in 16272
..... courtroom, (address of court), at 16273
.....m. on, 16274

You may avoid having a hearing but retain possession of the 16275
property until the entry of final judgment in the action by filing 16276
with the court, at the office of the clerk of this court, not 16277
later than the end of the fifth business day after you receive 16278
this notice, a bond executed by an acceptable surety in the amount 16279
of \$..... 16280

If you do not request a hearing or file a bond on or before 16281
the end of the fifth business day after you receive this notice, 16282
the court, without further notice to you, may order a law 16283
enforcement officer or bailiff to take possession of the property. 16284
Notice of the dates, times, places, and purposes of any subsequent 16285
hearings and of the date, time, and place of the trial of the 16286
action will be sent to you. 16287

..... 16288

Clerk of Court 16289

Date:....." 16290

(B) Along with the notice required by division (A) of this 16291
section, the clerk of the court also shall deliver to the 16292
defendant, in accordance with division (C) of this section, a 16293
request for hearing form together with a postage-paid, 16294
self-addressed envelope or a request for hearing form on a 16295
postage-paid, self-addressed postcard. The request for hearing 16296
shall be in substantially the following form: 16297

"(Name and Address of Court) 16298

Case Number Date 16299

REQUEST FOR HEARING

16300

I dispute the claim for the attachment of property in the
above case and request that a hearing in this matter be held at
the time and place set forth in the notice that I previously
received.

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16302
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16304

I dispute the claim for the following reasons:

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.....

16306

(Optional)

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.....

16310

(Name of Defendant)

16311

.....

16312

(Signature)

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.....

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(Date)

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WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A
REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK
OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT,
YOU WAIVE YOUR RIGHT TO A HEARING AT THIS TIME AND YOU MAY BE
REQUIRED TO GIVE UP THE PROPERTY SOUGHT WITHOUT A HEARING."

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(C) The notice required by division (A) of this section shall
be served on the defendant in duplicate not less than seven
business days prior to the date on which the hearing is scheduled,
together with a copy of the complaint and summons, if not
previously served, and a copy of the motion for the attachment of
property and the affidavit attached to the motion, in the same
manner as provided in the Rules of Civil Procedure for the service
of process. Service may be effected by publication as provided in
the Rules of Civil Procedure except that the number of weeks for

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publication may be reduced by the court to the extent appropriate. 16330

Sec. 2715.045. (A) Upon the filing of a motion for 16331
attachment, a court may issue an order of attachment without 16332
issuing notice to the defendant against whom the motion was filed 16333
and without conducting a hearing if the court finds that there is 16334
probable cause to support the motion and that the plaintiff that 16335
filed the motion for attachment will suffer irreparable injury if 16336
the order is delayed until the defendant against whom the motion 16337
has been filed has been given the opportunity for a hearing. The 16338
court's findings shall be based upon the motion and affidavit 16339
filed pursuant to section 2715.03 of the Revised Code and any 16340
other relevant evidence that it may wish to consider. 16341

(B) A finding by the court that the plaintiff will suffer 16342
irreparable injury may be made only if the court finds the 16343
existence of either of the following circumstances: 16344

(1) There is present danger that the property will be 16345
immediately disposed of, concealed, or placed beyond the 16346
jurisdiction of the court. 16347

(2) The value of the property will be impaired substantially 16348
if the issuance of an order of attachment is delayed. 16349

(C)(1) Upon the issuance by a court of an order of attachment 16350
without notice and hearing pursuant to this section, the plaintiff 16351
shall file the order with the clerk of the court, together with a 16352
praecipe instructing the clerk to issue to the defendant against 16353
whom the order was issued a copy of the motion, affidavit, and 16354
order of attachment, and a notice that an order of attachment was 16355
issued and that the defendant has a right to a hearing on the 16356
matter. The clerk then immediately shall serve upon the defendant, 16357
in the manner provided by the Rules of Civil Procedure for service 16358
of process, a copy of the complaint and summons, if not previously 16359
served, a copy of the motion, affidavit, and order of attachment, 16360

and the following notice: 16361

(Name and Address of the Court) 16362

(Case Caption) Case No. 16363

NOTICE 16364

You are hereby notified that this court has issued an order 16365
in the above case in favor of (name and address of plaintiff), the 16366
plaintiff in this proceeding, directing that property now in your 16367
possession, be taken from you. This order was issued on the basis 16368
of the plaintiff's claim against you as indicated in the documents 16369
that are enclosed with this notice. 16370

The law of Ohio and the United States provides that certain 16371
benefit payments cannot be taken from you to pay a debt. Typical 16372
among the benefits that cannot be attached or executed on by a 16373
creditor are: 16374

(1) Workers' compensation benefits; 16375

(2) Unemployment compensation payments; 16376

(3) Cash assistance payments under the Ohio works first 16377
program; 16378

(4) Benefits and services under the prevention, retention, 16379
and contingency program; 16380

(5) Disability financial assistance administered by the Ohio 16381
department of job and family services; 16382

(6) Social security benefits; 16383

(7) Supplemental security income (S.S.I.); 16384

(8) Veteran's benefits; 16385

(9) Black lung benefits; 16386

(10) Certain pensions. 16387

Additionally, your wages never can be taken to pay a debt 16388
until a judgment has been obtained against you. There may be other 16389

benefits not included in this list that apply in your case. 16390

If you dispute the plaintiff's claim and believe that you are 16391
entitled to possession of the property because it is exempt or for 16392
any other reason, you may request a hearing before this court by 16393
disputing the claim in the request for hearing form, appearing 16394
below, or in a substantially similar form, and delivering the 16395
request for hearing to this court at the above address, at the 16396
office of the clerk of this court, no later than the end of the 16397
fifth business day after you receive this notice. You may state 16398
your reasons for disputing the claim in the space provided on the 16399
form; however, you are not required to do so. If you do state your 16400
reasons for disputing the claim, you are not prohibited from 16401
stating any other reasons at the hearing, and if you do not state 16402
your reasons, it will not be held against you by the court and you 16403
can state your reasons at the hearing. If you request a hearing, 16404
it will be held within three business days after delivery of your 16405
request for hearing and notice of the date, time, and place of the 16406
hearing will be sent to you. 16407

You may avoid a hearing but recover and retain possession of 16408
the property until the entry of final judgment in the action by 16409
filing with the court, at the office of the clerk of this court, 16410
not later than the end of the fifth business day after you receive 16411
this notice, a bond executed by an acceptable surety in the amount 16412
of \$..... 16413

If you do not request a hearing or file a bond before the end 16414
of the fifth business day after you receive this notice, 16415
possession of the property will be withheld from you during the 16416
pendency of the action. Notice of the dates, times, places, and 16417
purposes of any subsequent hearings and of the date, time, and 16418
place of the trial of the action will be sent to you. 16419

..... 16420

Clerk of the Court 16421

..... 16422
Date" 16423

(2) Along with the notice required by division (C)(1) of this 16424
section, the clerk of the court also shall deliver to the 16425
defendant a request for hearing form together with a postage-paid, 16426
self-addressed envelope or a request for hearing form on a 16427
postage-paid, self-addressed postcard. The request for hearing 16428
shall be in substantially the following form: 16429

 "(Name and Address of Court) 16430

Case Number Date 16431

 REQUEST FOR HEARING 16432

I dispute the claim for possession of property in the above 16433
case and request that a hearing in this matter be held within 16434
three business days after delivery of this request to the court. 16435

I dispute the claim for the following reasons: 16436

..... 16437

(Optional) 16438

..... 16439

..... 16440

..... 16441

 (Name of Defendant) 16442

..... 16443

 (Signature) 16444

..... 16445

 (Date) 16446

WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A 16447
REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK 16448
OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT, 16449
YOU WAIVE YOUR RIGHT TO A HEARING AND POSSESSION OF THE PROPERTY 16450
WILL BE WITHHELD FROM YOU DURING THE PENDENCY OF THE ACTION." 16451

(D) The defendant may receive a hearing in accordance with 16452
section 2715.043 of the Revised Code by delivering a written 16453
request for hearing to the court within five business days after 16454
receipt of the notice provided pursuant to division (C) of this 16455
section. The request may set forth the defendant's reasons for 16456
disputing the plaintiff's claim for possession of property. 16457
However, neither the defendant's inclusion of nor failure to 16458
include such reasons upon the request constitutes a waiver of any 16459
defense of the defendant or affects the defendant's right to 16460
produce evidence at any hearing or at the trial of the action. If 16461
the request is made by the defendant, the court shall schedule a 16462
hearing within three business days after the request is made, send 16463
notice to the parties of the date, time, and place of the hearing, 16464
and hold the hearing accordingly. 16465

(E) If, after hearing, the court finds that there is not 16466
probable cause to support the motion, it shall order that the 16467
property be redelivered to the defendant without the condition of 16468
bond. 16469

Sec. 2716.13. (A) Upon the filing of a proceeding in 16470
garnishment of property, other than personal earnings, under 16471
section 2716.11 of the Revised Code, the court shall cause the 16472
matter to be set for hearing within twelve days after that filing. 16473

(B) Upon the scheduling of a hearing relative to a proceeding 16474
in garnishment of property, other than personal earnings, under 16475
division (A) of this section, the clerk of the court immediately 16476
shall issue to the garnishee three copies of the order of 16477
garnishment of property, other than personal earnings, and of a 16478
written notice that the garnishee answer as provided in section 16479
2716.21 of the Revised Code and the garnishee's fee required by 16480
section 2716.12 of the Revised Code. The copies of the order and 16481
of the notice shall be served upon the garnishee in the same 16482

manner as a summons is served. The copies of the order and of the 16483
notice shall not be served later than seven days prior to the date 16484
on which the hearing is scheduled. The order shall bind the 16485
property, other than personal earnings, of the judgment debtor in 16486
the possession of the garnishee at the time of service. 16487

The order of garnishment of property, other than personal 16488
earnings, and notice to answer shall be in substantially the 16489
following form: 16490

"ORDER AND NOTICE OF GARNISHMENT 16491
OF PROPERTY OTHER THAN PERSONAL EARNINGS 16492
AND ANSWER OF GARNISHEE 16493

Docket No. 16494
Case No. 16495
In the Court 16496
....., Ohio 16497

The State of Ohio 16498

County of, ss 16499

....., Judgment Creditor 16500

vs. 16501

....., Judgment Debtor 16502

SECTION A. COURT ORDER AND NOTICE OF GARNISHMENT 16503

To:, Garnishee 16504

The judgment creditor in the above case has filed an 16505
affidavit, satisfactory to the undersigned, in this Court stating 16506
that you have money, property, or credits, other than personal 16507
earnings, in your hands or under your control that belong to the 16508
judgment debtor, and that some of the money, property, or credits 16509
may not be exempt from garnishment under the laws of the State of 16510
Ohio or the laws of the United States. 16511

You are therefore ordered to complete the "ANSWER OF 16512

2. That property is described as: 16544

3. If the answer to line 1 is "yes" and the amount is less 16545
than the probable amount now due on the judgment, as indicated in 16546
section (A) of this form, sign and return this form and pay the 16547
amount of line 1 to the clerk of this court. 16548

4. If the answer to line 1 is "yes" and the amount is greater 16549
than that probable amount now due on the judgment, as indicated in 16550
section (A) of this form, sign and return this form and pay that 16551
probable amount now due to the clerk of this court. 16552

5. If the answer to line 1 is "yes" but the money, property, 16553
or credits are of such a nature that they cannot be delivered to 16554
the clerk of the court, indicate that by placing an "X" in this 16555
space: Do not dispose of that money, property, or credits 16556
or give them to anyone else until further order of the court. 16557

6. If the answer to line 1 is "no," sign and return this form 16558
to the clerk of this court. 16559

I certify that the statements above are true. 16560
..... 16561
(Print Name of Garnishee) 16562
..... 16563
(Print Name and Title of 16564
Person Who Completed Form) 16565

Signed..... 16566
(Signature of Person Completing Form) 16567

Dated this day of," 16568

Section A of the form described in this division shall be 16569
completed before service. Section B of the form shall be completed 16570
by the garnishee, and the garnishee shall file one completed and 16571
signed copy of the form with the clerk of the court as the 16572
garnishee's answer. The garnishee may keep one completed and 16573

signed copy of the form and shall deliver the other completed and 16574
signed copy of the form to the judgment debtor. 16575

If several affidavits seeking orders of garnishment of 16576
property, other than personal earnings, are filed against the same 16577
judgment debtor in accordance with section 2716.11 of the Revised 16578
Code, the court involved shall issue the requested orders in the 16579
same order in which the clerk received the associated affidavits. 16580

(C)(1) At the time of the filing of a proceeding in 16581
garnishment of property, other than personal earnings, under 16582
section 2716.11 of the Revised Code, the judgment creditor also 16583
shall file with the clerk of the court a praecipe instructing the 16584
clerk to issue to the judgment debtor a notice to the judgment 16585
debtor form and a request for hearing form. Upon receipt of the 16586
praecipe and the scheduling of a hearing relative to an action in 16587
garnishment of property, other than personal earnings, under 16588
division (A) of this section, the clerk of the court immediately 16589
shall serve upon the judgment debtor, in accordance with division 16590
(D) of this section, two copies of the notice to the judgment 16591
debtor form and of the request for hearing form. The copies of the 16592
notice to the judgment debtor form and of the request for hearing 16593
form shall not be served later than seven days prior to the date 16594
on which the hearing is scheduled. 16595

(a) The notice to the judgment debtor that must be served 16596
upon the judgment debtor shall be in substantially the following 16597
form: 16598

"(Name and Address of the Court) 16599

(Case Caption) Case No. 16600

NOTICE TO THE JUDGMENT DEBTOR 16601

You are hereby notified that this court has issued an order 16602
in the above case in favor of (name and address of judgment 16603
creditor), the judgment creditor in this proceeding, directing 16604

that some of your money, property, or credits, other than personal 16605
earnings, now in the possession of (name and address of 16606
garnishee), the garnishee in this proceeding, be used to satisfy 16607
your debt to the judgment creditor. This order was issued on the 16608
basis of the judgment creditor's judgment against you that was 16609
obtained in (name of court) in (case number) on (date). Upon your 16610
receipt of this notice, you are prohibited from removing or 16611
attempting to remove the money, property, or credits until 16612
expressly permitted by the court. Any violation of this 16613
prohibition subjects you to punishment for contempt of court. 16614

The law of Ohio and the United States provides that certain 16615
benefit payments cannot be taken from you to pay a debt. Typical 16616
among the benefits that cannot be attached or executed upon by a 16617
creditor are the following: 16618

(1) Workers' compensation benefits; 16619

(2) Unemployment compensation payments; 16620

(3) Cash assistance payments under the Ohio works first 16621
program; 16622

(4) Benefits and services under the prevention, retention, 16623
and contingency program; 16624

(5) Disability financial assistance administered by the Ohio 16625
department of job and family services; 16626

(6) Social security benefits; 16627

(7) Supplemental security income (S.S.I.); 16628

(8) Veteran's benefits; 16629

(9) Black lung benefits; 16630

(10) Certain pensions. 16631

There may be other benefits not included in the above list 16632
that apply in your case. 16633

If you dispute the judgment creditor's right to garnish your property and believe that the judgment creditor should not be given your money, property, or credits, other than personal earnings, now in the possession of the garnishee because they are exempt or if you feel that this order is improper for any other reason, you may request a hearing before this court by disputing the claim in the request for hearing form, appearing below, or in a substantially similar form, and delivering the request for hearing to this court at the above address, at the office of the clerk of this court no later than the end of the fifth business day after you receive this notice. You may state your reasons for disputing the judgment creditor's right to garnish your property in the space provided on the form; however, you are not required to do so. If you do state your reasons for disputing the judgment creditor's right, you are not prohibited from stating any other reason at the hearing. If you do not state your reasons, it will not be held against you by the court, and you can state your reasons at the hearing. NO OBJECTIONS TO THE JUDGMENT ITSELF WILL BE HEARD OR CONSIDERED AT THE HEARING. If you request a hearing, the hearing will be limited to a consideration of the amount of your money, property, or credits, other than personal earnings, in the possession or control of the garnishee, if any, that can be used to satisfy all or part of the judgment you owe to the judgment creditor.

If you request a hearing by delivering your request for hearing no later than the end of the fifth business day after you receive this notice, it will be conducted in courtroom, (address of court), at m. on, You may request the court to conduct the hearing before this date by indicating your request in the space provided on the form; the court then will send you notice of any change in the date, time, or place of the hearing. If you do not request a

hearing by delivering your request for a hearing no later than the 16666
end of the fifth business day after you receive this notice, some 16667
of your money, property, or credits, other than personal earnings, 16668
will be paid to the judgment creditor. 16669

If you have any questions concerning this matter, you may 16670
contact the office of the clerk of this court. If you want legal 16671
representation, you should contact your lawyer immediately. If you 16672
need the name of a lawyer, contact the local bar association. 16673

..... 16674
Clerk of the Court 16675
..... 16676
Date" 16677

(b) The request for hearing form that must be served upon the 16678
judgment debtor shall have attached to it a postage-paid, 16679
self-addressed envelope or shall be on a postage-paid 16680
self-addressed postcard, and shall be in substantially the 16681
following form: 16682

"(Name and Address of Court) 16683

Case Number Date 16684

REQUEST FOR HEARING 16685

I dispute the judgment creditor's right to garnish my money, 16686
property, or credits, other than personal earnings, in the above 16687
case and request that a hearing in this matter be held 16688

..... 16689

(Insert "on" or "earlier than") 16690

the date and time set forth in the document entitled "NOTICE TO 16691
THE JUDGMENT DEBTOR" that I received with this request form. 16692

I dispute the judgment creditor's right to garnish my 16693
property for the following reasons: 16694

..... 16695

(Optional)	16696
.....	16697
.....	16698
I UNDERSTAND THAT NO OBJECTIONS TO THE JUDGMENT ITSELF WILL	16699
BE HEARD OR CONSIDERED AT THE HEARING.	16700
.....	16701
(Name of Judgment Debtor)	16702
.....	16703
(Signature)	16704
.....	16705
(Date)	16706
WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A	16707
REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK	16708
OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT,	16709
YOU WAIVE YOUR RIGHT TO A HEARING AND SOME OF YOUR MONEY,	16710
PROPERTY, OR CREDITS, OTHER THAN PERSONAL EARNINGS, NOW IN THE	16711
POSSESSION OF (GARNISHEE'S NAME) WILL BE PAID TO (JUDGMENT	16712
CREDITOR'S NAME) TO SATISFY SOME OF YOUR DEBT TO (JUDGMENT	16713
CREDITOR'S NAME)."	16714
(2) The judgment debtor may receive a hearing in accordance	16715
with this division by delivering a written request for hearing to	16716
the court within five business days after receipt of the notice	16717
provided pursuant to division (C)(1) of this section. The request	16718
may set forth the judgment debtor's reasons for disputing the	16719
judgment creditor's right to garnish the money, property, or	16720
credits, other than personal earnings; however, neither the	16721
judgment debtor's inclusion of nor failure to include those	16722
reasons upon the request constitutes a waiver of any defense of	16723
the judgment debtor or affects the judgment debtor's right to	16724
produce evidence at the hearing. If the request is made by the	16725
judgment debtor within the prescribed time, the hearing shall be	16726

limited to a consideration of the amount of money, property, or 16727
credits, other than personal earnings, of the judgment debtor in 16728
the hands of the garnishee, if any, that can be used to satisfy 16729
all or part of the debt owed by the judgment debtor to the 16730
judgment creditor. If a request for a hearing is not received by 16731
the court within the prescribed time, the hearing scheduled 16732
pursuant to division (A) of this section shall be canceled unless 16733
the court grants the judgment debtor a continuance in accordance 16734
with division (C)(3) of this section. 16735

(3) If the judgment debtor does not request a hearing in the 16736
action within the prescribed time pursuant to division (C)(2) of 16737
this section, the court nevertheless may grant a continuance of 16738
the scheduled hearing if the judgment debtor, prior to the time at 16739
which the hearing was scheduled, as indicated on the notice to the 16740
judgment debtor required by division (C)(1) of this section, 16741
establishes a reasonable justification for failure to request the 16742
hearing within the prescribed time. If the court grants a 16743
continuance of the hearing, it shall cause the matter to be set 16744
for hearing as soon as practicable thereafter. The continued 16745
hearing shall be conducted in accordance with division (C)(2) of 16746
this section. 16747

(4) The court may conduct the hearing on the matter prior to 16748
the time at which the hearing was scheduled, as indicated on the 16749
notice to the judgment debtor required by division (C)(1) of this 16750
section, upon the request of the judgment debtor. The parties 16751
shall be sent notice, by the clerk of the court, by regular mail, 16752
of any change in the date, time, or place of the hearing. 16753

(5) If the scheduled hearing is canceled and no continuance 16754
is granted, the court shall issue an order to the garnishee to pay 16755
all or some of the money, property, or credits, other than 16756
personal earnings, of the judgment debtor in the possession of the 16757
garnishee at the time of service of the notice and order into 16758

court if they have not already been paid to the court. This order shall be based on the answer of the garnishee filed pursuant to this section. If the scheduled hearing is conducted or if it is continued and conducted, the court shall determine at the hearing the amount of the money, property, or credits, other than personal earnings, of the judgment debtor in the possession of the garnishee at the time of service of the notice and order, if any, that can be used to satisfy all or part of the debt owed by the judgment debtor to the judgment creditor, and issue an order, accordingly, to the garnishee to pay that amount into court if it has not already been paid to the court.

(D) The notice to the judgment debtor form and the request for hearing form described in division (C) of this section shall be sent by the clerk by ordinary or regular mail service unless the judgment creditor requests that service be made in accordance with the Rules of Civil Procedure, in which case the forms shall be served in accordance with the Rules of Civil Procedure. Any court of common pleas 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. 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 16791
suits between private parties, except that the determination of 16792
liability is subject to the limitations set forth in this chapter 16793
and, in the case of state universities or colleges, in section 16794
3345.40 of the Revised Code, and except as provided in division 16795
(A)(2) of this section. To the extent that the state has 16796
previously consented to be sued, this chapter has no 16797
applicability. 16798

Except in the case of a civil action filed by the state, 16799
filing a civil action in the court of claims results in a complete 16800
waiver of any cause of action, based on the same act or omission, 16801
which the filing party has against any officer or employee, as 16802
defined in section 109.36 of the Revised Code. The waiver shall be 16803
void if the court determines that the act or omission was 16804
manifestly outside the scope of the officer's or employee's office 16805
or employment or that the officer or employee acted with malicious 16806
purpose, in bad faith, or in a wanton or reckless manner. 16807

(2) If a claimant proves in the court of claims that an 16808
officer or employee, as defined in section 109.36 of the Revised 16809
Code, would have personal liability for the officer's or 16810
employee's acts or omissions but for the fact that the officer or 16811
employee has personal immunity under section 9.86 of the Revised 16812
Code, the state shall be held liable in the court of claims in any 16813
action that is timely filed pursuant to section 2743.16 of the 16814
Revised Code and that is based upon the acts or omissions. 16815

(B) The state hereby waives the immunity from liability of 16816
all hospitals owned or operated by one or more political 16817
subdivisions and consents for them to be sued, and to have their 16818
liability determined, in the court of common pleas, in accordance 16819
with the same rules of law applicable to suits between private 16820
parties, subject to the limitations set forth in this chapter. 16821
This division is also applicable to hospitals owned or operated by 16822

political subdivisions which have been determined by the supreme 16823
court to be subject to suit prior to July 28, 1975. 16824

(C) Any hospital, as defined in section 2305.113 of the 16825
Revised Code, may purchase liability insurance covering its 16826
operations and activities and its agents, employees, nurses, 16827
interns, residents, staff, and members of the governing board and 16828
committees, and, whether or not such insurance is purchased, may, 16829
to such extent as its governing board considers appropriate, 16830
indemnify or agree to indemnify and hold harmless any such person 16831
against expense, including attorney's fees, damage, loss, or other 16832
liability arising out of, or claimed to have arisen out of, the 16833
death, disease, or injury of any person as a result of the 16834
negligence, malpractice, or other action or inaction of the 16835
indemnified person while acting within the scope of the 16836
indemnified person's duties or engaged in activities at the 16837
request or direction, or for the benefit, of the hospital. Any 16838
hospital electing to indemnify such persons, or to agree to so 16839
indemnify, shall reserve such funds as are necessary, in the 16840
exercise of sound and prudent actuarial judgment, to cover the 16841
potential expense, fees, damage, loss, or other liability. The 16842
superintendent of insurance may recommend, or, if such hospital 16843
requests the superintendent to do so, the superintendent shall 16844
recommend, a specific amount for any period that, in the 16845
superintendent's opinion, represents such a judgment. This 16846
authority is in addition to any authorization otherwise provided 16847
or permitted by law. 16848

(D) Recoveries against the state shall be reduced by the 16849
aggregate of insurance proceeds, disability award, or other 16850
collateral recovery received by the claimant. This division does 16851
not apply to civil actions in the court of claims against a state 16852
university or college under the circumstances described in section 16853
3345.40 of the Revised Code. The collateral benefits provisions of 16854

division (B)(2) of that section apply under those circumstances. 16855

(E) The only defendant in original actions in the court of 16856
claims is the state. The state may file a third-party complaint or 16857
counterclaim in any civil action, except a civil action for two 16858
thousand five hundred dollars or less, that is filed in the court 16859
of claims. 16860

(F) A civil action against an officer or employee, as defined 16861
in section 109.36 of the Revised Code, that alleges that the 16862
officer's or employee's conduct was manifestly outside the scope 16863
of the officer's or employee's employment or official 16864
responsibilities, or that the officer or employee acted with 16865
malicious purpose, in bad faith, or in a wanton or reckless manner 16866
shall first be filed against the state in the court of claims, 16867
which has exclusive, original jurisdiction to determine, 16868
initially, whether the officer or employee is entitled to personal 16869
immunity under section 9.86 of the Revised Code and whether the 16870
courts of common pleas have jurisdiction over the civil action. 16871

The filing of a claim against an officer or employee under 16872
this division tolls the running of the applicable statute of 16873
limitations until the court of claims determines whether the 16874
officer or employee is entitled to personal immunity under section 16875
9.86 of the Revised Code. 16876

(G) Whenever a claim lies against an officer or employee who 16877
is a member of the Ohio national guard, and the officer or 16878
employee was, at the time of the act or omission complained of, 16879
subject to the "Federal Tort Claims Act," 60 Stat. 842 (1946), 28 16880
U.S.C. 2671, et seq., then the Federal Tort Claims Act is the 16881
exclusive remedy of the claimant and the state has no liability 16882
under this section. 16883

(H) If an inmate of a state correctional institution has a 16884
claim against the state for the loss of or damage to property and 16885

the amount claimed does not exceed three hundred dollars, before 16886
commencing an action against the state in the court of claims, the 16887
inmate shall file a claim for the loss or damage under the rules 16888
adopted by the director of rehabilitation and correction pursuant 16889
to this division. The inmate shall file the claim within the time 16890
allowed for commencement of a civil action under section 2743.16 16891
of the Revised Code. If the state admits or compromises the claim, 16892
the director shall make payment from a fund designated by the 16893
director for that purpose. If the state denies the claim or does 16894
not compromise the claim at least sixty days prior to expiration 16895
of the time allowed for commencement of a civil action based upon 16896
the loss or damage under section 2743.16 of the Revised Code, the 16897
inmate may commence an action in the court of claims under this 16898
chapter to recover damages for the loss or damage. 16899

The director of rehabilitation and correction shall adopt 16900
rules pursuant to Chapter 119. of the Revised Code to implement 16901
this division. 16902

Sec. 2743.60. (A) The attorney general, a court of claims 16903
panel of commissioners, or a judge of the court of claims shall 16904
not make or order an award of reparations to any claimant who, if 16905
the victim of the criminally injurious conduct was an adult, did 16906
not file an application for an award of reparations within two 16907
years after the date of the occurrence of the criminally injurious 16908
conduct that caused the injury or death for which the victim is 16909
seeking an award of reparations or who, if the victim of that 16910
criminally injurious conduct was a minor, did not file an 16911
application for an award of reparations within the period provided 16912
by division (C)(1) of section 2743.56 of the Revised Code. An 16913
award of reparations shall not be made to a claimant if the 16914
criminally injurious conduct upon which the claimant bases a claim 16915
was not reported to a law enforcement officer or agency within 16916
seventy-two hours after the occurrence of the conduct, unless it 16917

is determined that good cause existed for the failure to report 16918
the conduct within the seventy-two-hour period. 16919

(B)(1) The attorney general, a panel of commissioners, or a 16920
judge of the court of claims shall not make or order an award of 16921
reparations to a claimant if any of the following apply: 16922

(a) The claimant is the offender or an accomplice of the 16923
offender who committed the criminally injurious conduct, or the 16924
award would unjustly benefit the offender or accomplice. 16925

(b) Except as provided in division (B)(2) of this section, 16926
both of the following apply: 16927

(i) The victim was a passenger in a motor vehicle and knew or 16928
reasonably should have known that the driver was under the 16929
influence of alcohol, a drug of abuse, or both. 16930

(ii) The claimant is seeking compensation for injuries 16931
proximately caused by the driver described in division 16932
(B)(1)(b)(i) of this section being under the influence of alcohol, 16933
a drug of abuse, or both. 16934

(c) Both of the following apply: 16935

(i) The victim was under the influence of alcohol, a drug of 16936
abuse, or both and was a passenger in a motor vehicle and, if 16937
sober, should have reasonably known that the driver was under the 16938
influence of alcohol, a drug of abuse, or both. 16939

(ii) The claimant is seeking compensation for injuries 16940
proximately caused by the driver described in division 16941
(B)(1)(b)(i) of this section being under the influence of alcohol, 16942
a drug of abuse, or both. 16943

(2) Division (B)(1)(b) of this section does not apply if on 16944
the date of the occurrence of the criminally injurious conduct, 16945
the victim was under sixteen years of age or was at least sixteen 16946
years of age but less than eighteen years of age and was riding 16947

with a parent, guardian, or care-provider. 16948

(C) The attorney general, a panel of commissioners, or a 16949
judge of the court of claims, upon a finding that the claimant or 16950
victim has not fully cooperated with appropriate law enforcement 16951
agencies, may deny a claim or reconsider and reduce an award of 16952
reparations. 16953

(D) The attorney general, a panel of commissioners, or a 16954
judge of the court of claims shall reduce an award of reparations 16955
or deny a claim for an award of reparations that is otherwise 16956
payable to a claimant to the extent that the economic loss upon 16957
which the claim is based is recouped from other persons, including 16958
collateral sources. If an award is reduced or a claim is denied 16959
because of the expected recoupment of all or part of the economic 16960
loss of the claimant from a collateral source, the amount of the 16961
award or the denial of the claim shall be conditioned upon the 16962
claimant's economic loss being recouped by the collateral source. 16963
If the award or denial is conditioned upon the recoupment of the 16964
claimant's economic loss from a collateral source and it is 16965
determined that the claimant did not unreasonably fail to present 16966
a timely claim to the collateral source and will not receive all 16967
or part of the expected recoupment, the claim may be reopened and 16968
an award may be made in an amount equal to the amount of expected 16969
recoupment that it is determined the claimant will not receive 16970
from the collateral source. 16971

If the claimant recoups all or part of the economic loss upon 16972
which the claim is based from any other person or entity, 16973
including a collateral source, the attorney general may recover 16974
pursuant to section 2743.72 of the Revised Code the part of the 16975
award that represents the economic loss for which the claimant 16976
received the recoupment from the other person or entity. 16977

(E) The(1) Except as otherwise provided in division (E)(2) of 16978
this section, the attorney general, a panel of commissioners, or a 16979

judge of the court of claims shall not make an award to a claimant 16980
if any of the following applies: 16981

~~(1)~~(a) The victim was convicted of a felony within ten years 16982
prior to the criminally injurious conduct that gave rise to the 16983
claim or is convicted of a felony during the pendency of the 16984
claim. 16985

~~(2)~~(b) The claimant was convicted of a felony within ten 16986
years prior to the criminally injurious conduct that gave rise to 16987
the claim or is convicted of a felony during the pendency of the 16988
claim. 16989

~~(3)~~(c) It is proved by a preponderance of the evidence that 16990
the victim or the claimant engaged, within ten years prior to the 16991
criminally injurious conduct that gave rise to the claim or during 16992
the pendency of the claim, in an offense of violence, a violation 16993
of section 2925.03 of the Revised Code, or any substantially 16994
similar offense that also would constitute a felony under the laws 16995
of this state, another state, or the United States. 16996

~~(4)~~(d) The claimant was convicted of a violation of section 16997
2919.22 or 2919.25 of the Revised Code, or of any state law or 16998
municipal ordinance substantially similar to either section, 16999
within ten years prior to the criminally injurious conduct that 17000
gave rise to the claim or during the pendency of the claim. 17001

(2) The attorney general, a panel of commissioners, or a 17002
judge of the court of claims may make an award to a minor 17003
dependent of a deceased victim for dependent's economic loss if 17004
the minor dependent is not ineligible under division (E)(1) of 17005
this section due to the minor dependent's criminal history and if 17006
the victim was not killed while engaging in violent felonious 17007
conduct that contributed to the criminally injurious conduct that 17008
gave rise to the claim. 17009

(F) In determining whether to make an award of reparations 17010

pursuant to this section, the attorney general or panel of 17011
commissioners shall consider whether there was contributory 17012
misconduct by the victim or the claimant. The attorney general, a 17013
panel of commissioners, or a judge of the court of claims shall 17014
reduce an award of reparations or deny a claim for an award of 17015
reparations to the extent it is determined to be reasonable 17016
because of the contributory misconduct of the claimant or the 17017
victim. 17018

When the attorney general decides whether a claim should be 17019
denied because of an allegation of contributory misconduct, the 17020
burden of proof on the issue of that alleged contributory 17021
misconduct shall be upon the claimant, if either of the following 17022
apply: 17023

(1) The victim was convicted of a felony more than ten years 17024
prior to the criminally injurious conduct that is the subject of 17025
the claim or has a record of felony arrests under the laws of this 17026
state, another state, or the United States. 17027

(2) There is good cause to believe that the victim engaged in 17028
an ongoing course of criminal conduct within five years or less of 17029
the criminally injurious conduct that is the subject of the claim. 17030

For purposes of this section, if it is proven by a 17031
preponderance of the evidence that the victim engaged in conduct 17032
at the time of the criminally injurious conduct that was a felony 17033
violation of section 2925.11 of the Revised Code, the conduct 17034
shall be presumed to have contributed to the criminally injurious 17035
conduct and shall result in a complete denial of the claim. 17036

(G) The attorney general, a panel of commissioners, or a 17037
judge of the court of claims shall not make an award of 17038
reparations to a claimant if the criminally injurious conduct that 17039
caused the injury or death that is the subject of the claim 17040
occurred to a victim who was an adult and while the victim, after 17041

being convicted of or pleading guilty to an offense, was serving a 17042
sentence of imprisonment in any detention facility, as defined in 17043
section 2921.01 of the Revised Code. 17044

(H) If a claimant unreasonably fails to present a claim 17045
timely to a source of benefits or advantages that would have been 17046
a collateral source and that would have reimbursed the claimant 17047
for all or a portion of a particular expense, the attorney 17048
general, a panel of commissioners, or a judge of the court of 17049
claims may reduce an award of reparations or deny a claim for an 17050
award of reparations to the extent that it is reasonable to do so. 17051

(I) Reparations payable to a victim and to all other 17052
claimants sustaining economic loss because of injury to or the 17053
death of that victim shall not exceed fifty thousand dollars in 17054
the aggregate. 17055

Sec. 2915.01. As used in this chapter: 17056

(A) "Bookmaking" means the business of receiving or paying 17057
off bets. 17058

(B) "Bet" means the hazarding of anything of value upon the 17059
result of an event, undertaking, or contingency, but does not 17060
include a bona fide business risk. 17061

(C) "Scheme of chance" means a slot machine, lottery, numbers 17062
game, pool, or other scheme in which a participant gives a 17063
valuable consideration for a chance to win a prize, but does not 17064
include bingo. 17065

(D) "Game of chance" means poker, craps, roulette, or other 17066
game in which a player gives anything of value in the hope of 17067
gain, the outcome of which is determined largely by chance, but 17068
does not include bingo. 17069

(E) "Game of chance conducted for profit" means any game of 17070
chance designed to produce income for the person who conducts or 17071

operates the game of chance, but does not include bingo.	17072
(F) "Gambling device" means any of the following:	17073
(1) A book, totalizer, or other equipment for recording bets;	17074
(2) A ticket, token, or other device representing a chance, share, or interest in a scheme of chance or evidencing a bet;	17075 17076
(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;	17077 17078 17079
(4) Any equipment, device, apparatus, or paraphernalia specially designed for gambling purposes;	17080 17081
(5) Bingo supplies sold or otherwise provided, or used, in violation of this chapter.	17082 17083
(G) "Gambling offense" means any of the following:	17084
(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;	17085 17086 17087
(2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States substantially equivalent to any section listed in division (G)(1) of this section or a violation of section 2915.06 of the Revised Code as it existed prior to July 1, 1996;	17088 17089 17090 17091 17092
(3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States, of which gambling is an element;	17093 17094 17095
(4) A conspiracy or attempt to commit, or complicity in committing, any offense under division (G)(1), (2), or (3) of this section.	17096 17097 17098
(H) Except as otherwise provided in this chapter, "charitable organization" means any tax exempt religious, educational,	17099 17100

veteran's, fraternal, service, nonprofit medical, volunteer rescue 17101
service, volunteer firefighter's, senior citizen's, historic 17102
railroad educational, youth athletic, amateur athletic, or youth 17103
athletic park organization. An organization is tax exempt if the 17104
organization is, and has received from the internal revenue 17105
service a determination letter that currently is in effect stating 17106
that the organization is, exempt from federal income taxation 17107
under subsection 501(a) and described in subsection 501(c)(3), 17108
501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal 17109
Revenue Code. To qualify as a charitable organization, an 17110
organization, except a volunteer rescue service or volunteer fire 17111
fighter's organization, shall have been in continuous existence as 17112
such in this state for a period of two years immediately preceding 17113
either the making of an application for a bingo license under 17114
section 2915.08 of the Revised Code or the conducting of any 17115
scheme of chance or game of chance as provided in division (C) of 17116
section 2915.02 of the Revised Code. A charitable organization 17117
that is exempt from federal income taxation under subsection 17118
501(a) and described in subsection 501(c)(3) of the Internal 17119
Revenue Code and that is created by a veteran's organization or a 17120
fraternal organization does not have to have been in continuous 17121
existence as such in this state for a period of two years 17122
immediately preceding either the making of an application for a 17123
bingo license under section 2915.08 of the Revised Code or the 17124
conducting of any scheme of chance or game of chance as provided 17125
in division (D) of section 2915.02 of the Revised Code. 17126

(I) "Religious organization" means any church, body of 17127
communicants, or group that is not organized or operated for 17128
profit and that gathers in common membership for regular worship 17129
and religious observances. 17130

(J) "Educational organization" means any organization within 17131
this state that is not organized for profit, the ~~exclusive~~ primary 17132

purpose of which is to educate and develop the capabilities of 17133
individuals through instruction, ~~and that operates or contributes~~ 17134
~~to~~ by means of operating or contributing to the support of a 17135
school, academy, college, or university. 17136

(K) "Veteran's organization" means any individual post or 17137
state headquarters of a national veteran's association or an 17138
auxiliary unit of any individual post of a national veteran's 17139
association, which post, state headquarters, or auxiliary unit has 17140
been in continuous existence in this state for at least two years 17141
and incorporated as a nonprofit corporation ~~for at least two years~~ 17142
and either has received a letter from the state headquarters of 17143
the national veteran's association indicating that the individual 17144
post or auxiliary unit is in good standing with the national 17145
veteran's association or has received a letter from the national 17146
veteran's association indicating that the state headquarters is in 17147
good standing with the national veteran's association. As used in 17148
this division, "national veteran's association" means any 17149
veteran's association that has been in continuous existence as 17150
such for a period of at least five years and either is 17151
incorporated by an act of the United States congress or has a 17152
national dues-paying membership of at least five thousand persons. 17153

(L) "Volunteer firefighter's organization" means any 17154
organization of volunteer firefighters, as defined in section 17155
146.01 of the Revised Code, that is organized and operated 17156
exclusively to provide financial support for a volunteer fire 17157
department or a volunteer fire company and that is recognized or 17158
ratified by a county, municipal corporation, or township. 17159

(M) "Fraternal organization" means any society, order, state 17160
headquarters, or association within this state, except a college 17161
or high school fraternity, that is not organized for profit, that 17162
is a branch, lodge, or chapter of a national or state 17163
organization, that exists exclusively for the common business or 17164

sodality of its members, and that has been in continuous existence 17165
in this state for a period of five years. 17166

(N) "Volunteer rescue service organization" means any 17167
organization of volunteers organized to function as an emergency 17168
medical service organization, as defined in section 4765.01 of the 17169
Revised Code. 17170

(O) "Service organization" means any organization, not 17171
organized for profit, that is organized and operated exclusively 17172
to provide, or to contribute to the support of organizations or 17173
institutions organized and operated exclusively to provide, 17174
medical and therapeutic services for persons who are crippled, 17175
born with birth defects, or have any other mental or physical 17176
defect or those organized and operated exclusively to protect, or 17177
to contribute to the support of organizations or institutions 17178
organized and operated exclusively to protect, animals from 17179
inhumane treatment. 17180

(P) "Nonprofit medical organization" means any organization 17181
that has been incorporated as a nonprofit corporation for at least 17182
five years and that has continuously operated and will be operated 17183
exclusively to provide, or to contribute to the support of 17184
organizations or institutions organized and operated exclusively 17185
to provide, hospital, medical, research, or therapeutic services 17186
for the public. 17187

(Q) "Senior citizen's organization" means any private 17188
organization, not organized for profit, that is organized and 17189
operated exclusively to provide recreational or social services 17190
for persons who are fifty-five years of age or older and that is 17191
described and qualified under subsection 501(c)(3) of the Internal 17192
Revenue Code. 17193

(R) "Charitable bingo game" means any bingo game described in 17194
division (S)(1) or (2) of this section that is conducted by a 17195

charitable organization that has obtained a license pursuant to 17196
section 2915.08 of the Revised Code and the proceeds of which are 17197
used for a charitable purpose. 17198

(S) "Bingo" means either of the following: 17199

(1) A game with all of the following characteristics: 17200

(a) The participants use bingo cards or sheets, including 17201
paper formats and electronic representation or image formats, that 17202
are divided into twenty-five spaces arranged in five horizontal 17203
and five vertical rows of spaces, with each space, except the 17204
central space, being designated by a combination of a letter and a 17205
number and with the central space being designated as a free 17206
space. 17207

(b) The participants cover the spaces on the bingo cards or 17208
sheets that correspond to combinations of letters and numbers that 17209
are announced by a bingo game operator. 17210

(c) A bingo game operator announces combinations of letters 17211
and numbers that appear on objects that a bingo game operator 17212
selects by chance, either manually or mechanically, from a 17213
receptacle that contains seventy-five objects at the beginning of 17214
each game, each object marked by a different combination of a 17215
letter and a number that corresponds to one of the seventy-five 17216
possible combinations of a letter and a number that can appear on 17217
the bingo cards or sheets. 17218

(d) The winner of the bingo game includes any participant who 17219
properly announces during the interval between the announcements 17220
of letters and numbers as described in division (S)(1)(c) of this 17221
section, that a predetermined and preannounced pattern of spaces 17222
has been covered on a bingo card or sheet being used by the 17223
participant. 17224

(2) Instant bingo, punch boards, and raffles. 17225

(T) "Conduct" means to back, promote, organize, manage, carry on, sponsor, or prepare for the operation of bingo or a game of chance. 17226
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(U) "Bingo game operator" means any person, except security personnel, who performs work or labor at the site of bingo, including, but not limited to, collecting money from participants, handing out bingo cards or sheets or objects to cover spaces on bingo cards or sheets, selecting from a receptacle the objects that contain the combination of letters and numbers that appear on bingo cards or sheets, calling out the combinations of letters and numbers, distributing prizes, selling or redeeming instant bingo tickets or cards, supervising the operation of a punch board, selling raffle tickets, selecting raffle tickets from a receptacle and announcing the winning numbers in a raffle, and preparing, selling, and serving food or beverages. 17229
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(V) "Participant" means any person who plays bingo. 17241

(W) "Bingo session" means a period that includes both of the following: 17242
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(1) Not to exceed five continuous hours for the conduct of one or more games described in division (S)(1) of this section, instant bingo, and seal cards; 17244
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(2) A period for the conduct of instant bingo and seal cards for not more than two hours before and not more than two hours after the period described in division (W)(1) of this section. 17247
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(X) "Gross receipts" means all money or assets, including admission fees, that a person receives from bingo without the deduction of any amounts for prizes paid out or for the expenses of conducting bingo. "Gross receipts" does not include any money directly taken in from the sale of food or beverages by a charitable organization conducting bingo, or by a bona fide auxiliary unit or society of a charitable organization conducting 17250
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bingo, provided all of the following apply: 17257

(1) The auxiliary unit or society has been in existence as a 17258
bona fide auxiliary unit or society of the charitable organization 17259
for at least two years prior to conducting bingo. 17260

(2) The person who purchases the food or beverage receives 17261
nothing of value except the food or beverage and items customarily 17262
received with the purchase of that food or beverage. 17263

(3) The food and beverages are sold at customary and 17264
reasonable prices. 17265

(Y) "Security personnel" includes any person who either is a 17266
sheriff, deputy sheriff, marshal, deputy marshal, township 17267
constable, or member of an organized police department of a 17268
municipal corporation or has successfully completed a peace 17269
officer's training course pursuant to sections 109.71 to 109.79 of 17270
the Revised Code and who is hired to provide security for the 17271
premises on which bingo is conducted. 17272

(Z) "Charitable purpose" means that the net profit of bingo, 17273
other than instant bingo, is used by, or is given, donated, or 17274
otherwise transferred to, any of the following: 17275

(1) Any organization that is described in subsection 17276
509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code 17277
and is either a governmental unit or an organization that is tax 17278
exempt under subsection 501(a) and described in subsection 17279
501(c)(3) of the Internal Revenue Code; 17280

(2) A veteran's organization that is a post, chapter, or 17281
organization of veterans, or an auxiliary unit or society of, or a 17282
trust or foundation for, any such post, chapter, or organization 17283
organized in the United States or any of its possessions, at least 17284
seventy-five per cent of the members of which are veterans and 17285
substantially all of the other members of which are individuals 17286
who are spouses, widows, or widowers of veterans, or such 17287

individuals, provided that no part of the net earnings of such 17288
post, chapter, or organization inures to the benefit of any 17289
private shareholder or individual, and further provided that the 17290
net profit is used by the post, chapter, or organization for the 17291
charitable purposes set forth in division (B)(12) of section 17292
5739.02 of the Revised Code, is used for awarding scholarships to 17293
or for attendance at an institution mentioned in division (B)(12) 17294
of section 5739.02 of the Revised Code, is donated to a 17295
governmental agency, or is used for nonprofit youth activities, 17296
the purchase of United States or Ohio flags that are donated to 17297
schools, youth groups, or other bona fide nonprofit organizations, 17298
promotion of patriotism, or disaster relief; 17299

(3) A fraternal organization that has been in continuous 17300
existence in this state for fifteen years and that uses the net 17301
profit exclusively for religious, charitable, scientific, 17302
literary, or educational purposes, or for the prevention of 17303
cruelty to children or animals, if contributions for such use 17304
would qualify as a deductible charitable contribution under 17305
subsection 170 of the Internal Revenue Code; 17306

(4) A volunteer firefighter's organization that uses the net 17307
profit for the purposes set forth in division (L) of this section. 17308

(AA) "Internal Revenue Code" means the "Internal Revenue Code 17309
of 1986," 100 Stat. 2085, 26 U.S.C. 1, as now or hereafter 17310
amended. 17311

(BB) "Youth athletic organization" means any organization, 17312
not organized for profit, that is organized and operated 17313
exclusively to provide financial support to, or to operate, 17314
athletic activities for persons who are twenty-one years of age or 17315
younger by means of sponsoring, organizing, operating, or 17316
contributing to the support of an athletic team, club, league, or 17317
association. 17318

(CC) "Youth athletic park organization" means any organization, not organized for profit, that satisfies both of the following:

(1) It owns, operates, and maintains playing fields that satisfy both of the following:

(a) The playing fields are used at least one hundred days per year for athletic activities by one or more organizations, not organized for profit, each of which is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are eighteen years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association.

(b) The playing fields are not used for any profit-making activity at any time during the year.

(2) It uses the proceeds of bingo it conducts exclusively for the operation, maintenance, and improvement of its playing fields of the type described in division (CC)(1) of this section.

(DD) "Amateur athletic organization" means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are training for amateur athletic competition that is sanctioned by a national governing body as defined in the "Amateur Sports Act of 1978," 90 Stat. 3045, 36 U.S.C.A. 373.

(EE) "Bingo supplies" means bingo cards or sheets; instant bingo tickets or cards; electronic bingo aids; raffle tickets; punch boards; seal cards; instant bingo ticket dispensers; and devices for selecting or displaying the combination of bingo letters and numbers or raffle tickets. Items that are "bingo supplies" are not gambling devices if sold or otherwise provided,

and used, in accordance with this chapter. For purposes of this 17350
chapter, "bingo supplies" are not to be considered equipment used 17351
to conduct a bingo game. 17352

(FF) "Instant bingo" means a form of bingo that uses folded 17353
or banded tickets or paper cards with perforated break-open tabs, 17354
a face of which is covered or otherwise hidden from view to 17355
conceal a number, letter, or symbol, or set of numbers, letters, 17356
or symbols, some of which have been designated in advance as prize 17357
winners. "Instant bingo" includes seal cards. "Instant bingo" does 17358
not include any device that is activated by the insertion of a 17359
coin, currency, token, or an equivalent, and that contains as one 17360
of its components a video display monitor that is capable of 17361
displaying numbers, letters, symbols, or characters in winning or 17362
losing combinations. 17363

(GG) "Seal card" means a form of instant bingo that uses 17364
instant bingo tickets in conjunction with a board or placard that 17365
contains one or more seals that, when removed or opened, reveal 17366
predesignated winning numbers, letters, or symbols. 17367

(HH) "Raffle" means a form of bingo in which the one or more 17368
prizes are won by one or more persons who have purchased a raffle 17369
ticket. The one or more winners of the raffle are determined by 17370
drawing a ticket stub or other detachable section from a 17371
receptacle containing ticket stubs or detachable sections 17372
corresponding to all tickets sold for the raffle. 17373

(II) "Punch board" means a board containing a number of holes 17374
or receptacles of uniform size in which are placed, mechanically 17375
and randomly, serially numbered slips of paper that may be punched 17376
or drawn from the hole or receptacle when used in conjunction with 17377
instant bingo. A player may punch or draw the numbered slips of 17378
paper from the holes or receptacles and obtain the prize 17379
established for the game if the number drawn corresponds to a 17380
winning number or, if the punch board includes the use of a seal 17381

card, a potential winning number.	17382
(JJ) "Gross profit" means gross receipts minus the amount actually expended for the payment of prize awards.	17383 17384
(KK) "Net profit" means gross profit minus expenses.	17385
(LL) "Expenses" means the reasonable amount of gross profit actually expended for all of the following:	17386 17387
(1) The purchase or lease of bingo supplies;	17388
(2) The annual license fee required under section 2915.08 of the Revised Code;	17389 17390
(3) Bank fees and service charges for a bingo session or game account described in section 2915.10 of the Revised Code;	17391 17392
(4) Audits and accounting services;	17393
(5) Safes;	17394
(6) Cash registers;	17395
(7) Hiring security personnel;	17396
(8) Advertising bingo;	17397
(9) Renting premises in which to conduct bingo;	17398
(10) Tables and chairs;	17399
(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>	17400 17401 17402 17403
(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.	17404 17405 17406 17407
(MM) "Person" has the same meaning as in section 1.59 of the Revised Code and includes any firm or any other legal entity,	17408 17409

however organized.	17410
(NN) "Revoke" means to void permanently all rights and	17411
privileges of the holder of a license issued under section	17412
2915.08, 2915.081, or 2915.082 of the Revised Code or a charitable	17413
gaming license issued by another jurisdiction.	17414
(OO) "Suspend" means to interrupt temporarily all rights and	17415
privileges of the holder of a license issued under section	17416
2915.08, 2915.081, or 2915.082 of the Revised Code or a charitable	17417
gaming license issued by another jurisdiction.	17418
(PP) "Distributor" means any person who purchases or obtains	17419
bingo supplies and who sells, offers for sale, or otherwise	17420
provides or offers to provide the bingo supplies to another person	17421
for use in this state.	17422
(QQ) "Manufacturer" means any person who assembles completed	17423
bingo supplies from raw materials, other items, or subparts or who	17424
modifies, converts, adds to, or removes parts from bingo supplies	17425
to further their promotion or sale.	17426
(RR) "Gross annual revenues" means the annual gross receipts	17427
derived from the conduct of bingo described in division (S)(1) of	17428
this section plus the annual net profit derived from the conduct	17429
of bingo described in division (S)(2) of this section.	17430
(SS) "Instant bingo ticket dispenser" means a mechanical	17431
device that dispenses an instant bingo ticket or card as the sole	17432
item of value dispensed and that has the following	17433
characteristics:	17434
(1) It is activated upon the insertion of United States	17435
currency.	17436
(2) It performs no gaming functions.	17437
(3) It does not contain a video display monitor or generate	17438
noise.	17439

(4) It is not capable of displaying any numbers, letters,	17440
symbols, or characters in winning or losing combinations.	17441
(5) It does not simulate or display rolling or spinning	17442
reels.	17443
(6) It is incapable of determining whether a dispensed bingo	17444
ticket or card is a winning or nonwinning ticket or card and	17445
requires a winning ticket or card to be paid by a bingo game	17446
operator.	17447
(7) It may provide accounting and security features to aid in	17448
accounting for the instant bingo tickets or cards it dispenses.	17449
(8) It is not part of an electronic network and is not	17450
interactive.	17451
(TT)(1) "Electronic bingo aid" means an electronic device	17452
used by a participant to monitor bingo cards or sheets purchased	17453
at the time and place of a bingo session and that does all of the	17454
following:	17455
(a) It provides a means for a participant to input numbers	17456
and letters announced by a bingo caller.	17457
(b) It compares the numbers and letters entered by the	17458
participant to the bingo faces previously stored in the memory of	17459
the device.	17460
(c) It identifies a winning bingo pattern.	17461
(2) "Electronic bingo aid" does not include any device into	17462
which a coin, currency, token, or an equivalent is inserted to	17463
activate play.	17464
(UU) "Deal of instant bingo tickets" means a single game of	17465
instant bingo tickets all with the same serial number.	17466
(VV) "Slot_ machine means either of the following:	17467
(1) Any mechanical, electronic, video, or digital device that	17468

is capable of accepting anything of value, directly or indirectly, 17469
from or on behalf of a player who gives the thing of value in the 17470
hope of gain, the outcome of which is determined largely or wholly 17471
by chance; 17472

(2) Any mechanical, electronic, video, or digital device that 17473
is capable of accepting anything of value, directly or indirectly, 17474
from or on behalf of a player to conduct or dispense bingo or a 17475
scheme or game of chance. 17476

(WW) "Net profit from the proceeds of the sale of instant 17477
bingo" means gross profit minus the ordinary, necessary, and 17478
reasonable expense expended for the purchase of instant bingo 17479
supplies. 17480

(XX) "Charitable instant bingo organization" means an 17481
organization that is exempt from federal income taxation under 17482
subsection 501(a) and described in subsection 501(c)(3) of the 17483
Internal Revenue Code and is a charitable organization as defined 17484
in this section. A "charitable instant bingo organization" does 17485
not include a charitable organization that is exempt from federal 17486
income taxation under subsection 501(a) and described in 17487
subsection 501(c)(3) of the Internal Revenue Code and that is 17488
created by a veteran's organization or a fraternal organization in 17489
regards to bingo conducted or assisted by a veteran's organization 17490
or a fraternal organization pursuant to section 2915.13 of the 17491
Revised Code. 17492

(YY) "Game flare" means the board or placard that accompanies 17493
each deal of instant bingo tickets and that has printed on or 17494
affixed to it the following information for the game: 17495

(1) The name of the game; 17496

(2) The manufacturer's name or distinctive logo; 17497

(3) The form number; 17498

<u>(4) The ticket count;</u>	17499
<u>(5) The prize structure, including the number of winning</u>	17500
<u>instant bingo tickets by denomination and the respective winning</u>	17501
<u>symbol or number combinations for the winning instant bingo</u>	17502
<u>tickets;</u>	17503
<u>(6) The cost per play;</u>	17504
<u>(7) The serial number of the game.</u>	17505
<u>(ZZ) "Historic railroad educational organization" means an</u>	17506
<u>organization that is exempt from federal income taxation under</u>	17507
<u>subsection 501(a) and described in subsection 501(c)(3) of the</u>	17508
<u>Internal Revenue Code, that owns in fee simple the tracks and the</u>	17509
<u>right of way of a historic railroad that the organization restores</u>	17510
<u>or maintains and on which the organization provides excursions as</u>	17511
<u>part of a program to promote tourism and educate visitors</u>	17512
<u>regarding the role of railroad transportation in Ohio history, and</u>	17513
<u>that received as donations from a charitable organization that</u>	17514
<u>holds a license to conduct bingo under this chapter an amount</u>	17515
<u>equal to at least fifty per cent of that licensed charitable</u>	17516
<u>organization's net proceeds from the conduct of bingo during each</u>	17517
<u>of the five years preceding June 30, 2003. "Historic railroad"</u>	17518
<u>means all or a portion of the tracks and right of way of a</u>	17519
<u>railroad that was owned and operated by a for profit common</u>	17520
<u>carrier in this state at any time prior to January 1, 1950.</u>	17521
 Sec. 2915.02. (A) No person shall do any of the following:	17522
 (1) Engage in bookmaking, or knowingly engage in conduct that	17523
facilitates bookmaking;	17524
 (2) Establish, promote, or operate or knowingly engage in	17525
conduct that facilitates any game of chance conducted for profit	17526
or , any scheme of chance <u>other than a pool, or any pool conducted</u>	17527
<u>for profit;</u>	17528

(3) Knowingly procure, transmit, exchange, or engage in 17529
conduct that facilitates the procurement, transmission, or 17530
exchange of information for use in establishing odds or 17531
determining winners in connection with bookmaking or with any game 17532
of chance conducted for profit or any scheme of chance; 17533

(4) Engage in betting or in playing any scheme or game of 17534
chance as a substantial source of income or livelihood; 17535

(5) With purpose to violate division (A)(1), (2), (3), or (4) 17536
of this section, acquire, possess, control, or operate any 17537
gambling device. 17538

(B) For purposes of division (A)(1) of this section, a person 17539
facilitates bookmaking if the person in any way knowingly aids an 17540
illegal bookmaking operation, including, without limitation, 17541
placing a bet with a person engaged in or facilitating illegal 17542
bookmaking. For purposes of division (A)(2) of this section, a 17543
person facilitates a game of chance conducted for profit or a 17544
scheme of chance if the person in any way knowingly aids in the 17545
conduct or operation of any such game or scheme, including, 17546
without limitation, playing any such game or scheme. 17547

(C) This section does not prohibit conduct in connection with 17548
gambling expressly permitted by law. 17549

(D) This section does not apply to any of the following: 17550

(1) Games of chance, if all of the following apply: 17551

(a) The games of chance are not craps for money or roulette 17552
for money. 17553

(b) The games of chance are conducted by a charitable 17554
organization that is, and has received from the internal revenue 17555
service a determination letter that is currently in effect, 17556
stating that the organization is, exempt from federal income 17557
taxation under subsection 501(a) and described in subsection 17558

501(c)(3) of the Internal Revenue Code. 17559

(c) The games of chance are conducted at festivals of the 17560
charitable organization that are conducted either for a period of 17561
four consecutive days or less and not more than twice a year or 17562
for a period of five consecutive days not more than once a year, 17563
and are conducted on premises owned by the charitable organization 17564
for a period of no less than one year immediately preceding the 17565
conducting of the games of chance, on premises leased from a 17566
governmental unit, or on premises that are leased from a veteran's 17567
or fraternal organization and that have been owned by the lessor 17568
veteran's or fraternal organization for a period of no less than 17569
one year immediately preceding the conducting of the games of 17570
chance. 17571

A charitable organization shall not lease premises from a 17572
veteran's or fraternal organization to conduct a festival 17573
described in division (D)(1)(c) of this section if the veteran's 17574
or fraternal organization already has leased the premises four 17575
times during the preceding year to charitable organizations for 17576
that purpose. If a charitable organization leases premises from a 17577
veteran's or fraternal organization to conduct a festival 17578
described in division (D)(1)(c) of this section, the charitable 17579
organization shall not pay a rental rate for the premises per day 17580
of the festival that exceeds the rental rate per bingo session 17581
that a charitable organization may pay under division (B)(1) of 17582
section 2915.09 of the Revised Code when it leases premises from 17583
another charitable organization to conduct bingo games. 17584

(d) All of the money or assets received from the games of 17585
chance after deduction only of prizes paid out during the conduct 17586
of the games of chance are used by, or given, donated, or 17587
otherwise transferred to, any organization that is described in 17588
subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal 17589
Revenue Code and is either a governmental unit or an organization 17590

that is tax exempt under subsection 501(a) and described in 17591
subsection 501(c)(3) of the Internal Revenue Code; 17592

(e) The games of chance are not conducted during, or within 17593
ten hours of, a bingo game conducted for amusement purposes only 17594
pursuant to section 2915.12 of the Revised Code. 17595

No person shall receive any commission, wage, salary, reward, 17596
tip, donation, gratuity, or other form of compensation, directly 17597
or indirectly, for operating or assisting in the operation of any 17598
game of chance. 17599

(2) Any tag fishing tournament operated under a permit issued 17600
under section 1533.92 of the Revised Code, as "tag fishing 17601
tournament" is defined in section 1531.01 of the Revised Code; 17602

(3) Bingo conducted by a charitable organization that holds a 17603
license issued under section 2915.08 of the Revised Code. 17604

(E) Division (D) of this section shall not be construed to 17605
authorize the sale, lease, or other temporary or permanent 17606
transfer of the right to conduct games of chance, as granted by 17607
that division, by any charitable organization that is granted that 17608
right. 17609

(F) Whoever violates this section is guilty of gambling, a 17610
misdemeanor of the first degree. If the offender previously has 17611
been convicted of any gambling offense, gambling is a felony of 17612
the fifth degree. 17613

Sec. 2915.08. (A)(1) Annually before the first day of 17614
January, a charitable organization that desires to conduct bingo, 17615
instant bingo at a bingo session, or instant bingo other than at a 17616
bingo session shall make out, upon a form to be furnished by the 17617
attorney general for that purpose, an application for a license to 17618
conduct bingo, instant bingo at a bingo session, or instant bingo 17619
other than at a bingo session and deliver that application to the 17620

attorney general together with a license fee as follows: 17621

(a) Except as otherwise provided in this division, for a 17622
license for the conduct of bingo, two hundred dollars; 17623

(b) For a license for the conduct of instant bingo at a bingo 17624
session or instant bingo other than at a bingo session for a 17625
~~charitable~~ charitable organization that previously has not been 17626
licensed under this chapter to conduct instant bingo at a bingo 17627
session or instant bingo other than at a bingo session, a license 17628
fee of five hundred dollars, and for any other charitable 17629
organization, a license fee that is based upon the ~~total of all~~ 17630
~~money or assets~~ gross profits received by ~~any person or~~ the 17631
charitable organization from the operation of instant bingo at a 17632
bingo session or instant bingo other than at a bingo session, 17633
during the one-year period ending on the thirty-first day of 17634
October of the year immediately preceding the year for which the 17635
license is sought, and that is one of the following: 17636

(i) Five hundred dollars, if the total is fifty thousand 17637
dollars or less; 17638

(ii) One thousand two hundred fifty dollars, if the total is 17639
more than fifty thousand dollars but less than three hundred 17640
thousand one dollars; 17641

(iii) Two thousand two hundred fifty dollars, if the total is 17642
more than three hundred thousand dollars but less than six hundred 17643
thousand one dollars; 17644

(iv) Three thousand five hundred dollars, if the total is 17645
more than six hundred thousand dollars but less than one million 17646
one dollars; 17647

(v) Five thousand dollars, if the total is one million one 17648
dollars or more; 17649

(c) A reduced license fee established by the attorney general 17650

pursuant to division (G) of this section. 17651

(d) For a license to conduct bingo for a charitable 17652
organization that prior to ~~the effective date of this amendment~~ 17653
the effective date of this amendment has not been licensed under 17654
this chapter to conduct bingo, instant bingo at a bingo session, 17655
or instant bingo other than at a bingo session, a license fee 17656
established by rule by the attorney general in accordance with 17657
division (H) of this section. 17658

(2) The application shall be in the form prescribed by the 17659
attorney general, shall be signed and sworn to by the applicant, 17660
and shall contain all of the following: 17661

(a) The name and post-office address of the applicant; 17662

(b) A statement that the applicant is a charitable 17663
organization and that it has been in continuous existence as a 17664
charitable organization in this state for two years immediately 17665
preceding the making of the application or for five years in the 17666
case of a fraternal organization or a nonprofit medical 17667
organization; 17668

(c) The location at which the organization will conduct 17669
bingo, which location shall be within the county in which the 17670
principal place of business of the applicant is located, the days 17671
of the week and the times on each of those days when bingo will be 17672
conducted, whether the organization owns, leases, or subleases the 17673
premises, and a copy of the rental agreement if it leases or 17674
subleases the premises; 17675

(d) A statement of the applicant's previous history, record, 17676
and association that is sufficient to establish that the applicant 17677
is a charitable organization, and a copy of a determination letter 17678
that is issued by the Internal Revenue Service and states that the 17679
organization is tax exempt under subsection 501(a) and described 17680
in subsection 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 17681

501(c)(19) of the Internal Revenue Code;	17682
(e) A statement as to whether the applicant has ever had any previous application refused, whether it previously has had a license revoked or suspended, and the reason stated by the attorney general for the refusal, revocation, or suspension;	17683 17684 17685 17686
(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;	17687 17688 17689 17690 17691
(g) Other necessary and reasonable information that the attorney general may require by rule adopted pursuant to section 111.15 of the Revised Code;	17692 17693 17694
(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;	17695 17696 17697 17698 17699 17700 17701
(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;	17702 17703 17704 17705 17706 17707 17708
(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	17709 17710 17711 17712

territory in which the organization is located, certifying that 17713
the playing fields owned by the organization were used for at 17714
least one hundred days during the year in which the statement is 17715
issued, and were open for use to all residents of that territory, 17716
regardless of race, color, creed, religion, sex, or national 17717
origin, for athletic activities by youth athletic organizations 17718
that do not discriminate on the basis of race, color, creed, 17719
religion, sex, or national origin, and that the fields were not 17720
used for any profit-making activity at any time during the year. 17721
That type of board or body is authorized to issue the statement 17722
upon request and shall issue the statement if it finds that the 17723
applicant's playing fields were so used. 17724

(3) The attorney general, within thirty days after receiving 17725
a timely filed application from a charitable organization that has 17726
been issued a license under this section that has not expired and 17727
has not been revoked or suspended, shall send a temporary permit 17728
to the applicant specifying the date on which the application was 17729
filed with the attorney general and stating that, pursuant to 17730
section 119.06 of the Revised Code, the applicant may continue to 17731
conduct bingo until a new license is granted or, if the 17732
application is rejected, until fifteen days after notice of the 17733
rejection is mailed to the applicant. The temporary permit does 17734
not affect the validity of the applicant's application and does 17735
not grant any rights to the applicant except those rights 17736
specifically granted in section 119.06 of the Revised Code. The 17737
issuance of a temporary permit by the attorney general pursuant to 17738
this division does not prohibit the attorney general from 17739
rejecting the applicant's application because of acts that the 17740
applicant committed, or actions that the applicant failed to take, 17741
before or after the issuance of the temporary permit. 17742

(4) Within thirty days after receiving an initial license 17743
application from a charitable organization to conduct bingo, 17744

instant bingo at a bingo session, or instant bingo other than at a 17745
bingo session, the attorney general shall conduct a preliminary 17746
review of the application and notify the applicant regarding any 17747
deficiencies. Once an application is deemed complete, or beginning 17748
on the thirtieth day after the application is filed, if the 17749
attorney general failed to notify the applicant of any 17750
deficiencies, the attorney general shall have an additional sixty 17751
days to conduct an investigation and either grant or deny the 17752
application based on findings established and communicated in 17753
accordance with divisions (B) and (E) of this section. As an 17754
option to granting or denying an initial license application, the 17755
attorney general may grant a temporary license and request 17756
additional time to conduct the investigation if the attorney 17757
general has cause to believe that additional time is necessary to 17758
complete the investigation and has notified the applicant in 17759
writing about the specific concerns raised during the 17760
investigation. 17761

(B)(1) The attorney general shall adopt rules to enforce 17762
sections 2915.01, 2915.02, and 2915.07 to 2915.13 of the Revised 17763
Code to ensure that bingo or instant bingo is conducted in 17764
accordance with those sections and to maintain proper control over 17765
the conduct of bingo or instant bingo. The rules, except rules 17766
adopted pursuant to divisions (A)(2)(g) and (G) of this section, 17767
shall be adopted pursuant to Chapter 119. of the Revised Code. The 17768
attorney general shall license charitable organizations to conduct 17769
bingo, instant bingo at a bingo session, or instant bingo other 17770
than at a bingo session in conformance with this chapter and with 17771
the licensing provisions of Chapter 119. of the Revised Code. 17772

(2) The attorney general may refuse to grant a license to any 17773
organization, or revoke or suspend the license of any 17774
organization, that does any of the following or to which any of 17775
the following applies: 17776

(a) Fails or has failed at any time to meet any requirement of section 109.26, 109.31, or 1716.02, or sections 2915.07 to 2915.11 of the Revised Code, or violates or has violated any provision of sections 2915.02 or 2915.07 to 2915.13 of the Revised Code or any rule adopted by the attorney general pursuant to this section;

(b) Makes or has made an incorrect or false statement that is material to the granting of the license in an application filed pursuant to division (A) of this section;

(c) Submits or has submitted any incorrect or false information relating to an application if the information is material to the granting of the license;

(d) Maintains or has maintained any incorrect or false information that is material to the granting of the license in the records required to be kept pursuant to divisions (A) and (C) of section 2915.10 of the Revised Code, if applicable;

(e) The attorney general has good cause to believe that the organization will not conduct bingo, instant bingo at a bingo session, or instant bingo other than at a bingo session in accordance with sections 2915.07 to 2915.13 of the Revised Code or with any rule adopted by the attorney general pursuant to this section.

(3) For the purposes of division (B) of this section, any action of an officer, trustee, agent, representative, or bingo game operator of an organization is an action of the organization.

(C) The attorney general may grant licenses to charitable organizations that are branches, lodges, or chapters of national charitable organizations.

(D) The attorney general shall send notice in writing to the prosecuting attorney and sheriff of the county in which the

organization will conduct bingo, instant bingo at a bingo session, 17807
or instant bingo other than at a bingo session, as stated in its 17808
application for a license or amended license, and to any other law 17809
enforcement agency in that county that so requests, of all of the 17810
following: 17811

(1) The issuance of the license; 17812

(2) The issuance of the amended license; 17813

(3) The rejection of an application for and refusal to grant 17814
a license; 17815

(4) The revocation of any license previously issued; 17816

(5) The suspension of any license previously issued. 17817

(E) A license issued by the attorney general shall set forth 17818
the information contained on the application of the charitable 17819
organization that the attorney general determines is relevant, 17820
including, but not limited to, the location at which the 17821
organization will conduct bingo, instant bingo at a bingo session, 17822
or instant bingo other than at a bingo session and the days of the 17823
week and the times on each of those days when bingo will be 17824
conducted. If the attorney general refuses to grant or revokes or 17825
suspends a license, the attorney general shall notify the 17826
applicant in writing and specifically identify the reason for the 17827
refusal, revocation, or suspension in narrative form and, if 17828
applicable, by identifying the section of the Revised Code 17829
violated. The failure of the attorney general to give the written 17830
notice of the reasons for the refusal, revocation, or suspension 17831
or a mistake in the written notice does not affect the validity of 17832
the attorney general's refusal to grant, or the revocation or 17833
suspension of, a license. If the attorney general fails to give 17834
the written notice or if there is a mistake in the written notice, 17835
the applicant may bring an action to compel the attorney general 17836
to comply with this division or to correct the mistake, but the 17837

attorney general's order refusing to grant, or revoking or 17838
suspending, a license shall not be enjoined during the pendency of 17839
the action. 17840

(F) A charitable organization that has been issued a license 17841
pursuant to division (B) of this section but that cannot conduct 17842
bingo or instant bingo at the location, or on the day of the week 17843
or at the time, specified on the license due to circumstances that 17844
make it impractical to do so may apply in writing, together with 17845
an application fee of two hundred fifty dollars, to the attorney 17846
general, at least thirty days prior to a change in location, day 17847
of the week, or time, and request an amended license. The 17848
application shall describe the causes making it impractical for 17849
the organization to conduct bingo or instant bingo in conformity 17850
with its license and shall indicate the location, days of the 17851
week, and times on each of those days when it desires to conduct 17852
bingo or instant bingo. Except as otherwise provided in this 17853
division, the attorney general shall issue the amended license in 17854
accordance with division (E) of this section, and the organization 17855
shall surrender its original license to the attorney general. The 17856
attorney general may refuse to grant an amended license according 17857
to the terms of division (B) of this section. 17858

(G) The attorney general, by rule adopted pursuant to section 17859
111.15 of the Revised Code, shall establish a schedule of reduced 17860
license fees for charitable organizations that desire to conduct 17861
bingo or instant bingo during fewer than twenty-six weeks in any 17862
calendar year. 17863

(H) The attorney general, by rule adopted pursuant to section 17864
111.15 of the Revised Code, shall establish license fees for the 17865
conduct of bingo, instant bingo at a bingo session, or instant 17866
bingo other than at a bingo session for charitable organizations 17867
that prior to ~~the effective date of this amendment~~ the effective 17868
date of this amendment have not been licensed to conduct bingo, 17869

instant bingo at a bingo session, or instant bingo other than at a 17870
bingo session under this chapter. 17871

(I) The attorney general may enter into a written contract 17872
with any other state agency to delegate to that state agency the 17873
powers prescribed to the attorney general under Chapter 2915. of 17874
the Revised Code. 17875

(J) The attorney general, by rule adopted pursuant to section 17876
111.15 of the Revised Code, may adopt rules to determine the 17877
requirements for a charitable organization that is exempt from 17878
federal income taxation under subsection 501(a) and described in 17879
subsection 501(c)(3) of the Internal Revenue Code to be in good 17880
standing in the state. 17881

Sec. 2915.09. (A) No charitable organization that conducts 17882
bingo shall fail to do any of the following: 17883

(1) Own all of the equipment used to conduct bingo or lease 17884
that equipment from a charitable organization that is licensed to 17885
conduct bingo for a rental rate that is not more than is customary 17886
and reasonable for that equipment; 17887

(2) ~~Use~~ Except as otherwise provided in division (A)(3) of 17888
this section, use all of the gross receipts from bingo for paying 17889
prizes, for renting premises in which to conduct bingo, for 17890
purchasing or leasing bingo supplies used in conducting bingo, for 17891
hiring security personnel, for advertising bingo, or for other 17892
expenses listed in division (LL) of section 2915.01 of the Revised 17893
Code, provided that the amount of the receipts so spent is not 17894
more than is customary and reasonable for a similar purchase, 17895
lease, hiring, advertising, or expense. If the building in which 17896
bingo is conducted is owned by the charitable organization 17897
conducting bingo and the bingo conducted includes a form of bingo 17898
described in division (S)(1) of section 2915.01 of the Revised 17899
Code, the charitable organization may deduct from the total amount 17900

of the gross receipts from each session a sum equal to the lesser 17901
of six hundred dollars or forty-five per cent of the gross 17902
receipts from the bingo described in that division as 17903
consideration for the use of the premises. 17904

(3) Use, or give, donate, or otherwise transfer, all of the 17905
net profit derived from bingo, other than instant bingo, for a 17906
charitable purpose listed in its license application and described 17907
in division (Z) of section 2915.01 of the Revised Code, or 17908
distribute all of the net profit ~~derived from instant bingo~~ from 17909
the proceeds of the sale of instant bingo as stated in its license 17910
application and in accordance with section 2915.101 of the Revised 17911
Code. 17912

(B) No charitable organization that conducts a bingo game 17913
described in division (S)(1) of section 2915.01 of the Revised 17914
Code shall fail to do any of the following: 17915

(1) Conduct the bingo game on premises that are owned by the 17916
charitable organization, on premises that are owned by another 17917
charitable organization and leased from that charitable 17918
organization for a rental rate not in excess of the lesser of six 17919
hundred dollars per bingo session or forty-five per cent of the 17920
gross receipts of the bingo session, on premises that are leased 17921
from a person other than a charitable organization for a rental 17922
rate that is not more than is customary and reasonable for 17923
premises that are similar in location, size, and quality but not 17924
in excess of four hundred fifty dollars per bingo session, or on 17925
premises that are owned by a person other than a charitable 17926
organization, that are leased from that person by another 17927
charitable organization, and that are subleased from that other 17928
charitable organization by the charitable organization for a 17929
rental rate not in excess of four hundred fifty dollars per bingo 17930
session. If the charitable organization leases from a person other 17931
than a charitable organization the premises on which it conducts 17932

bingo sessions, the lessor of the premises shall provide only the 17933
premises to the organization and shall not provide the 17934
organization with bingo game operators, security personnel, 17935
concessions or concession operators, bingo supplies, or any other 17936
type of service or equipment. A charitable organization shall not 17937
lease or sublease premises that it owns or leases to more than one 17938
other charitable organization per calendar week for the purpose of 17939
conducting bingo sessions on the premises. A person that is not a 17940
charitable organization shall not lease premises that it owns, 17941
leases, or otherwise is empowered to lease to more than one 17942
charitable organization per calendar week for conducting bingo 17943
sessions on the premises. In no case shall more than two bingo 17944
sessions be conducted on any premises in any calendar week. 17945

(2) Display its license conspicuously at the premises where 17946
the bingo session is conducted; 17947

(3) Conduct the bingo session in accordance with the 17948
definition of bingo set forth in division (S)(1) of section 17949
2915.01 of the Revised Code. 17950

(C) No charitable organization that conducts a bingo game 17951
described in division (S)(1) of section 2915.01 of the Revised 17952
Code shall do any of the following: 17953

(1) Pay any compensation to a bingo game operator for 17954
operating a bingo session that is conducted by the charitable 17955
organization or for preparing, selling, or serving food or 17956
beverages at the site of the bingo session, permit any auxiliary 17957
unit or society of the charitable organization to pay compensation 17958
to any bingo game operator who prepares, sells, or serves food or 17959
beverages at a bingo session conducted by the charitable 17960
organization, or permit any auxiliary unit or society of the 17961
charitable organization to prepare, sell, or serve food or 17962
beverages at a bingo session conducted by the charitable 17963
organization, if the auxiliary unit or society pays any 17964

compensation to the bingo game operators who prepare, sell, or
serve the food or beverages; 17965
17966

(2) Pay consulting fees to any person for any services 17967
performed in relation to the bingo session; 17968

(3) Pay concession fees to any person who provides 17969
refreshments to the participants in the bingo session; 17970

(4) Except as otherwise provided in division (C)(4) of this 17971
section, conduct more than two bingo sessions in any seven-day 17972
period. A volunteer firefighter's organization or a volunteer 17973
rescue service organization that conducts not more than five bingo 17974
sessions in a calendar year may conduct more than two bingo 17975
sessions in a seven-day period after notifying the attorney 17976
general when it will conduct the sessions. 17977

(5) Pay out more than three thousand five hundred dollars in 17978
prizes during any bingo session that is conducted by the 17979
charitable organization+. "Prizes" does not include awards from 17980
the conduct of instant bingo. 17981

(6) Conduct a bingo session at any time during the ten-hour 17982
period between midnight and ten a.m., at any time during, or 17983
within ten hours of, a bingo game conducted for amusement only 17984
pursuant to section 2915.12 of the Revised Code, at any premises 17985
not specified on its license, or on any day of the week or during 17986
any time period not specified on its license. If circumstances 17987
make it impractical for the charitable organization to conduct a 17988
bingo session at the premises, or on the day of the week or at the 17989
time, specified on its license or if a charitable organization 17990
wants to conduct bingo sessions on a day of the week or at a time 17991
other than the day or time specified on its license, the 17992
charitable organization may apply in writing to the attorney 17993
general for an amended license pursuant to division (F) of section 17994
2915.08 of the Revised Code. A charitable organization may apply 17995

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;

(8) Permit any person whom the charitable organization knows, or should have known, has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator;

(9) Permit the lessor of the premises on which the bingo session is conducted, if the lessor is not a charitable organization, to provide the charitable organization with bingo game operators, security personnel, concessions, bingo supplies, or any other type of service or equipment;

(10) Purchase or lease bingo supplies from any person except a distributor issued a license under section 2915.081 of the Revised Code;

(11)(a) Use or permit the use of electronic bingo aids except under the following circumstances:

(i) For any single participant, not more than ninety bingo faces can be played using an electronic bingo aid or aids.

(ii) The charitable organization shall provide a participant using an electronic bingo aid with corresponding paper bingo cards or sheets.

(iii) The total price of bingo faces played with an electronic bingo aid shall be equal to the total price of the same number of bingo faces played with a paper bingo card or sheet sold

at the same bingo session but without an electronic bingo aid. 18026

(iv) An electronic bingo aid cannot be part of an electronic 18027
network other than a network that includes only bingo aids and 18028
devices that are located on the premises at which the bingo is 18029
being conducted or be interactive with any device not located on 18030
the premises at which the bingo is being conducted. 18031

(v) An electronic bingo aid cannot be used to participate in 18032
bingo that is conducted at a location other than the location at 18033
which the bingo session is conducted and at which the electronic 18034
bingo aid is used. 18035

(vi) An electronic bingo aid cannot be used to provide for 18036
the input of numbers and letters announced by a bingo caller other 18037
than the bingo caller who physically calls the numbers and letters 18038
at the location at which the bingo session is conducted and at 18039
which the electronic bingo aid is used. 18040

(b) The attorney general may adopt rules in accordance with 18041
Chapter 119. of the Revised Code that govern the use of electronic 18042
bingo aids. The rules may include a requirement that an electronic 18043
bingo aid be capable of being audited by the attorney general to 18044
verify the number of bingo cards or sheets played during each 18045
bingo session. 18046

(12) Permit any person the charitable organization knows, or 18047
should have known, to be under eighteen years of age to play bingo 18048
described in division (S)(1) of section 2915.01 of the Revised 18049
Code. 18050

(D)(1) Except as otherwise provided in ~~this~~ division (D)(3) 18051
of this section, no charitable organization shall provide to a 18052
bingo game operator, and no bingo game operator shall receive or 18053
accept, any commission, wage, salary, reward, tip, donation, 18054
gratuity, or other form of compensation, directly or indirectly, 18055
regardless of the source, for conducting bingo or providing other 18056

work or labor at the site of bingo during a bingo session. ~~This~~ 18057

(2) Except as otherwise provided in division (D)(3) of this 18058
section, no charitable organization shall provide to a bingo game 18059
operator any commission, wage, salary, reward, tip, donation, 18060
gratuity, or other form of compensation, directly or indirectly, 18061
regardless of the source, for conducting instant bingo other than 18062
at a bingo session at the site of instant bingo other than at a 18063
bingo session. 18064

(3) Nothing in division does not prohibit (D) of this section 18065
prohibits an employee of a fraternal organization or veteran's 18066
organization from selling instant bingo tickets or cards to the 18067
organization's members or invited guests, as long as no portion of 18068
the employee's compensation is paid from any receipts of bingo. 18069

(E) Notwithstanding division (B)(1) of this section, a 18070
charitable organization that, prior to December 6, 1977, has 18071
entered into written agreements for the lease of premises it owns 18072
to another charitable organization or other charitable 18073
organizations for the conducting of bingo sessions so that more 18074
than two bingo sessions are conducted per calendar week on the 18075
premises, and a person that is not a charitable organization and 18076
that, prior to December 6, 1977, has entered into written 18077
agreements for the lease of premises it owns to charitable 18078
organizations for the conducting of more than two bingo sessions 18079
per calendar week on the premises, may continue to lease the 18080
premises to those charitable organizations, provided that no more 18081
than four sessions are conducted per calendar week, that the 18082
lessor organization or person has notified the attorney general in 18083
writing of the organizations that will conduct the sessions and 18084
the days of the week and the times of the day on which the 18085
sessions will be conducted, that the initial lease entered into 18086
with each organization that will conduct the sessions was filed 18087
with the attorney general prior to December 6, 1977, and that each 18088

organization that will conduct the sessions was issued a license 18089
to conduct bingo games by the attorney general prior to December 18090
6, 1977. 18091

(F) Whoever violates division (A)(2) of this section is 18092
guilty of illegally conducting a bingo game, a felony of the 18093
fourth degree. Except as otherwise provided in this division, 18094
whoever violates division (A)(1) or (3), (B)(1), (2), or (3), 18095
(C)(1) to (12), or (D) of this section is guilty of a minor 18096
misdemeanor. If the offender previously has been convicted of a 18097
violation of division (A)(1) or (3), (B)(1), (2), or (3), (C)(1) 18098
to (11), or, (D) of this section, a violation of division (A)(1) 18099
or (3), (B)(1), (2), or (3), (C), or (D) of this section is a 18100
misdemeanor of the first degree. Whoever violates division (C)(12) 18101
of this section is guilty of a misdemeanor of the first degree, if 18102
the offender previously has been convicted of a violation of 18103
division (C)(12) of this section, a felony of the fourth degree. 18104

Sec. 2915.091. (A) No charitable organization that conducts 18105
instant bingo shall do any of the following: 18106

(1) Fail to comply with the requirements of divisions (A)(1), 18107
(2), and (3) of section 2915.09 of the Revised Code; 18108

(2) Conduct instant bingo unless either of the following 18109
apply: 18110

(a) That organization is, and has received from the internal 18111
revenue service a determination letter that is currently in effect 18112
stating that the organization is, exempt from federal income 18113
taxation under subsection 501(a), is described in subsection 18114
501(c)(3) of the Internal Revenue Code, is a charitable 18115
organization as defined in section 2915.01 of the Revised Code, is 18116
in good standing in the state pursuant to section 2915.08 of the 18117
Revised Code, and is in compliance with Chapter 1716. of the 18118
Revised Code; 18119

(b) That organization 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), is described in subsection 501(c)(8), 501(c)(10), or 501(c)(19) or is a veteran's organization described in subsection 501(c)(4) of the Internal Revenue Code, and conducts instant bingo under section 2915.13 of the Revised Code.

(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;

(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;

(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;

(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;

(7) Sell an instant bingo ticket or card to a person under eighteen years of age;

(8) Fail to keep unsold instant bingo tickets or cards for less than three years;

(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 18150
bingo game conducted by the organization, or permit any auxiliary 18151
unit or society of the organization to prepare, sell, or serve 18152
food or beverages at an instant bingo game conducted by the 18153
organization, if the auxiliary unit or society pays any 18154
compensation to the bingo game operators who prepare, sell, or 18155
serve the food or beverages; 18156

(10) Pay fees to any person for any services performed in 18157
relation to an instant bingo game; 18158

(11) Pay fees to any person who provides refreshments to the 18159
participants in an instant bingo game; 18160

(12) Allow instant bingo tickets or cards to be sold to bingo 18161
game operators ~~who are performing work or labor~~ at a premises at 18162
which the organization sells instant bingo tickets or cards or to 18163
be sold to employees of a D permit holder who are working at a 18164
premises at which instant bingo tickets or cards are sold ~~on~~ 18165
~~behalf of the organization as described in division (B) of section~~ 18166
~~4301.03 of the Revised Code;~~ 18167

(13) Fail to display its bingo license, and the serial 18168
numbers of the deal of instant bingo tickets or cards to be sold, 18169
conspicuously at each premises at which it sells instant bingo 18170
tickets or cards; 18171

(14) Possess a deal of instant bingo tickets or cards that 18172
was not purchased from a distributor licensed under section 18173
2915.081 of the Revised Code as reflected on an invoice issued by 18174
the distributor that contains all of the information required by 18175
division (E) of section 2915.10 of the Revised Code; 18176

(15) Fail, once it opens a deal of instant bingo tickets or 18177
cards, to continue to sell the tickets or cards in that deal until 18178
the tickets or cards with the top two highest tiers of prizes in 18179
that deal are sold; 18180

(16) Purchase, lease, or use instant bingo ticket dispensers	18181
to sell instant bingo tickets or cards;	18182
(17) Possess bingo supplies that were not obtained in	18183
accordance with sections 2915.01 to 2915.13 of the Revised Code.	18184
(B) A charitable organization may conduct instant bingo other	18185
than at a bingo session at not more than five separate locations.	18186
A charitable organization that is exempt from federal taxation	18187
under subsection 501(a) and described in subsection 501(c)(3) of	18188
the Internal Revenue Code and that is created by a veteran's	18189
organization or a fraternal organization is not limited in the	18190
number of separate locations the charitable organization may	18191
conduct instant bingo other than at a bingo session.	18192
(C) The attorney general may adopt rules in accordance with	18193
Chapter 119. of the Revised Code that govern the conduct of	18194
instant bingo by charitable organizations. Before those rules are	18195
adopted, the attorney general shall reference the recommended	18196
standards for opacity, randomization, minimum information, winner	18197
protection, color, and cutting for instant bingo tickets or cards,	18198
seal cards, and punch boards established by the North American	18199
gaming regulators association.	18200
(D) Whoever violates division (A) of this section or a rule	18201
adopted under division (B) of this section is guilty of illegal	18202
instant bingo conduct. Except as otherwise provided in this	18203
division, illegal instant bingo conduct is a misdemeanor of the	18204
first degree. If the offender previously has been convicted of a	18205
violation of division (A) of this section or of such a rule,	18206
illegal instant bingo conduct is a felony of the fifth degree.	18207
Sec. 2915.092. (A) A charitable organization may conduct a	18208
raffle to raise money for the charitable organization and does not	18209
need a license to conduct bingo in order to conduct a raffle	18210

drawing. 18211

(B)(1) No charitable organization shall conduct a raffle 18212
unless ~~the~~ either of the following applies: 18213

(a) The organization is, and has received from the internal 18214
revenue service a determination letter that is currently in effect 18215
stating that the organization is, exempt from federal income 18216
taxation under subsection 501(a) and is described in subsection 18217
501(c)(3) or 501(c)(4) of the Internal Revenue Code. 18218

(b) The organization is a veteran's organization or a 18219
fraternal organization that is exempt from federal income taxation 18220
under subsection 501(a) and is described in subsection 501(c)(8), 18221
501(c)(10), or 501(c)(19) of the Internal Revenue Code. 18222

(2) ~~No~~ Except as otherwise provided in divisions (E) and (F) 18223
of this section, no charitable organization shall conduct more 18224
than thirty-six raffles during a calendar year. 18225

(3) No person shall be compensated directly or indirectly for 18226
assisting in the conduct or operation of a raffle. 18227

(C) No raffle drawing shall be conducted on premises other 18228
than premises that a charitable organization uses for its 18229
charitable programs. 18230

(D) No person shall fail to use, or give, donate, or 18231
otherwise transfer, the net profit from a raffle for a charitable 18232
purpose described in division (Z) of section 2915.01 of the 18233
Revised Code. 18234

(E) A statewide charitable organization that is exempt from 18235
federal income taxation under subsection 501(a) and is described 18236
in subsection 501(c)(3) of the Internal Revenue Code and that has 18237
local or regional offices may conduct no more than thirty-six 18238
raffles in each county during a calendar year. 18239

(F) A charitable organization that is licensed to conduct 18240

bingo, instant bingo at a bingo session, or instant bingo other 18241
than at a bingo session may conduct a raffle that is not for 18242
profit, provided that the organization does not receive any 18243
proceeds from the raffle and provided that the organization 18244
conducts the raffle at the same location and on the same days of 18245
the week and times as is provided in the organization's license to 18246
conduct bingo, instant bingo at a bingo session, or instant bingo 18247
other than at a bingo session. 18248

(G) Whoever violates division (B), (C), ~~or~~ (D), (E), or (F) 18249
of this section is guilty of illegal conduct of a raffle. Except 18250
as otherwise provided in this division, illegal conduct of a 18251
raffle is a misdemeanor of the first degree. If the offender 18252
previously has been convicted of a violation of division (B), (C), 18253
~~or~~ (D), (E), or (F) of this section, illegal conduct of a raffle 18254
is a felony of the fifth degree. 18255

Sec. 2915.093. (A) As used in this section, "retail income 18256
from all commercial activity" includes the sale of instant bingo 18257
tickets. 18258

(B) A charitable instant bingo organization may conduct 18259
instant bingo other than at a bingo session at not more than five 18260
separate locations. 18261

(C)(1) If a charitable instant bingo organization conducts 18262
instant bingo other than at a bingo session, the charitable 18263
instant bingo organization shall enter into a written contract 18264
with the owner or lessor of the location at which the instant 18265
bingo is conducted to allow the owner or lessor to assist in the 18266
conduct of instant bingo other than at a bingo session, identify 18267
each location where the instant bingo other than at a bingo 18268
session is being conducted, and identify the owner or lessor of 18269
each location. 18270

(2) A charitable instant bingo organization that conducts 18271

instant bingo other than at a bingo session is not required to 18272
enter into a written contract with the owner or lessor of the 18273
location at which the instant bingo is conducted provided that the 18274
owner or lessor is not assisting in the conduct of the instant 18275
bingo other than at a bingo session and provided that the conduct 18276
of the instant bingo other than at a bingo session at that 18277
location is not more than five days per calendar year and not more 18278
than ten hours per day. 18279

(D) ~~No~~ Except as provided in division (G) of this section, no 18280
charitable instant bingo organization shall conduct instant bingo 18281
other than at a bingo session at a location where the primary 18282
source of retail income from all commercial activity at that 18283
location is the sale of instant bingo tickets. 18284

(E) The owner or lessor of a location that enters into a 18285
contract pursuant to division (C) of this section shall pay up 18286
front for the cost of the deal of instant bingo tickets and the 18287
gross profits that would be earned by the owner or lessor if all 18288
of the instant bingo tickets are sold. The owner or lessor may 18289
retain the money that the owner or lessor receives for selling the 18290
instant bingo tickets up to the amount that it paid to the 18291
charitable instant bingo organization. If the owner or lessor of 18292
the location earns any more money than the owner or lessor paid 18293
out in prizes or paid up front, the owner or lessor of the 18294
location shall pay that money to the charitable instant bingo 18295
organization. 18296

(F) A charitable instant bingo organization shall provide the 18297
attorney general with all of the following information: 18298

(1) That the charitable instant bingo organization has 18299
terminated a contract entered into pursuant to division (C) of 18300
this section with an owner or lessor of a location; 18301

(2) That the charitable instant bingo organization has 18302

entered into a written contract pursuant to division (C) of this 18303
section with a new owner or lessor of a location; 18304

(3) That the charitable instant bingo organization is aware 18305
of conduct by the owner or lessor of a location at which instant 18306
bingo is conducted that is in violation of Chapter 2915. of the 18307
Revised Code. 18308

(G) Division (D) of this section does not apply to a 18309
volunteer firefighter's organization that is exempt from federal 18310
income taxation under subsection 501(a) and described in 18311
subsection 501(c)(3) of the Internal Revenue Code, that conducts 18312
instant bingo other than at a bingo session on the premises where 18313
the organization conducts firefighter training, that has conducted 18314
instant bingo continuously for at least five years prior to the 18315
effective date of this amendment, and that, during each of those 18316
five years, had gross receipts of at least one million five 18317
hundred thousand dollars. 18318

Sec. 2915.10. (A) No charitable organization that conducts 18319
bingo or a game of chance pursuant to division (D) of section 18320
2915.02 of the Revised Code shall fail to maintain the following 18321
records for at least three years from the date on which the bingo 18322
or game of chance is conducted: 18323

(1) An itemized list of the gross receipts of each bingo 18324
session, ~~each game of instant bingo by serial number,~~ each raffle, 18325
each punch board game, and each game of chance, and an itemized 18326
list of the gross profits of each game of instant bingo by serial 18327
number; 18328

(2) An itemized list of all expenses, other than prizes, that 18329
are incurred in conducting bingo ~~or instant bingo~~ as described in 18330
division (S)(1) of section 2915.01 of the Revised Code, the name 18331
of each person to whom the expenses are paid, and a receipt for 18332
all of the expenses; 18333

(3) A list of all prizes awarded during each bingo session, 18334
each raffle, each punch board game, and each game of chance 18335
conducted by the charitable organization, the total prizes awarded 18336
from each game of instant bingo by serial number, and the name, 18337
address, and social security number of all persons who are winners 18338
of prizes of six hundred dollars or more in value; 18339

(4) An itemized list of the recipients of the net profit of 18340
the bingo or game of chance, including the name and address of 18341
each recipient to whom the money is distributed, and if the 18342
organization uses the net profit of bingo, or the money or assets 18343
received from a game of chance, for any charitable or other 18344
purpose set forth in division (Z) of section 2915.01, division (D) 18345
of section 2915.02, or section 2915.101 of the Revised Code, a 18346
list of each purpose and an itemized list of each expenditure for 18347
each purpose; 18348

(5) The number of persons who participate in any bingo 18349
session or game of chance that is conducted by the charitable 18350
organization; 18351

(6) A list of receipts from the sale of food and beverages by 18352
the charitable organization or one of its auxiliary units or 18353
societies, if the receipts were excluded from gross receipts under 18354
division (X) of section 2915.01 of the Revised Code; 18355

(7) An itemized list of all expenses incurred at each bingo 18356
session, each raffle, each punch board game, or each game of 18357
instant bingo conducted by the charitable organization in the sale 18358
of food and beverages by the charitable organization or by an 18359
auxiliary unit or society of the charitable organization, the name 18360
of each person to whom the expenses are paid, and a receipt for 18361
all of the expenses. 18362

(B) A charitable organization shall keep the records that it 18363
is required to maintain pursuant to division (A) of this section 18364

at its principal place of business in this state or at its 18365
headquarters in this state and shall notify the attorney general 18366
of the location at which those records are kept. 18367

(C) The gross profit from each bingo session or game 18368
described in division (S)(1) or (2) of section 2915.01 of the 18369
Revised Code shall be deposited into a checking account devoted 18370
exclusively to the bingo session or game. Payments for allowable 18371
expenses incurred in conducting the bingo session or game and 18372
payments to recipients of some or all of the net profit of the 18373
bingo session or game shall be made only by checks drawn on the 18374
bingo session or game account. 18375

(D) Each charitable organization shall conduct and record an 18376
inventory of all of its bingo supplies as of the first day of 18377
November of each year. 18378

(E) The attorney general may adopt rules in accordance with 18379
Chapter 119. of the Revised Code that establish standards of 18380
accounting, record keeping, and reporting to ensure that gross 18381
receipts from bingo or games of chance are properly accounted for. 18382

(F) A distributor shall maintain, for a period of three years 18383
after the date of its sale or other provision, a record of each 18384
instance of its selling or otherwise providing to another person 18385
bingo supplies for use in this state. The record shall include all 18386
of the following for each instance: 18387

(1) The name of the manufacturer from which the distributor 18388
purchased the bingo supplies and the date of the purchase; 18389

(2) The name and address of the charitable organization or 18390
other distributor to which the bingo supplies were sold or 18391
otherwise provided; 18392

(3) A description that clearly identifies the bingo supplies; 18393

(4) Invoices that include the nonrepeating serial numbers of 18394

all paper bingo cards and sheets and all instant bingo deals sold 18395
or otherwise provided to each charitable organization. 18396

(G) A manufacturer shall maintain, for a period of three 18397
years after the date of its sale or other provision, a record of 18398
each instance of its selling or otherwise providing bingo supplies 18399
for use in this state. The record shall include all of the 18400
following for each instance: 18401

(1) The name and address of the distributor to whom the bingo 18402
supplies were sold or otherwise provided; 18403

(2) A description that clearly identifies the bingo supplies, 18404
including serial numbers; 18405

(3) Invoices that include the nonrepeating serial numbers of 18406
all paper bingo cards and sheets and all instant bingo deals sold 18407
or otherwise provided to each distributor. 18408

(H) The attorney general or any law enforcement agency may do 18409
all of the following: 18410

(1) Investigate any charitable organization or any officer, 18411
agent, trustee, member, or employee of the organization; 18412

(2) Examine the accounts and records of the organization; 18413

(3) Conduct inspections, audits, and observations of bingo or 18414
games of chance; 18415

(4) Conduct inspections of the premises where bingo or games 18416
of chance are conducted; 18417

(5) Take any other necessary and reasonable action to 18418
determine if a violation of any provision of sections 2915.01 to 18419
2915.13 of the Revised Code has occurred and to determine whether 18420
section 2915.11 of the Revised Code has been complied with. 18421

If any law enforcement agency has reasonable grounds to 18422
believe that a charitable organization or an officer, agent, 18423
trustee, member, or employee of the organization has violated any 18424

provision of this chapter, the law enforcement agency may proceed 18425
by action in the proper court to enforce this chapter, provided 18426
that the law enforcement agency shall give written notice to the 18427
attorney general when commencing an action as described in this 18428
division. 18429

(I) No person shall destroy, alter, conceal, withhold, or 18430
deny access to any accounts or records of a charitable 18431
organization that have been requested for examination, or 18432
obstruct, impede, or interfere with any inspection, audit, or 18433
observation of bingo or a game of chance or premises where bingo 18434
or a game of chance is conducted, or refuse to comply with any 18435
reasonable request of, or obstruct, impede, or interfere with any 18436
other reasonable action undertaken by, the attorney general or a 18437
law enforcement agency pursuant to division (H) of this section. 18438

(J) Whoever violates division (A) or (I) of this section is 18439
guilty of a misdemeanor of the first degree. 18440

Sec. 2915.101. Except as otherwise provided by law, a 18441
charitable organization that conducts instant bingo other than at 18442
a bingo session shall distribute the net profit from the proceeds 18443
of the sale of instant bingo as follows: 18444

(A)(1) If a veteran's organization or a fraternal 18445
organization conducted the instant bingo, the organization shall 18446
distribute the net profit from the proceeds of the sale of instant 18447
bingo, as follows: 18448

(a) A minimum of fifty per cent shall be distributed to an 18449
organization described in division (Z)(1) of section 2915.01 of 18450
the Revised Code or to a department or agency of the federal 18451
government, the state, or any political subdivision; 18452

(b) Fifteen per cent may be distributed for the 18453
organization's own charitable purposes. 18454

(c) Thirty-five per cent may be deducted and retained by the organization for the organization's expenses in conducting the instant bingo game.

(2) If a veteran's organization or a fraternal organization does not distribute the full percentages specified in divisions (A)(1)(b) and (c) of this section for the purposes specified in those divisions, the organization shall distribute the balance of the net profit from the proceeds of the sale of instant bingo not distributed or retained for those purposes to an organization described in division (Z)(1) of section 2915.01 of the Revised Code.

(3) A veteran's organization or a fraternal organization is not required to itemize the organization's expenses. A veteran's organization or a fraternal organization shall pay the expenses that are directly for the conduct of instant bingo by check from the checking account devoted exclusively to the bingo session or game and may deduct and retain the remainder of the thirty-five per cent of the net profit from the proceeds of the sale of instant bingo that is for the organization's expenses in conducting the instant bingo game and may transfer that remainder into the organization's general account.

(B)(1) If a charitable organization other than a veteran's organization or a fraternal organization conducted the instant bingo, the organization shall distribute one hundred per cent of the net profit ~~as follows:~~

~~(a) A minimum of seventy per cent shall be distributed from the proceeds of the sale of instant bingo~~ to an organization described in division (Z)(1) of section 2915.01 of the Revised Code or to a department or agency of the federal government, the state, or any political subdivision.

~~(b) Thirty per cent may be deducted and retained by the~~

~~organization for the organization's expenses in conducting the
instant bingo game.~~ 18486
18487

~~(2) If a charitable organization does not retain the full
percentage specified in division (B)(1)(b) of this section for the
purposes specified in that division, the organization shall
distribute the balance of the net profit not retained for that
purpose to an organization described in division (Z)(1) of section
2915.01 of the Revised Code.~~ 18488
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~~(3) A charitable organization other than a veteran's
organization or fraternal organization is not required to itemize
the charitable organization's expenses.~~ 18494
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Sec. 2915.13. (A) A veteran's organization or a fraternal 18497
organization authorized to conduct a bingo session pursuant to 18498
sections 2915.01 to 2915.12 of the Revised Code may conduct 18499
instant bingo other than at a bingo session if all of the 18500
following apply: 18501

(1) The veteran's organization or fraternal organization 18502
limits the sale of instant bingo to ten consecutive hours per day 18503
for up to six days per week. 18504

(2) The veteran's organization or fraternal organization 18505
limits the sale of instant bingo to its own premises and to its 18506
own members and invited guests. 18507

(3) The veteran's organization or fraternal organization is 18508
raising money for ~~a charitable~~ an organization that is described 18509
in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal 18510
Revenue Code and is either a governmental unit or a state 18511
organization that is exempt from federal income taxation under 18512
subsection 501(a) and described in subsection 501(c)(3) of the 18513
Internal Revenue Code that is in good standing in this state and 18514
executes a written contract with ~~the charitable~~ that organization 18515

as required in division (B) of this section. 18516

(B) If a veteran's organization or fraternal organization 18517
authorized to conduct instant bingo pursuant to division (A) of 18518
this section is raising money for another ~~charitable~~ organization 18519
that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) 18520
of the Internal Revenue Code and is either a governmental unit or 18521
a state organization that is exempt from federal income taxation 18522
under subsection 501(a) and described in subsection 501(c)(3) of 18523
the Internal Revenue Code that is in good standing in this state, 18524
the veteran's organization or fraternal organization shall execute 18525
a written contract with a ~~charitable~~ the organization that is 18526
described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the 18527
Internal Revenue Code and is either a governmental unit or a state 18528
organization that is exempt from federal income taxation under 18529
subsection 501(a) and described in subsection 501(c)(3) of the 18530
Internal Revenue Code that is in good standing in this state in 18531
order to conduct instant bingo. That contract shall include a 18532
statement of the percentage of the net proceeds that the veteran's 18533
or fraternal organization will be distributing to the ~~charitable~~ 18534
organization that is described in subsection 509(a)(1), 509(a)(2), 18535
or 509(a)(3) of the Internal Revenue Code and is either a 18536
governmental unit or a state organization that is exempt from 18537
federal income taxation under subsection 501(a) and described in 18538
subsection 501(c)(3) of the Internal Revenue Code that is in good 18539
standing in this state. 18540

(C)(1) If a veteran's organization or fraternal organization 18541
authorized to conduct instant bingo pursuant to division (A) of 18542
this section has been issued a liquor permit under Chapter 4303. 18543
of the Revised Code, that permit may be subject to suspension, 18544
revocation, or cancellation if the veteran's organization or 18545
fraternal organization violates a provision of sections 2915.01 to 18546
2915.13 of the Revised Code. 18547

(2) No veteran's organization or fraternal organization that enters into a written contract pursuant to division (B) of this section shall violate any provision of Chapter 2915. of the Revised Code, or permit, aid, or abet any other person in violating any provision of Chapter 2915. of the Revised Code.

(D) A veteran's organization or fraternal organization shall give all required proceeds earned from the conduct of instant bingo to the charitable organization with which the veteran's organization or fraternal organization has entered into a written contract.

(E) Whoever violates this section is guilty of illegal instant bingo conduct. Except as otherwise provided in this division, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, illegal instant bingo conduct is a felony of the fifth degree.

Sec. 2917.41. (A) No person shall evade the payment of the known fares of a public transportation system.

(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.

(C) No person shall do any of the following while in any facility or on any vehicle of a public transportation system:

(1) Play sound equipment without the proper use of a private earphone;

(2) Smoke, eat, or drink in any area where the activity is clearly marked as being prohibited;

(3) Expectorate upon a person, facility, or vehicle.

(D) No person shall write, deface, draw, or otherwise mark on

any facility or vehicle of a public transportation system. 18577

(E) No person shall fail to comply with a lawful order of a 18578
public transportation system police officer, and no person shall 18579
resist, obstruct, or abuse a public transportation police officer 18580
in the performance of the officer's duties. 18581

(F) Whoever violates this section is guilty of misconduct 18582
involving a public transportation system. 18583

(1) Violation of division (A), ~~(B)~~, or (E) of this section is 18584
a misdemeanor of the fourth degree. 18585

(2) Violation of division ~~(B)~~ of this section is a 18586
~~misdemeanor of the fourth degree.~~ 18587

~~(3)~~ Violation of division (C) or ~~(E)~~ of this section is a 18588
minor misdemeanor on a first offense. If a person previously has 18589
been convicted of or pleaded guilty to a violation of any division 18590
of this section or of a municipal ordinance that is substantially 18591
similar to any division of this section, violation of division (C) 18592
of this section is a misdemeanor of the fourth degree. 18593

~~(4)~~(3) Violation of division (D) of this section is a 18594
misdemeanor of the third degree. 18595

(G) Notwithstanding any other provision of law, seventy-five 18596
per cent of each fine paid to satisfy a sentence imposed for a 18597
violation of this section shall be deposited into the treasury of 18598
the county in which the violation occurred and twenty-five per 18599
cent shall be deposited with the county transit board, regional 18600
transit authority, or regional transit commission that operates 18601
the public transportation system involved in the violation, unless 18602
the board of county commissioners operates the public 18603
transportation system, in which case one hundred per cent of each 18604
fine shall be deposited into the treasury of the county. 18605

(H) As used in this section, "public transportation system" 18606

means a county transit system operated in accordance with sections 18607
306.01 to 306.13 of the Revised Code, a regional transit authority 18608
operated in accordance with sections 306.30 to 306.71 of the 18609
Revised Code, or a regional transit commission operated in 18610
accordance with sections 306.80 to 306.90 of the Revised Code. 18611

Sec. 2921.13. (A) No person shall knowingly make a false 18612
statement, or knowingly swear or affirm the truth of a false 18613
statement previously made, when any of the following applies: 18614

(1) The statement is made in any official proceeding. 18615

(2) The statement is made with purpose to incriminate 18616
another. 18617

(3) The statement is made with purpose to mislead a public 18618
official in performing the public official's official function. 18619

(4) The statement is made with purpose to secure the payment 18620
of unemployment compensation; Ohio works first; prevention, 18621
retention, and contingency benefits and services; disability 18622
financial assistance; retirement benefits; economic development 18623
assistance, as defined in section 9.66 of the Revised Code; or 18624
other benefits administered by a governmental agency or paid out 18625
of a public treasury. 18626

(5) The statement is made with purpose to secure the issuance 18627
by a governmental agency of a license, permit, authorization, 18628
certificate, registration, release, or provider agreement. 18629

(6) The statement is sworn or affirmed before a notary public 18630
or another person empowered to administer oaths. 18631

(7) The statement is in writing on or in connection with a 18632
report or return that is required or authorized by law. 18633

(8) The statement is in writing and is made with purpose to 18634
induce another to extend credit to or employ the offender, to 18635
confer any degree, diploma, certificate of attainment, award of 18636

excellence, or honor on the offender, or to extend to or bestow 18637
upon the offender any other valuable benefit or distinction, when 18638
the person to whom the statement is directed relies upon it to 18639
that person's detriment. 18640

(9) The statement is made with purpose to commit or 18641
facilitate the commission of a theft offense. 18642

(10) The statement is knowingly made to a probate court in 18643
connection with any action, proceeding, or other matter within its 18644
jurisdiction, either orally or in a written document, including, 18645
but not limited to, an application, petition, complaint, or other 18646
pleading, or an inventory, account, or report. 18647

(11) The statement is made on an account, form, record, 18648
stamp, label, or other writing that is required by law. 18649

(12) The statement is made in connection with the purchase of 18650
a firearm, as defined in section 2923.11 of the Revised Code, and 18651
in conjunction with the furnishing to the seller of the firearm of 18652
a fictitious or altered driver's or commercial driver's license or 18653
permit, a fictitious or altered identification card, or any other 18654
document that contains false information about the purchaser's 18655
identity. 18656

(13) The statement is made in a document or instrument of 18657
writing that purports to be a judgment, lien, or claim of 18658
indebtedness and is filed or recorded with the secretary of state, 18659
a county recorder, or the clerk of a court of record. 18660

(B) No person, in connection with the purchase of a firearm, 18661
as defined in section 2923.11 of the Revised Code, shall knowingly 18662
furnish to the seller of the firearm a fictitious or altered 18663
driver's or commercial driver's license or permit, a fictitious or 18664
altered identification card, or any other document that contains 18665
false information about the purchaser's identity. 18666

(C) It is no defense to a charge under division (A)(4) of 18667

this section that the oath or affirmation was administered or 18668
taken in an irregular manner. 18669

(D) If contradictory statements relating to the same fact are 18670
made by the offender within the period of the statute of 18671
limitations for falsification, it is not necessary for the 18672
prosecution to prove which statement was false but only that one 18673
or the other was false. 18674

(E)(1) Whoever violates division (A)(1), (2), (3), (4), (5), 18675
(6), (7), (8), (10), (11), or (13) of this section is guilty of 18676
falsification, a misdemeanor of the first degree. 18677

(2) Whoever violates division (A)(9) of this section is 18678
guilty of falsification in a theft offense. Except as otherwise 18679
provided in this division, falsification in a theft offense is a 18680
misdemeanor of the first degree. If the value of the property or 18681
services stolen is five hundred dollars or more and is less than 18682
five thousand dollars, falsification in a theft offense is a 18683
felony of the fifth degree. If the value of the property or 18684
services stolen is five thousand dollars or more and is less than 18685
one hundred thousand dollars, falsification in a theft offense is 18686
a felony of the fourth degree. If the value of the property or 18687
services stolen is one hundred thousand dollars or more, 18688
falsification in a theft offense is a felony of the third degree. 18689

(3) Whoever violates division (A)(12) or (B) of this section 18690
is guilty of falsification to purchase a firearm, a felony of the 18691
fifth degree. 18692

(F) A person who violates this section is liable in a civil 18693
action to any person harmed by the violation for injury, death, or 18694
loss to person or property incurred as a result of the commission 18695
of the offense and for reasonable attorney's fees, court costs, 18696
and other expenses incurred as a result of prosecuting the civil 18697
action commenced under this division. A civil action under this 18698

division is not the exclusive remedy of a person who incurs 18699
injury, death, or loss to person or property as a result of a 18700
violation of this section. 18701

Sec. 2923.35. (A)(1) With respect to property ordered 18702
forfeited under section 2923.32 of the Revised Code, with respect 18703
to any fine or civil penalty imposed in any criminal or civil 18704
proceeding under section 2923.32 or 2923.34 of the Revised Code, 18705
and with respect to any fine imposed for a violation of section 18706
2923.01 of the Revised Code for conspiracy to violate section 18707
2923.32 of the Revised Code, the court, upon petition of the 18708
prosecuting attorney, may do any of the following: 18709

(a) Authorize the prosecuting attorney to settle claims; 18710

(b) Award compensation to persons who provide information 18711
that results in a forfeiture, fine, or civil penalty under section 18712
2923.32 or 2923.34 of the Revised Code; 18713

(c) Grant petitions for mitigation or remission of 18714
forfeiture, fines, or civil penalties, or restore forfeited 18715
property, imposed fines, or imposed civil penalties to persons 18716
injured by the violation; 18717

(d) Take any other action to protect the rights of innocent 18718
persons that is in the interest of justice and that is consistent 18719
with the purposes of sections 2923.31 to 2923.36 of the Revised 18720
Code. 18721

(2) The court shall maintain an accurate record of the 18722
actions it takes under division (A)(1) of this section with 18723
respect to the property ordered forfeited or the fine or civil 18724
penalty. The record is a public record open for inspection under 18725
section 149.43 of the Revised Code. 18726

(B)(1) After the application of division (A) of this section, 18727
any person who prevails in a civil action pursuant to section 18728

2923.34 of the Revised Code has a right to any property, or the 18729
proceeds of any property, criminally forfeited to the state 18730
pursuant to section 2923.32 of the Revised Code or against which 18731
any fine under that section or civil penalty under division (I) of 18732
section 2923.34 of the Revised Code may be imposed. 18733

The right of any person who prevails in a civil action 18734
pursuant to section 2923.34 of the Revised Code, other than a 18735
prosecuting attorney performing official duties under that 18736
section, to forfeited property, property against which fines and 18737
civil penalties may be imposed, and the proceeds of that property 18738
is superior to any right of the state, a municipal corporation, or 18739
a county to the property or the proceeds of the property, if the 18740
civil action is brought within one hundred eighty days after the 18741
entry of a sentence of forfeiture or a fine pursuant to section 18742
2923.32 of the Revised Code or the entry of a civil penalty 18743
pursuant to division (I) of section 2923.34 of the Revised Code. 18744

The right is limited to the total value of the treble 18745
damages, civil penalties, attorney's fees, and costs awarded to 18746
the prevailing party in an action pursuant to section 2923.34 of 18747
the Revised Code, less any restitution received by the person. 18748

(2) If the aggregate amount of claims of persons who have 18749
prevailed in a civil action pursuant to section 2923.34 of the 18750
Revised Code against any one defendant is greater than the total 18751
value of the treble fines, civil penalties, and forfeited property 18752
paid by the person against whom the actions were brought, all of 18753
the persons who brought their actions within one hundred eighty 18754
days after the entry of a sentence or disposition of forfeiture or 18755
a fine pursuant to section 2923.32 of the Revised Code or the 18756
entry of a civil penalty pursuant to division (I) of section 18757
2923.34 of the Revised Code, first shall receive a pro rata share 18758
of the total amount of the fines, civil penalties, and forfeited 18759
property. After the persons who brought their actions within the 18760

specified one-hundred-eighty-day period have satisfied their 18761
claims out of the fines, civil penalties, and forfeited property, 18762
all other persons who prevailed in civil actions pursuant to 18763
section 2923.34 of the Revised Code shall receive a pro rata share 18764
of the total amount of the fines, civil penalties, and forfeited 18765
property that remains in the custody of the law enforcement agency 18766
or in the corrupt activity investigation and prosecution fund. 18767

(C)(1) Subject to divisions (A) and (B) of this section and 18768
notwithstanding any contrary provision of section 2933.41 of the 18769
Revised Code, the prosecuting attorney shall order the disposal of 18770
property ordered forfeited in any proceeding under sections 18771
2923.32 and 2923.34 of the Revised Code as soon as feasible, 18772
making due provisions for the rights of innocent persons, by any 18773
of the following methods: 18774

(a) Transfer to any person who prevails in a civil action 18775
pursuant to section 2923.34 of the Revised Code, subject to the 18776
limit set forth in division (B)(1) of this section; 18777

(b) Public sale; 18778

(c) Transfer to a state governmental agency for official use; 18779

(d) Sale or transfer to an innocent person; 18780

(e) If the property is contraband and is not needed for 18781
evidence in any pending criminal or civil proceeding, pursuant to 18782
section 2933.41 or any other applicable section of the Revised 18783
Code. 18784

(2) Any interest in personal or real property not disposed of 18785
pursuant to this division and not exercisable by, or transferable 18786
for value to, the state shall expire and shall not revert to the 18787
person found guilty of or adjudicated a delinquent child for a 18788
violation of section 2923.32 of the Revised Code. No person found 18789
guilty of or adjudicated a delinquent child for a violation of 18790
that section and no person acting in concert with a person found 18791

guilty of or adjudicated a delinquent child for a violation of 18792
that section is eligible to purchase forfeited property from the 18793
state. 18794

(3) Upon application of a person, other than the defendant, 18795
the adjudicated delinquent child, or a person acting in concert 18796
with or on behalf of either the defendant or the adjudicated 18797
delinquent child, the court may restrain or stay the disposal of 18798
the property pursuant to this division pending the conclusion of 18799
any appeal of the criminal case or delinquency case giving rise to 18800
the forfeiture or pending the determination of the validity of a 18801
claim to or interest in the property pursuant to division (E) of 18802
section 2923.32 of the Revised Code, if the applicant demonstrates 18803
that proceeding with the disposal of the property will result in 18804
irreparable injury, harm, or loss to the applicant. 18805

(4) The prosecuting attorney shall maintain an accurate 18806
record of each item of property disposed of pursuant to this 18807
division, which record shall include the date on which each item 18808
came into the prosecuting attorney's custody, the manner and date 18809
of disposition, and, if applicable, the name of the person who 18810
received the item. The record shall not identify or enable the 18811
identification of the individual officer who seized the property, 18812
and the record is a public record open for inspection under 18813
section 149.43 of the Revised Code. 18814

Each prosecuting attorney who disposes in any calendar year 18815
of any item of property pursuant to this division shall prepare a 18816
report covering the calendar year that cumulates all of the 18817
information contained in all of the records kept by the 18818
prosecuting attorney pursuant to this division for that calendar 18819
year and shall send the cumulative report, no later than the first 18820
day of March in the calendar year following the calendar year 18821
covered by the report, to the attorney general. Each report 18822
received by the attorney general is a public record open for 18823

inspection under section 149.43 of the Revised Code. Not later 18824
than the fifteenth day of April in the calendar year following the 18825
calendar year covered by the reports, the attorney general shall 18826
send to the president of the senate and the speaker of the house 18827
of representatives a written notification that does all of the 18828
following: 18829

(a) Indicates that the attorney general has received from 18830
prosecuting attorneys reports of the type described in this 18831
division that cover the previous calendar year and indicates that 18832
the reports were received under this division; 18833

(b) Indicates that the reports are open for inspection under 18834
section 149.43 of the Revised Code; 18835

(c) Indicates that the attorney general will provide a copy 18836
of any or all of the reports to the president of the senate or the 18837
speaker of the house of representatives upon request. 18838

(D)(1)(a) Ten per cent of the proceeds of all property 18839
ordered forfeited by a juvenile court pursuant to section 2923.32 18840
of the Revised Code shall be applied to one or more alcohol and 18841
drug addiction treatment programs that are certified by the 18842
department of alcohol and drug addiction services under section 18843
3793.06 of the Revised Code and that are specified in the order of 18844
forfeiture. A juvenile court shall not specify an alcohol or drug 18845
addiction treatment program in the order of forfeiture unless the 18846
program is a certified alcohol and drug addiction treatment 18847
program and, except as provided in division (D)(1)(a) of this 18848
section, unless the program is located in the county in which the 18849
court that orders the forfeiture is located or in a contiguous 18850
county. If no certified alcohol and drug addiction treatment 18851
program is located in any of those counties, the juvenile court 18852
may specify in the order a certified alcohol and drug addiction 18853
treatment program located anywhere within this state. The 18854
remaining ninety per cent of the proceeds shall be disposed of as 18855

provided in divisions (D)(1)(b) and (D)(2) of this section. 18856

All of the proceeds of all property ordered forfeited by a 18857
court other than a juvenile court pursuant to section 2923.32 of 18858
the Revised Code shall be disposed of as provided in divisions 18859
(D)(1)(b) and (D)(2) of this section. 18860

(b) The remaining proceeds of all property ordered forfeited 18861
pursuant to section 2923.32 of the Revised Code, after compliance 18862
with division (D)(1)(a) of this section when that division is 18863
applicable, and all fines and civil penalties imposed pursuant to 18864
sections 2923.32 and 2923.34 of the Revised Code shall be 18865
deposited into the state treasury and credited to the corrupt 18866
activity investigation and prosecution fund, which is hereby 18867
created. 18868

(2) The proceeds, fines, and penalties credited to the 18869
corrupt activity investigation and prosecution fund pursuant to 18870
division (D)(1) of this section shall be disposed of in the 18871
following order: 18872

(a) To a civil plaintiff in an action brought within the 18873
one-hundred-eighty-day time period specified in division (B)(1) of 18874
this section, subject to the limit set forth in that division; 18875

(b) To the payment of the fees and costs of the forfeiture 18876
and sale, including expenses of seizure, maintenance, and custody 18877
of the property pending its disposition, advertising, and court 18878
costs; 18879

(c) Except as otherwise provided in division (D)(2)(c) of 18880
this section, the remainder shall be paid to the law enforcement 18881
trust fund of the prosecuting attorney that is established 18882
pursuant to division (D)(1)(c) of section 2933.43 of the Revised 18883
Code and to the law enforcement trust fund of the county sheriff 18884
that is established pursuant to that division if the county 18885
sheriff substantially conducted the investigation, to the law 18886

enforcement trust fund of a municipal corporation that is 18887
established pursuant to that division if its police department 18888
substantially conducted the investigation, to the law enforcement 18889
trust fund of a township that is established pursuant to that 18890
division if the investigation was substantially conducted by a 18891
township police department, township police district police force, 18892
or office of a township constable, or to the law enforcement trust 18893
fund of a park district created pursuant to section 511.18 or 18894
1545.01 of the Revised Code that is established pursuant to that 18895
division if the investigation was substantially conducted by its 18896
park district police force or law enforcement department. The 18897
prosecuting attorney may decline to accept any of the remaining 18898
proceeds, fines, and penalties, and, if the prosecuting attorney 18899
so declines, they shall be applied to the fund described in 18900
division (D)(2)(c) of this section that relates to the appropriate 18901
law enforcement agency that substantially conducted the 18902
investigation. 18903

If the state highway patrol substantially conducted the 18904
investigation, the director of budget and management shall 18905
transfer the remaining proceeds, fines, and penalties to the state 18906
highway patrol for deposit into the state highway patrol 18907
contraband, forfeiture, and other fund that is created by division 18908
(D)(1)(c) of section 2933.43 of the Revised Code. If the 18909
department of taxation substantially conducted the investigation, 18910
the director shall transfer the remaining proceeds, fines, and 18911
penalties to the department for deposit into the department of 18912
taxation enforcement fund. If the state board of pharmacy 18913
substantially conducted the investigation, the director shall 18914
transfer the remaining proceeds, fines, and penalties to the board 18915
for deposit into the board of pharmacy drug law enforcement fund 18916
that is created by division (B)(1) of section 4729.65 of the 18917
Revised Code. If a state law enforcement agency, other than the 18918
state highway patrol, the department of taxation, or the state 18919

board of pharmacy, substantially conducted the investigation, the 18920
director shall transfer the remaining proceeds, fines, and 18921
penalties to the treasurer of state for deposit into the peace 18922
officer training commission fund that is created by division 18923
(D)(1)(c) of section 2933.43 of the Revised Code. 18924

The remaining proceeds, fines, and penalties that are paid to 18925
a law enforcement trust fund or that are deposited into the state 18926
highway patrol contraband, forfeiture, and other fund, the 18927
department of taxation enforcement fund, the board of pharmacy 18928
drug law enforcement fund, or the peace officer training 18929
commission fund pursuant to division (D)(2)(c) of this section 18930
shall be allocated, used, and expended only in accordance with 18931
division (D)(1)(c) of section 2933.43 of the Revised Code, only in 18932
accordance with a written internal control policy adopted under 18933
division (D)(3) of that section, and, if applicable, only in 18934
accordance with division (B) of section 4729.65 of the Revised 18935
Code. The annual reports that pertain to the funds and that are 18936
required by divisions (D)(1)(c) and (3)(b) of section 2933.43 of 18937
the Revised Code also shall address the remaining proceeds, fines, 18938
and penalties that are paid or deposited into the funds pursuant 18939
to division (D)(2)(c) of this section. 18940

(3) If more than one law enforcement agency substantially 18941
conducted the investigation, the court ordering the forfeiture 18942
shall equitably divide the remaining proceeds, fines, and 18943
penalties among the law enforcement agencies that substantially 18944
conducted the investigation, in the manner described in division 18945
(D)(2) of section 2933.43 of the Revised Code for the equitable 18946
division of contraband proceeds and forfeited moneys. The 18947
equitable shares of the proceeds, fines, and penalties so 18948
determined by the court shall be paid or deposited into the 18949
appropriate funds specified in division (D)(2)(c) of this section. 18950

(E) As used in this section, "law enforcement agency" 18951

includes, but is not limited to, the state board of pharmacy and 18952
the department of taxation. 18953

Sec. 2925.44. (A) If property is seized pursuant to section 18954
2925.42 or 2925.43 of the Revised Code, it is deemed to be in the 18955
custody of the head of the law enforcement agency that seized it, 18956
and the head of that agency may do any of the following with 18957
respect to that property prior to its disposition in accordance 18958
with division (A)(4) or (B) of this section: 18959

(1) Place the property under seal; 18960

(2) Remove the property to a place that the head of that 18961
agency designates; 18962

(3) Request the issuance of a court order that requires any 18963
other appropriate municipal corporation, county, township, park 18964
district created pursuant to section 511.18 or 1545.01 of the 18965
Revised Code, or state law enforcement officer or other officer to 18966
take custody of the property and, if practicable, remove it to an 18967
appropriate location for eventual disposition in accordance with 18968
division (B) of this section; 18969

(4)(a) Seek forfeiture of the property pursuant to federal 18970
law. If the head of that agency seeks its forfeiture pursuant to 18971
federal law, the law enforcement agency shall deposit, use, and 18972
account for proceeds from a sale of the property upon its 18973
forfeiture, proceeds from another disposition of the property upon 18974
its forfeiture, or forfeited moneys it receives, in accordance 18975
with the applicable federal law and otherwise shall comply with 18976
that law. 18977

(b) If the state highway patrol seized the property and if 18978
the superintendent of the state highway patrol seeks its 18979
forfeiture pursuant to federal law, the appropriate governmental 18980
officials shall deposit into the state highway patrol contraband, 18981

forfeiture, and other fund all interest or other earnings derived 18982
from the investment of the proceeds from a sale of the property 18983
upon its forfeiture, the proceeds from another disposition of the 18984
property upon its forfeiture, or the forfeited moneys. The state 18985
highway patrol shall use and account for that interest or other 18986
earnings in accordance with the applicable federal law. 18987

(c) If the investigative unit of the department of public 18988
safety seized the property and if the director of public safety 18989
seeks its forfeiture pursuant to federal law, the appropriate 18990
governmental officials shall deposit into the department of public 18991
safety investigative unit contraband, forfeiture, and other fund 18992
all interest or other earnings derived from the investment of the 18993
proceeds from a sale of the property upon its forfeiture, the 18994
proceeds from another disposition of the property upon its 18995
forfeiture, or the forfeited moneys. The department shall use and 18996
account for that interest or other earnings in accordance with the 18997
applicable federal law. 18998

(d) If the enforcement division of the department of taxation 18999
seized the property and if the tax commissioner seeks its 19000
forfeiture pursuant to federal law, the appropriate governmental 19001
officials shall deposit into the department of taxation 19002
enforcement fund all interest or other earnings derived from the 19003
investment of the proceeds from a sale of the property upon its 19004
forfeiture, the proceeds from another disposition of the property 19005
upon its forfeiture, or the forfeited moneys. The department shall 19006
use and account for that interest or other earnings in accordance 19007
with the applicable federal law. 19008

(e) Division (B) of this section and divisions (D)(1) to (3) 19009
of section 2933.43 of the Revised Code do not apply to proceeds or 19010
forfeited moneys received pursuant to federal law or to the 19011
interest or other earnings that are derived from the investment of 19012
proceeds or forfeited moneys received pursuant to federal law and 19013

that are described in division (A)(4)(b) or (d) of this section. 19014

(B) In addition to complying with any requirements imposed by 19015
a court pursuant to section 2925.42 or 2925.43 of the Revised 19016
Code, and the requirements imposed by those sections, in relation 19017
to the disposition of property forfeited to the state under either 19018
of those sections, the prosecuting attorney who is responsible for 19019
its disposition shall dispose of the property as follows: 19020

(1) Any vehicle, as defined in section 4501.01 of the Revised 19021
Code, that was used in a felony drug abuse offense or in an act 19022
that, if committed by an adult, would be a felony drug abuse 19023
offense shall be given to the law enforcement agency of the 19024
municipal corporation or county in which the offense occurred if 19025
that agency desires to have the vehicle, except that, if the 19026
offense occurred in a township or in a park district created 19027
pursuant to section 511.18 or 1545.01 of the Revised Code and a 19028
law enforcement officer employed by the township or the park 19029
district was involved in the seizure of the vehicle, the vehicle 19030
may be given to the law enforcement agency of that township or 19031
park district if that agency desires to have the vehicle, and 19032
except that, if the state highway patrol made the seizure of the 19033
vehicle, the vehicle may be given to the state highway patrol if 19034
it desires to have the vehicle. 19035

(2) Any drug paraphernalia that was used, possessed, sold, or 19036
manufactured in a violation of section 2925.14 of the Revised Code 19037
that would be a felony drug abuse offense or in a violation of 19038
that section committed by a juvenile that, if committed by an 19039
adult, would be a felony drug abuse offense, may be given to the 19040
law enforcement agency of the municipal corporation or county in 19041
which the offense occurred if that agency desires to have and can 19042
use the drug paraphernalia, except that, if the offense occurred 19043
in a township or in a park district created pursuant to section 19044
511.18 or 1545.01 of the Revised Code and a law enforcement 19045

officer employed by the township or the park district was involved 19046
in the seizure of the drug paraphernalia, the drug paraphernalia 19047
may be given to the law enforcement agency of that township or 19048
park district if that agency desires to have and can use the drug 19049
paraphernalia. If the drug paraphernalia is not so given, it shall 19050
be disposed of by sale pursuant to division (B)(8) of this section 19051
or disposed of in another manner that the court that issued the 19052
order of forfeiture considers proper under the circumstances. 19053

(3) Drugs shall be disposed of pursuant to section 3719.11 of 19054
the Revised Code or placed in the custody of the secretary of the 19055
treasury of the United States for disposal or use for medical or 19056
scientific purposes under applicable federal law. 19057

(4) Firearms and dangerous ordnance suitable for police work 19058
may be given to a law enforcement agency for that purpose. 19059
Firearms suitable for sporting use, or as museum pieces or 19060
collectors' items, may be disposed of by sale pursuant to division 19061
(B)(8) of this section. Other firearms and dangerous ordnance 19062
shall be destroyed by a law enforcement agency or shall be sent to 19063
the bureau of criminal identification and investigation for 19064
destruction by it. As used in this division, "firearms" and 19065
"dangerous ordnance" have the same meanings as in section 2923.11 19066
of the Revised Code. 19067

(5) Computers, computer networks, computer systems, and 19068
computer software suitable for police work may be given to a law 19069
enforcement agency for that purpose. Other computers, computer 19070
networks, computer systems, and computer software shall be 19071
disposed of by sale pursuant to division (B)(8) of this section or 19072
disposed of in another manner that the court that issued the order 19073
of forfeiture considers proper under the circumstances. As used in 19074
this division, "computers," "computer networks," "computer 19075
systems," and "computer software" have the same meanings as in 19076
section 2913.01 of the Revised Code. 19077

(6) Obscene materials shall be destroyed.	19078
(7) Beer, intoxicating liquor, and alcohol shall be disposed of in accordance with division (D)(4) of section 2933.41 of the Revised Code.	19079 19080 19081
(8) In the case of property not described in divisions (B)(1) to (7) of this section and of property described in those divisions but not disposed of pursuant to them, the property shall be sold in accordance with division (B)(8) of this section or, in the case of forfeited moneys, disposed of in accordance with division (B)(8) of this section. If the property is to be sold, the prosecuting attorney shall cause a notice of the proposed sale of the property to be given in accordance with law, and the property shall be sold, without appraisal, at a public auction to the highest bidder for cash. The proceeds of a sale and forfeited moneys shall be applied in the following order:	19082 19083 19084 19085 19086 19087 19088 19089 19090 19091 19092
(a) First, to the payment of the costs incurred in connection with the seizure of, storage of, maintenance of, and provision of security for the property, the forfeiture proceeding or civil action, and, if any, the sale;	19093 19094 19095 19096
(b) Second, the remaining proceeds or forfeited moneys after compliance with division (B)(8)(a) of this section, to the payment of the value of any legal right, title, or interest in the property that is possessed by a person who, pursuant to division (F) of section 2925.42 of the Revised Code or division (E) of section 2925.43 of the Revised Code, established the validity of and consequently preserved that legal right, title, or interest, including, but not limited to, any mortgage, perfected or other security interest, or other lien in the property. The value of these rights, titles, or interests shall be paid according to their record or other order of priority.	19097 19098 19099 19100 19101 19102 19103 19104 19105 19106 19107
(c) Third, the remaining proceeds or forfeited moneys after	19108

compliance with divisions (B)(8)(a) and (b) of this section, as 19109
follows: 19110

(i) If the forfeiture was ordered in a juvenile court, ten 19111
per cent to one or more alcohol and drug addiction treatment 19112
programs that are certified by the department of alcohol and drug 19113
addiction services under section 3793.06 of the Revised Code and 19114
that are specified in the order of forfeiture. A juvenile court 19115
shall not specify an alcohol or drug addiction treatment program 19116
in the order of forfeiture unless the program is a certified 19117
alcohol and drug addiction treatment program and, except as 19118
provided in division (B)(8)(c)(i) of this section, unless the 19119
program is located in the county in which the court that orders 19120
the forfeiture is located or in a contiguous county. If no 19121
certified alcohol and drug addiction treatment program is located 19122
in any of those counties, the juvenile court may specify in the 19123
order a certified alcohol and drug addiction treatment program 19124
located anywhere within this state. 19125

(ii) If the forfeiture was ordered in a juvenile court, 19126
ninety per cent, and if the forfeiture was ordered in a court 19127
other than a juvenile court, one hundred per cent to appropriate 19128
funds in accordance with divisions (D)(1)(c) and (2) of section 19129
2933.43 of the Revised Code. The remaining proceeds or forfeited 19130
moneys so deposited shall be used only for the purposes authorized 19131
by those divisions and division (D)(3)(a)(ii) of that section. 19132

(C)(1) Sections 2925.41 to 2925.45 of the Revised Code do not 19133
preclude a financial institution that possessed a valid mortgage, 19134
security interest, or lien that is not satisfied prior to a sale 19135
under division (B)(8) of this section or following a sale by 19136
application of division (B)(8)(b) of this section, from commencing 19137
a civil action in any appropriate court in this or another state 19138
to obtain a deficiency judgment against the debtor if the 19139
financial institution otherwise would have been entitled to do so 19140

in this or another state. 19141

(2) Any law enforcement agency that obtains any vehicle 19142
pursuant to division (B)(1) of this section shall take the vehicle 19143
subject to the outstanding amount of any security interest or lien 19144
that attaches to the vehicle. 19145

(3) Nothing in this section impairs a mortgage, security 19146
interest, lien, or other interest of a financial institution in 19147
property that was the subject of a forfeiture order under section 19148
2925.42 or 2925.43 of the Revised Code and that was sold or 19149
otherwise disposed of in a manner that does not conform to the 19150
requirements of division (B) of this section, or any right of a 19151
financial institution of that nature to commence a civil action in 19152
any appropriate court in this or another state to obtain a 19153
deficiency judgment against the debtor. 19154

(4) Following the sale under division (B)(8) of this section 19155
of any property that is required to be titled or registered under 19156
the law of this state, the prosecuting attorney responsible for 19157
the disposition of the property shall cause the state to issue an 19158
appropriate certificate of title or registration to the purchaser 19159
of the property. Additionally, if, in a disposition of property 19160
pursuant to division (B) of this section, the state or a political 19161
subdivision is given any property that is required to be titled or 19162
registered under the law of this state, the prosecuting attorney 19163
responsible for the disposition of the property shall cause the 19164
state to issue an appropriate certificate of title or registration 19165
to itself or to the political subdivision. 19166

(D) Property that has been forfeited to the state pursuant to 19167
an order of criminal forfeiture under section 2925.42 of the 19168
Revised Code or an order of civil forfeiture under section 2925.43 19169
of the Revised Code shall not be available for use to pay any fine 19170
imposed upon a person who is convicted of or pleads guilty to a 19171
felony drug abuse offense or upon any juvenile who is found by a 19172

juvenile court to be a delinquent child for an act that, if 19173
committed by an adult, would be a felony drug abuse offense. 19174

(E) Sections 2925.41 to 2925.45 of the Revised Code do not 19175
prohibit a law enforcement officer from seeking the forfeiture of 19176
contraband associated with a felony drug abuse offense pursuant to 19177
section 2933.43 of the Revised Code. 19178

Sec. 2929.38. (A) A board of commissioners of a county, in an 19179
agreement with the sheriff, a legislative authority of a municipal 19180
corporation, a corrections commission, a judicial corrections 19181
board, or any other public or private entity that operates a local 19182
detention facility described in division (A) of section 2929.37 of 19183
the Revised Code, may establish a policy that requires any 19184
prisoner who is confined in the facility as a result of pleading 19185
guilty to or having been convicted of an offense to pay a one-time 19186
reception fee for the costs of processing the prisoner into the 19187
facility at the time of the prisoner's initial entry into the 19188
facility under the confinement in question, to pay a reasonable 19189
fee for any medical or dental treatment or service requested by 19190
and provided to that prisoner, and to pay the fee for a random 19191
drug test assessed under division (E) of section 341.26, and 19192
division (E) of section 753.33 of the Revised Code. The fee for 19193
the medical treatment or service shall not exceed the actual cost 19194
of the treatment or service provided. No prisoner confined in the 19195
local detention facility shall be denied any necessary medical 19196
care because of inability to pay the fees. 19197

(B) Upon assessment of a one-time reception fee as described 19198
in division (A) of this section, the provision of the requested 19199
medical treatment or service, or the assessment of a fee for a 19200
random drug test, payment of the required fee may be automatically 19201
deducted from the prisoner's inmate account in the business office 19202
of the local detention facility in which the prisoner is confined. 19203

If there is no money in the account, a deduction may be made at a 19204
later date during the prisoner's confinement if the money becomes 19205
available in the account. If, after release, the prisoner has an 19206
unpaid balance of those fees, the sheriff, legislative authority 19207
of the municipal corporation, corrections commission, judicial 19208
corrections board, or other entity that operates the local 19209
detention facility described in division (A) of section 2929.37 of 19210
the Revised Code may bill the prisoner for the payment of the 19211
unpaid fees. Fees received for medical or dental treatment or 19212
services shall be paid to the commissary fund, if one exists for 19213
the facility, or if no commissary fund exists, to the general fund 19214
of the treasury of the political subdivision that incurred the 19215
expenses, in the same proportion as those expenses were borne by 19216
the political subdivision. Fees received for medical treatment or 19217
services that are placed in the commissary fund under this 19218
division shall be used for the same purposes as profits from the 19219
commissary fund, except that they shall not be used to pay any 19220
salary or benefits of any person who works in or is employed for 19221
the sole purpose of providing service to the commissary. 19222

(C) Any fee paid by a person under this section shall be 19223
deducted from any medical or dental costs that the person is 19224
ordered to reimburse under section 2929.36 of the Revised Code or 19225
to repay under a policy adopted under section 2929.37 of the 19226
Revised Code. 19227

(D) As used in this section, "inmate account" has the same 19228
meaning as in section 2969.21 of the Revised Code. 19229

Sec. 2933.43. (A)(1) Except as provided in this division or 19230
in section 2913.34 or sections 2923.44 to 2923.47 or 2925.41 to 19231
2925.45 of the Revised Code, a law enforcement officer shall seize 19232
any contraband that has been, is being, or is intended to be used 19233
in violation of division (A) of section 2933.42 of the Revised 19234

Code. A law enforcement officer shall seize contraband that is a 19235
watercraft, motor vehicle, or aircraft and that has been, is 19236
being, or is intended to be used in violation of division (A) of 19237
section 2933.42 of the Revised Code only if the watercraft, motor 19238
vehicle, or aircraft is contraband because of its relationship to 19239
an underlying criminal offense that is a felony. 19240

Additionally, a law enforcement officer shall seize any 19241
watercraft, motor vehicle, aircraft, or other personal property 19242
that is classified as contraband under division (B) of section 19243
2933.42 of the Revised Code if the underlying offense involved in 19244
the violation of division (A) of that section that resulted in the 19245
watercraft, motor vehicle, aircraft, or personal property being 19246
classified as contraband, is a felony. 19247

(2) If a law enforcement officer seizes property that is 19248
titled or registered under law, including a motor vehicle, 19249
pursuant to division (A)(1) of this section, the officer or the 19250
officer's employing law enforcement agency shall notify the owner 19251
of the seizure. The notification shall be given to the owner at 19252
the owner's last known address within seventy-two hours after the 19253
seizure, and may be given orally by any means, including 19254
telephone, or by certified mail, return receipt requested. 19255

If the officer or the officer's agency is unable to provide 19256
the notice required by this division despite reasonable, good 19257
faith efforts to do so, the exercise of the reasonable, good faith 19258
efforts constitutes fulfillment of the notice requirement imposed 19259
by this division. 19260

(B)(1) A motor vehicle seized pursuant to division (A)(1) of 19261
this section and the contents of the vehicle may be retained for a 19262
reasonable period of time, not to exceed seventy-two hours, for 19263
the purpose of inspection, investigation, and the gathering of 19264
evidence of any offense or illegal use. 19265

At any time prior to the expiration of the seventy-two-hour period, the law enforcement agency that seized the motor vehicle may petition the court of common pleas of the county that has jurisdiction over the underlying criminal case or administrative proceeding involved in the forfeiture for an extension of the seventy-two-hour period if the motor vehicle or its contents are needed as evidence or if additional time is needed for the inspection, investigation, or gathering of evidence. Upon the filing of such a petition, the court immediately shall schedule a hearing to be held at a time as soon as possible after the filing, but in no event at a time later than the end of the next business day subsequent to the day on which the petition was filed, and upon scheduling the hearing, immediately shall notify the owner of the vehicle, at the address at which notification of the seizure was provided under division (A) of this section, of the date, time, and place of the hearing. If the court, at the hearing, determines that the vehicle or its contents, or both, are needed as evidence or that additional time is needed for the inspection, investigation, or gathering of evidence, the court may grant the petition and issue an order authorizing the retention of the vehicle or its contents, or both, for an extended period as specified by the court in its order. An order extending a period of retention issued under this division may be renewed.

If no petition for the extension of the initial seventy-two-hour period has been filed, prior to the expiration of that period, under this division, if the vehicle was not in the custody and control of the owner at the time of its seizure, and if, at the end of that seventy-two-hour period, the owner of the vehicle has not been charged with an offense or administrative violation that includes the use of the vehicle as an element and has not been charged with any other offense or administrative violation in the actual commission of which the motor vehicle was

used, the vehicle and its contents shall be released to its owner 19298
or the owner's agent, provided that the law enforcement agency 19299
that seized the vehicle may require proof of ownership of the 19300
vehicle, proof of ownership or legal possession of the contents, 19301
and an affidavit of the owner that the owner neither knew of nor 19302
expressly or impliedly consented to the use of the vehicle that 19303
resulted in its forfeiture as conditions precedent to release. If 19304
a petition for the extension of the initial seventy-two-hour 19305
period has been filed, prior to the expiration of that period, 19306
under this division but the court does not grant the petition, if 19307
the vehicle was not in the custody and control of the owner at the 19308
time of its seizure, and if, at the end of that seventy-two-hour 19309
period, the owner of the vehicle has not been charged with an 19310
offense or administrative violation that includes the use of the 19311
vehicle as an element and has not been charged with any other 19312
offense or administrative violation in the actual commission of 19313
which the motor vehicle was used, the vehicle and its contents 19314
shall be released to its owner or the owner's agent, provided that 19315
the court may require the proof and affidavit described in the 19316
preceding sentence as conditions precedent to release. If the 19317
initial seventy-two-hour period has been extended under this 19318
division, the vehicle and its contents to which the extension 19319
applies may be retained in accordance with the extension order. 19320
If, at the end of that extended period, the owner of the vehicle 19321
has not been charged with an offense or administrative violation 19322
that includes the use of the vehicle as an element and has not 19323
been charged with any other offense or administrative violation in 19324
the actual commission of which the motor vehicle was used, and if 19325
the vehicle was not in the custody and control of the owner at the 19326
time of its seizure, the vehicle and its contents shall be 19327
released to its owner or the owner's agent, provided that the 19328
court may require the proof and affidavit described in the third 19329
preceding sentence as conditions precedent to release. In cases in 19330

which the court may require proof and affidavits as conditions 19331
precedent to release, the court also may require the posting of a 19332
bond, with sufficient sureties approved by the court, in an amount 19333
equal to the value of the property to be released, as determined 19334
by the court, and conditioned upon the return of the property to 19335
the court if it is forfeited under this section, as a further 19336
condition to release. If, at the end of the initial 19337
seventy-two-hour period or at the end of any extended period 19338
granted under this section, the owner has been charged with an 19339
offense or administrative violation that includes the use of the 19340
vehicle as an element or has been charged with another offense or 19341
administrative violation in the actual commission of which the 19342
motor vehicle was used, or if the vehicle was in the custody and 19343
control of the owner at the time of its seizure, the vehicle and 19344
its contents shall be retained pending disposition of the charge, 19345
provided that upon the filing of a motion for release by the 19346
owner, if the court determines that the motor vehicle or its 19347
contents, or both, are not needed as evidence in the underlying 19348
criminal case or administrative proceeding, the court may permit 19349
the release of the property that is not needed as evidence to the 19350
owner; as a condition precedent to a release of that nature, the 19351
court may require the owner to execute a bond with the court. Any 19352
bond so required shall be in an amount equal to the value of the 19353
property to be released, as determined by the court, shall have 19354
sufficient sureties approved by the court, and shall be 19355
conditioned upon the return of the property to the court to which 19356
it is forfeited under this section. 19357

The final disposition of a motor vehicle seized pursuant to 19358
division (A)(1) of this section shall be determined in accordance 19359
with division (C) of this section. 19360

(2) Pending a hearing pursuant to division (C) of this 19361
section, and subject to divisions (B)(1) and (C) of this section, 19362

any property lawfully seized pursuant to division (A) of this 19363
section because it was contraband of a type described in division 19364
(A)(13)(b), (d), (e), (f), (g), (h), (i), or (j) of section 19365
2901.01 of the Revised Code shall not be subject to replevin or 19366
other action in any court and shall not be subject to release upon 19367
request of the owner, and no judgment shall be enforced against 19368
the property. Pending the hearing, and subject to divisions (B)(1) 19369
and (C) of this section, the property shall be kept in the custody 19370
of the law enforcement agency responsible for its seizure. 19371

Pending a hearing pursuant to division (C) of this section, 19372
and notwithstanding any provisions of division (B)(1) or (C) of 19373
this section to the contrary, any property lawfully seized 19374
pursuant to division (A) of this section because it was contraband 19375
of a type described in division (A)(13)(a) or (c) of section 19376
2901.01 of the Revised Code shall not be subject to replevin or 19377
other action in any court and shall not be subject to release upon 19378
request of the owner, and no judgment shall be enforced against 19379
the property. Pending the hearing, and notwithstanding any 19380
provisions of division (B)(1) or (C) of this section to the 19381
contrary, the property shall be kept in the custody of the law 19382
enforcement agency responsible for its seizure. 19383

A law enforcement agency that seizes property under division 19384
(A) of this section because it was contraband of any type 19385
described in division (A)(13) of section 2901.01 or division (B) 19386
of section 2933.42 of the Revised Code shall maintain an accurate 19387
record of each item of property so seized, which record shall 19388
include the date on which each item was seized, the manner and 19389
date of its disposition, and if applicable, the name of the person 19390
who received the item; however, the record shall not identify or 19391
enable the identification of the individual officer who seized the 19392
item. The record of property of that nature that no longer is 19393
needed as evidence shall be open to public inspection during the 19394

agency's regular business hours. Each law enforcement agency that, 19395
during any calendar year, seizes property under division (A) of 19396
this section because it was contraband shall prepare a report 19397
covering the calendar year that cumulates all of the information 19398
contained in all of the records kept by the agency pursuant to 19399
this division for that calendar year, and shall send a copy of the 19400
cumulative report, no later than the first day of March in the 19401
calendar year following the calendar year covered by the report, 19402
to the attorney general. Each report received by the attorney 19403
general is a public record open for inspection under section 19404
149.43 of the Revised Code. Not later than the fifteenth day of 19405
April in the calendar year in which the reports are received, the 19406
attorney general shall send to the president of the senate and the 19407
speaker of the house of representatives a written notification 19408
that does all of the following: 19409

(a) Indicates that the attorney general has received from law 19410
enforcement agencies reports of the type described in this 19411
division that cover the previous calendar year and indicates that 19412
the reports were received under this division; 19413

(b) Indicates that the reports are open for inspection under 19414
section 149.43 of the Revised Code; 19415

(c) Indicates that the attorney general will provide a copy 19416
of any or all of the reports to the president of the senate or the 19417
speaker of the house of representatives upon request. 19418

(C) The prosecuting attorney, village solicitor, city 19419
director of law, or similar chief legal officer who has 19420
responsibility for the prosecution of the underlying criminal case 19421
or administrative proceeding, or the attorney general if the 19422
attorney general has that responsibility, shall file a petition 19423
for the forfeiture, to the seizing law enforcement agency of the 19424
contraband seized pursuant to division (A) of this section. The 19425
petition shall be filed in the court that has jurisdiction over 19426

the underlying criminal case or administrative proceeding involved 19427
in the forfeiture. If the property was seized on the basis of both 19428
a criminal violation and an administrative regulation violation, 19429
the petition shall be filed by the officer and in the court that 19430
is appropriate in relation to the criminal case. 19431

The petitioner shall conduct or cause to be conducted a 19432
search of the appropriate public records that relate to the seized 19433
property for the purpose of determining, and shall make or cause 19434
to be made reasonably diligent inquiries for the purpose of 19435
determining, any person having an ownership or security interest 19436
in the property. The petitioner then shall give notice of the 19437
forfeiture proceedings by personal service or by certified mail, 19438
return receipt requested, to any persons known, because of the 19439
conduct of the search, the making of the inquiries, or otherwise, 19440
to have an ownership or security interest in the property, and 19441
shall publish notice of the proceedings once each week for two 19442
consecutive weeks in a newspaper of general circulation in the 19443
county in which the seizure occurred. The notices shall be 19444
personally served, mailed, and first published at least four weeks 19445
before the hearing. They shall describe the property seized; state 19446
the date and place of seizure; name the law enforcement agency 19447
that seized the property and, if applicable, that is holding the 19448
property; list the time, date, and place of the hearing; and state 19449
that any person having an ownership or security interest in the 19450
property may contest the forfeiture. 19451

If the property seized was determined by the seizing law 19452
enforcement officer to be contraband because of its relationship 19453
to an underlying criminal offense or administrative violation, no 19454
forfeiture hearing shall be held under this section unless the 19455
person pleads guilty to or is convicted of the commission of, or 19456
an attempt or conspiracy to commit, the offense or a different 19457
offense arising out of the same facts and circumstances or unless 19458

the person admits or is adjudicated to have committed the 19459
administrative violation or a different violation arising out of 19460
the same facts and circumstances; a forfeiture hearing shall be 19461
held in a case of that nature no later than forty-five days after 19462
the conviction or the admission or adjudication of the violation, 19463
unless the time for the hearing is extended by the court for good 19464
cause shown. The owner of any property seized because of its 19465
relationship to an underlying criminal offense or administrative 19466
violation may request the court to release the property to the 19467
owner. Upon receipt of a request of that nature, if the court 19468
determines that the property is not needed as evidence in the 19469
underlying criminal case or administrative proceeding, the court 19470
may permit the release of the property to the owner. As a 19471
condition precedent to a release of that nature, the court may 19472
require the owner to execute a bond with the court. Any bond so 19473
required shall have sufficient sureties approved by the court, 19474
shall be in a sum equal to the value of the property, as 19475
determined by the court, and shall be conditioned upon the return 19476
of the property to the court if the property is forfeited under 19477
this section. Any property seized because of its relationship to 19478
an underlying criminal offense or administrative violation shall 19479
be returned to its owner if charges are not filed in relation to 19480
that underlying offense or violation within thirty days after the 19481
seizure, if charges of that nature are filed and subsequently are 19482
dismissed, or if charges of that nature are filed and the person 19483
charged does not plead guilty to and is not convicted of the 19484
offense or does not admit and is not found to have committed the 19485
violation. 19486

If the property seized was determined by the seizing law 19487
enforcement officer to be contraband other than because of a 19488
relationship to an underlying criminal offense or administrative 19489
violation, the forfeiture hearing under this section shall be held 19490
no later than forty-five days after the seizure, unless the time 19491

for the hearing is extended by the court for good cause shown. 19492

Where possible, a court holding a forfeiture hearing under 19493
this section shall follow the Rules of Civil Procedure. When a 19494
hearing is conducted under this section, property shall be 19495
forfeited upon a showing, by a preponderance of the evidence, by 19496
the petitioner that the person from which the property was seized 19497
was in violation of division (A) of section 2933.42 of the Revised 19498
Code. If that showing is made, the court shall issue an order of 19499
forfeiture. If an order of forfeiture is issued in relation to 19500
contraband that was released to the owner or the owner's agent 19501
pursuant to this division or division (B)(1) of this section, the 19502
order shall require the owner to deliver the property, by a 19503
specified date, to the law enforcement agency that employed the 19504
law enforcement officer who made the seizure of the property, and 19505
the court shall deliver a copy of the order to the owner or send a 19506
copy of it by certified mail, return receipt requested, to the 19507
owner at the address to which notice of the seizure was given 19508
under division (A)(2) of this section. Except as otherwise 19509
provided in this division, all rights, interest, and title to the 19510
forfeited contraband vests in the state, effective from the date 19511
of seizure. 19512

No property shall be forfeited pursuant to this division if 19513
the owner of the property establishes, by a preponderance of the 19514
evidence, that the owner neither knew, nor should have known after 19515
a reasonable inquiry, that the property was used, or was likely to 19516
be used, in a crime or administrative violation. No bona fide 19517
security interest shall be forfeited pursuant to this division if 19518
the holder of the interest establishes, by a preponderance of the 19519
evidence, that the holder of the interest neither knew, nor should 19520
have known after a reasonable inquiry, that the property was used, 19521
or likely to be used, in a crime or administrative violation, that 19522
the holder of the interest did not expressly or impliedly consent 19523

to the use of the property in a crime or administrative violation, 19524
and that the security interest was perfected pursuant to law prior 19525
to the seizure. If the holder of the interest satisfies the court 19526
that these requirements are met, the interest shall be preserved 19527
by the court. In a case of that nature, the court shall either 19528
order that the agency to which the property is forfeited reimburse 19529
the holder of the interest to the extent of the preserved interest 19530
or order that the holder be paid for the interest from the 19531
proceeds of any sale pursuant to division (D) of this section. 19532

(D)(1) Contraband ordered forfeited pursuant to this section 19533
shall be disposed of pursuant to divisions (D)(1) to (7) of 19534
section 2933.41 of the Revised Code or, if the contraband is not 19535
described in those divisions, may be used, with the approval of 19536
the court, by the law enforcement agency that has custody of the 19537
contraband pursuant to division (D)(8) of that section. In the 19538
case of contraband not described in any of those divisions and of 19539
contraband not disposed of pursuant to any of those divisions, the 19540
contraband shall be sold in accordance with this division or, in 19541
the case of forfeited moneys, disposed of in accordance with this 19542
division. If the contraband is to be sold, the prosecuting 19543
attorney shall cause a notice of the proposed sale of the 19544
contraband to be given in accordance with law, and the property 19545
shall be sold, without appraisal, at a public auction to the 19546
highest bidder for cash. The proceeds of a sale and forfeited 19547
moneys shall be applied in the following order: 19548

(a) First, to the payment of the costs incurred in connection 19549
with the seizure of, storage of, maintenance of, and provision of 19550
security for the contraband, the forfeiture proceeding, and, if 19551
any, the sale; 19552

(b) Second, the remaining proceeds or forfeited moneys after 19553
compliance with division (D)(1)(a) of this section, to the payment 19554
of the balance due on any security interest preserved pursuant to 19555

division (C) of this section; 19556

(c) Third, the remaining proceeds or forfeited moneys after 19557
compliance with divisions (D)(1)(a) and (b) of this section, as 19558
follows: 19559

(i) If the forfeiture was ordered in a juvenile court, ten 19560
per cent to one or more alcohol and drug addiction treatment 19561
programs that are certified by the department of alcohol and drug 19562
addiction services under section 3793.06 of the Revised Code and 19563
that are specified in the order of forfeiture. A juvenile court 19564
shall not certify an alcohol or drug addiction treatment program 19565
in the order of forfeiture unless the program is a certified 19566
alcohol and drug addiction treatment program and, except as 19567
provided in division (D)(1)(c)(i) of this section, unless the 19568
program is located in the county in which the court that orders 19569
the forfeiture is located or in a contiguous county. If no 19570
certified alcohol and drug addiction treatment program is located 19571
in any of those counties, the juvenile court may specify in the 19572
order a certified alcohol and drug addiction treatment program 19573
located anywhere within this state. 19574

(ii) If the forfeiture was ordered in a juvenile court, 19575
ninety per cent, and if the forfeiture was ordered in a court 19576
other than a juvenile court, one hundred per cent to the law 19577
enforcement trust fund of the prosecuting attorney and to the law 19578
enforcement trust fund of the county sheriff if the county sheriff 19579
made the seizure, to the law enforcement trust fund of a municipal 19580
corporation if its police department made the seizure, to the law 19581
enforcement trust fund of a township if the seizure was made by a 19582
township police department, township police district police force, 19583
or office of a township constable, to the law enforcement trust 19584
fund of a park district created pursuant to section 511.18 or 19585
1545.01 of the Revised Code if the seizure was made by the park 19586
district police force or law enforcement department, to the state 19587

highway patrol contraband, forfeiture, and other fund if the state 19588
highway patrol made the seizure, to the department of public 19589
safety investigative unit contraband, forfeiture, and other fund 19590
if the investigative unit of the department of public safety made 19591
the seizure, to the department of taxation enforcement fund if the 19592
department of taxation made the seizure, to the board of pharmacy 19593
drug law enforcement fund created by division (B)(1) of section 19594
4729.65 of the Revised Code if the board made the seizure, or to 19595
the treasurer of state for deposit into the peace officer training 19596
commission fund if a state law enforcement agency, other than the 19597
state highway patrol, the investigative unit of the department of 19598
public safety, the enforcement division of the department of 19599
taxation, or the state board of pharmacy, made the seizure. The 19600
prosecuting attorney may decline to accept any of the remaining 19601
proceeds or forfeited moneys, and, if the prosecuting attorney so 19602
declines, the remaining proceeds or forfeited moneys shall be 19603
applied to the fund described in this division that relates to the 19604
law enforcement agency that made the seizure. 19605

A law enforcement trust fund shall be established by the 19606
prosecuting attorney of each county who intends to receive any 19607
remaining proceeds or forfeited moneys pursuant to this division, 19608
by the sheriff of each county, by the legislative authority of 19609
each municipal corporation, by the board of township trustees of 19610
each township that has a township police department, township 19611
police district police force, or office of the constable, and by 19612
the board of park commissioners of each park district created 19613
pursuant to section 511.18 or 1545.01 of the Revised Code that has 19614
a park district police force or law enforcement department, for 19615
the purposes of this division. There is hereby created in the 19616
state treasury the state highway patrol contraband, forfeiture, 19617
and other fund, the department of public safety investigative unit 19618
contraband, forfeiture, and other fund, the department of taxation 19619
enforcement fund, and the peace officer training commission fund, 19620

for the purposes described in this division. 19621

Proceeds or forfeited moneys distributed to any municipal 19622
corporation, township, or park district law enforcement trust fund 19623
shall be allocated from the fund by the legislative authority only 19624
to the police department of the municipal corporation, by the 19625
board of township trustees only to the township police department, 19626
township police district police force, or office of the constable, 19627
and by the board of park commissioners only to the park district 19628
police force or law enforcement department. 19629

Additionally, no proceeds or forfeited moneys shall be 19630
allocated to or used by the state highway patrol, the department 19631
of public safety, the department of taxation, the state board of 19632
pharmacy, or a county sheriff, prosecuting attorney, municipal 19633
corporation police department, township police department, 19634
township police district police force, office of the constable, or 19635
park district police force or law enforcement department unless 19636
the state highway patrol, department of public safety, department 19637
of taxation, state board of pharmacy, sheriff, prosecuting 19638
attorney, municipal corporation police department, township police 19639
department, township police district police force, office of the 19640
constable, or park district police force or law enforcement 19641
department has adopted a written internal control policy under 19642
division (D)(3) of this section that addresses the use of moneys 19643
received from the state highway patrol contraband, forfeiture, and 19644
other fund, the department of public safety investigative unit 19645
contraband, forfeiture, and other fund, the department of taxation 19646
enforcement fund, the board of pharmacy drug law enforcement fund, 19647
or the appropriate law enforcement trust fund. 19648

The state highway patrol contraband, forfeiture, and other 19649
fund, the department of public safety investigative unit 19650
contraband, forfeiture, and other fund, the department of taxation 19651
enforcement fund, and a law enforcement trust fund shall be 19652

expended only in accordance with the written internal control 19653
policy so adopted by the recipient, and, subject to the 19654
requirements specified in division (D)(3)(a)(ii) of this section, 19655
only to pay the costs of protracted or complex investigations or 19656
prosecutions, to provide reasonable technical training or 19657
expertise, to provide matching funds to obtain federal grants to 19658
aid law enforcement, in the support of DARE programs or other 19659
programs designed to educate adults or children with respect to 19660
the dangers associated with the use of drugs of abuse, to pay the 19661
costs of emergency action taken under section 3745.13 of the 19662
Revised Code relative to the operation of an illegal 19663
methamphetamine laboratory if the forfeited property or money 19664
involved was that of a person responsible for the operation of the 19665
laboratory, or for other law enforcement purposes that the 19666
superintendent of the state highway patrol, department of public 19667
safety, department of taxation, prosecuting attorney, county 19668
sheriff, legislative authority, board of township trustees, or 19669
board of park commissioners determines to be appropriate. The 19670
board of pharmacy drug law enforcement fund shall be expended only 19671
in accordance with the written internal control policy so adopted 19672
by the board and only in accordance with section 4729.65 of the 19673
Revised Code, except that it also may be expended to pay the costs 19674
of emergency action taken under section 3745.13 of the Revised 19675
Code relative to the operation of an illegal methamphetamine 19676
laboratory if the forfeited property or money involved was that of 19677
a person responsible for the operation of the laboratory. The 19678
state highway patrol contraband, forfeiture, and other fund, the 19679
department of public safety investigative unit contraband, 19680
forfeiture, and other fund, the department of taxation enforcement 19681
fund, the board of pharmacy drug law enforcement fund, and a law 19682
enforcement trust fund shall not be used to meet the operating 19683
costs of the state highway patrol, of the investigative unit of 19684
the department of public safety, of the department of taxation 19685

enforcement division, of the state board of pharmacy, of any 19686
political subdivision, or of any office of a prosecuting attorney 19687
or county sheriff that are unrelated to law enforcement. 19688

Proceeds and forfeited moneys that are paid into the state 19689
treasury to be deposited into the peace officer training 19690
commission fund shall be used by the commission only to pay the 19691
costs of peace officer training. 19692

Any sheriff or prosecuting attorney who receives proceeds or 19693
forfeited moneys pursuant to this division during any calendar 19694
year shall file a report with the county auditor, no later than 19695
the thirty-first day of January of the next calendar year, 19696
verifying that the proceeds and forfeited moneys were expended 19697
only for the purposes authorized by this division and division 19698
(D)(3)(a)(ii) of this section and specifying the amounts expended 19699
for each authorized purpose. Any municipal corporation police 19700
department that is allocated proceeds or forfeited moneys from a 19701
municipal corporation law enforcement trust fund pursuant to this 19702
division during any calendar year shall file a report with the 19703
legislative authority of the municipal corporation, no later than 19704
the thirty-first day of January of the next calendar year, 19705
verifying that the proceeds and forfeited moneys were expended 19706
only for the purposes authorized by this division and division 19707
(D)(3)(a)(ii) of this section and specifying the amounts expended 19708
for each authorized purpose. Any township police department, 19709
township police district police force, or office of the constable 19710
that is allocated proceeds or forfeited moneys from a township law 19711
enforcement trust fund pursuant to this division during any 19712
calendar year shall file a report with the board of township 19713
trustees of the township, no later than the thirty-first day of 19714
January of the next calendar year, verifying that the proceeds and 19715
forfeited moneys were expended only for the purposes authorized by 19716
this division and division (D)(3)(a)(ii) of this section and 19717

specifying the amounts expended for each authorized purpose. Any 19718
park district police force or law enforcement department that is 19719
allocated proceeds or forfeited moneys from a park district law 19720
enforcement trust fund pursuant to this division during any 19721
calendar year shall file a report with the board of park 19722
commissioners of the park district, no later than the thirty-first 19723
day of January of the next calendar year, verifying that the 19724
proceeds and forfeited moneys were expended only for the purposes 19725
authorized by this division and division (D)(3)(a)(ii) of this 19726
section and specifying the amounts expended for each authorized 19727
purpose. The superintendent of the state highway patrol shall file 19728
a report with the attorney general, no later than the thirty-first 19729
day of January of each calendar year, verifying that proceeds and 19730
forfeited moneys paid into the state highway patrol contraband, 19731
forfeiture, and other fund pursuant to this division during the 19732
prior calendar year were used by the state highway patrol during 19733
the prior calendar year only for the purposes authorized by this 19734
division and specifying the amounts expended for each authorized 19735
purpose. The executive director of the state board of pharmacy 19736
shall file a report with the attorney general, no later than the 19737
thirty-first day of January of each calendar year, verifying that 19738
proceeds and forfeited moneys paid into the board of pharmacy drug 19739
law enforcement fund during the prior calendar year were used only 19740
in accordance with section 4729.65 of the Revised Code and 19741
specifying the amounts expended for each authorized purpose. The 19742
peace officer training commission shall file a report with the 19743
attorney general, no later than the thirty-first day of January of 19744
each calendar year, verifying that proceeds and forfeited moneys 19745
paid into the peace officer training commission fund pursuant to 19746
this division during the prior calendar year were used by the 19747
commission during the prior calendar year only to pay the costs of 19748
peace officer training and specifying the amount used for that 19749
purpose. 19750

The tax commissioner shall file a report with the attorney general, not later than the thirty-first day of January of each calendar year, verifying that proceeds and forfeited moneys paid into the department of taxation enforcement fund pursuant to this division during the prior calendar year were used by the enforcement division during the prior calendar year to pay only the costs of enforcing the tax laws and specifying the amount used for that purpose.

(2) If more than one law enforcement agency is substantially involved in the seizure of contraband that is forfeited pursuant to this section, the court ordering the forfeiture shall equitably divide the proceeds or forfeited moneys, after calculating any distribution to the law enforcement trust fund of the prosecuting attorney pursuant to division (D)(1)(c) of this section, among any county sheriff whose office is determined by the court to be substantially involved in the seizure, any legislative authority of a municipal corporation whose police department is determined by the court to be substantially involved in the seizure, any board of township trustees whose law enforcement agency is determined by the court to be substantially involved in the seizure, any board of park commissioners of a park district whose police force or law enforcement department is determined by the court to be substantially involved in the seizure, the state board of pharmacy if it is determined by the court to be substantially involved in the seizure, the investigative unit of the department of public safety if it is determined by the court to be substantially involved in the seizure, the enforcement division of the department of taxation if it is determined by the court to be substantially involved in the seizure, and the state highway patrol if it is determined by the court to be substantially involved in the seizure. The proceeds or forfeited moneys shall be deposited in the respective law enforcement trust funds of the

county sheriff, municipal corporation, township, and park 19783
district, the board of pharmacy drug law enforcement fund, the 19784
department of public safety investigative unit contraband, 19785
forfeiture, and other fund, the department of taxation enforcement 19786
fund, or the state highway patrol contraband, forfeiture, and 19787
other fund, in accordance with division (D)(1)(c) of this section. 19788
If a state law enforcement agency, other than the state highway 19789
patrol, the investigative unit of the department of public safety, 19790
the department of taxation, or the state board of pharmacy, is 19791
determined by the court to be substantially involved in the 19792
seizure, the state agency's equitable share of the proceeds and 19793
forfeited moneys shall be paid to the treasurer of state for 19794
deposit into the peace officer training commission fund. 19795

(3)(a)(i) Prior to being allocated or using any proceeds or 19796
forfeited moneys out of the state highway patrol contraband, 19797
forfeiture, and other fund, the department of public safety 19798
investigative unit contraband, forfeiture, and other fund, the 19799
department of taxation enforcement fund, the board of pharmacy 19800
drug law enforcement fund, or a law enforcement trust fund under 19801
division (D)(1)(c) of this section, the state highway patrol, the 19802
department of public safety, the department of taxation, the state 19803
board of pharmacy, and a county sheriff, prosecuting attorney, 19804
municipal corporation police department, township police 19805
department, township police district police force, office of the 19806
constable, or park district police force or law enforcement 19807
department shall adopt a written internal control policy that 19808
addresses the state highway patrol's, department of public 19809
safety's, department of taxation's, state board of pharmacy's, 19810
sheriff's, prosecuting attorney's, police department's, police 19811
force's, office of the constable's, or law enforcement 19812
department's use and disposition of all the proceeds and forfeited 19813
moneys received and that provides for the keeping of detailed 19814
financial records of the receipts of the proceeds and forfeited 19815

moneys, the general types of expenditures made out of the proceeds 19816
and forfeited moneys, the specific amount of each general type of 19817
expenditure, and the amounts, portions, and programs described in 19818
division (D)(3)(a)(ii) of this section. The policy shall not 19819
provide for or permit the identification of any specific 19820
expenditure that is made in an ongoing investigation. 19821

All financial records of the receipts of the proceeds and 19822
forfeited moneys, the general types of expenditures made out of 19823
the proceeds and forfeited moneys, the specific amount of each 19824
general type of expenditure by the state highway patrol, by the 19825
department of public safety, by the department of taxation, by the 19826
state board of pharmacy, and by a sheriff, prosecuting attorney, 19827
municipal corporation police department, township police 19828
department, township police district police force, office of the 19829
constable, or park district police force or law enforcement 19830
department, and the amounts, portions, and programs described in 19831
division (D)(3)(a)(ii) of this section are public records open for 19832
inspection under section 149.43 of the Revised Code. Additionally, 19833
a written internal control policy adopted under this division is a 19834
public record of that nature, and the state highway patrol, the 19835
department of public safety, the department of taxation, the state 19836
board of pharmacy, or the sheriff, prosecuting attorney, municipal 19837
corporation police department, township police department, 19838
township police district police force, office of the constable, or 19839
park district police force or law enforcement department that 19840
adopted it shall comply with it. 19841

(ii) The written internal control policy of a county sheriff, 19842
prosecuting attorney, municipal corporation police department, 19843
township police department, township police district police force, 19844
office of the constable, or park district police force or law 19845
enforcement department shall provide that at least ten per cent of 19846
the first one hundred thousand dollars of proceeds and forfeited 19847

moneys deposited during each calendar year in the sheriff's, 19848
prosecuting attorney's, municipal corporation's, township's, or 19849
park district's law enforcement trust fund pursuant to division 19850
(B)(7)(c)(ii) of section 2923.46 or division (B)(8)(c)(ii) of 19851
section 2925.44 of the Revised Code, and at least twenty per cent 19852
of the proceeds and forfeited moneys exceeding one hundred 19853
thousand dollars that are so deposited, shall be used in 19854
connection with community preventive education programs. The 19855
manner in which the described percentages are so used shall be 19856
determined by the sheriff, prosecuting attorney, department, 19857
police force, or office of the constable after the receipt and 19858
consideration of advice on appropriate community preventive 19859
education programs from the county's board of alcohol, drug 19860
addiction, and mental health services, from the county's alcohol 19861
and drug addiction services board, or through appropriate 19862
community dialogue. The financial records described in division 19863
(D)(3)(a)(i) of this section shall specify the amount of the 19864
proceeds and forfeited moneys deposited during each calendar year 19865
in the sheriff's, prosecuting attorney's, municipal corporation's, 19866
township's, or park district's law enforcement trust fund pursuant 19867
to division (B)(7)(c)(ii) of section 2923.46 or division 19868
(B)(8)(c)(ii) of section 2925.44 of the Revised Code, the portion 19869
of that amount that was used pursuant to the requirements of this 19870
division, and the community preventive education programs in 19871
connection with which the portion of that amount was so used. 19872

As used in this division, "community preventive education 19873
programs" includes, but is not limited to, DARE programs and other 19874
programs designed to educate adults or children with respect to 19875
the dangers associated with the use of drugs of abuse. 19876

(b) Each sheriff, prosecuting attorney, municipal corporation 19877
police department, township police department, township police 19878
district police force, office of the constable, or park district 19879

police force or law enforcement department that receives in any 19880
calendar year any proceeds or forfeited moneys out of a law 19881
enforcement trust fund under division (D)(1)(c) of this section or 19882
uses any proceeds or forfeited moneys in its law enforcement trust 19883
fund in any calendar year shall prepare a report covering the 19884
calendar year that cumulates all of the information contained in 19885
all of the public financial records kept by the sheriff, 19886
prosecuting attorney, municipal corporation police department, 19887
township police department, township police district police force, 19888
office of the constable, or park district police force or law 19889
enforcement department pursuant to division (D)(3)(a) of this 19890
section for that calendar year, and shall send a copy of the 19891
cumulative report, no later than the first day of March in the 19892
calendar year following the calendar year covered by the report, 19893
to the attorney general. 19894

The superintendent of the state highway patrol shall prepare 19895
a report covering each calendar year in which the state highway 19896
patrol uses any proceeds or forfeited moneys in the state highway 19897
patrol contraband, forfeiture, and other fund under division 19898
(D)(1)(c) of this section, that cumulates all of the information 19899
contained in all of the public financial records kept by the state 19900
highway patrol pursuant to division (D)(3)(a) of this section for 19901
that calendar year, and shall send a copy of the cumulative 19902
report, no later than the first day of March in the calendar year 19903
following the calendar year covered by the report, to the attorney 19904
general. 19905

The department of public safety shall prepare a report 19906
covering each fiscal year in which the department uses any 19907
proceeds or forfeited moneys in the department of public safety 19908
investigative unit contraband, forfeiture, and other fund under 19909
division (D)(1)(c) of this section that cumulates all of the 19910
information contained in all of the public financial records kept 19911

by the department pursuant to division (D)(3)(a) of this section 19912
for that fiscal year. The department shall send a copy of the 19913
cumulative report to the attorney general no later than the first 19914
day of August in the fiscal year following the fiscal year covered 19915
by the report. The director of public safety shall include in the 19916
report a verification that proceeds and forfeited moneys paid into 19917
the department of public safety investigative unit contraband, 19918
forfeiture, and other fund under division (D)(1)(c) of this 19919
section during the preceding fiscal year were used by the 19920
department during that fiscal year only for the purposes 19921
authorized by that division and shall specify the amount used for 19922
each authorized purpose. 19923

The tax commissioner shall prepare a report covering each 19924
calendar year in which the department of taxation enforcement 19925
division uses any proceeds or forfeited moneys in the department 19926
of taxation enforcement fund under division (D)(1)(c) of this 19927
section, that cumulates all of the information contained in all of 19928
the public financial records kept by the department of taxation 19929
enforcement division pursuant to division (D)(3)(a) of this 19930
section for that calendar year, and shall send a copy of the 19931
cumulative report, not later than the first day of March in the 19932
calendar year following the calendar year covered by the report, 19933
to the attorney general. 19934

The executive director of the state board of pharmacy shall 19935
prepare a report covering each calendar year in which the board 19936
uses any proceeds or forfeited moneys in the board of pharmacy 19937
drug law enforcement fund under division (D)(1)(c) of this 19938
section, that cumulates all of the information contained in all of 19939
the public financial records kept by the board pursuant to 19940
division (D)(3)(a) of this section for that calendar year, and 19941
shall send a copy of the cumulative report, no later than the 19942
first day of March in the calendar year following the calendar 19943

year covered by the report, to the attorney general. Each report 19944
received by the attorney general is a public record open for 19945
inspection under section 149.43 of the Revised Code. Not later 19946
than the fifteenth day of April in the calendar year in which the 19947
reports are received, the attorney general shall send to the 19948
president of the senate and the speaker of the house of 19949
representatives a written notification that does all of the 19950
following: 19951

(i) Indicates that the attorney general has received from 19952
entities or persons specified in this division reports of the type 19953
described in this division that cover the previous calendar year 19954
and indicates that the reports were received under this division; 19955

(ii) Indicates that the reports are open for inspection under 19956
section 149.43 of the Revised Code; 19957

(iii) Indicates that the attorney general will provide a copy 19958
of any or all of the reports to the president of the senate or the 19959
speaker of the house of representatives upon request. 19960

(4)(a) A law enforcement agency that receives pursuant to 19961
federal law proceeds from a sale of forfeited contraband, proceeds 19962
from another disposition of forfeited contraband, or forfeited 19963
contraband moneys shall deposit, use, and account for the proceeds 19964
or forfeited moneys in accordance with, and otherwise comply with, 19965
the applicable federal law. 19966

(b) If the state highway patrol receives pursuant to federal 19967
law proceeds from a sale of forfeited contraband, proceeds from 19968
another disposition of forfeited contraband, or forfeited 19969
contraband moneys, the appropriate governmental officials shall 19970
deposit into the state highway patrol contraband, forfeiture, and 19971
other fund all interest or other earnings derived from the 19972
investment of the proceeds or forfeited moneys. The state highway 19973
patrol shall use and account for that interest or other earnings 19974

in accordance with the applicable federal law. 19975

(c) If the investigative unit of the department of public 19976
safety receives pursuant to federal law proceeds from a sale of 19977
forfeited contraband, proceeds from another disposition of 19978
forfeited contraband, or forfeited contraband moneys, the 19979
appropriate governmental officials shall deposit into the 19980
department of public safety investigative unit contraband, 19981
forfeiture, and other fund all interest or other earnings derived 19982
from the investment of the proceeds or forfeited moneys. The 19983
department shall use and account for that interest or other 19984
earnings in accordance with the applicable federal law. 19985

(d) If the tax commissioner receives pursuant to federal law 19986
proceeds from a sale of forfeited contraband, proceeds from 19987
another disposition of forfeited contraband, or forfeited 19988
contraband moneys, the appropriate governmental officials shall 19989
deposit into the department of taxation enforcement fund all 19990
interest or other earnings derived from the investment of the 19991
proceeds or forfeited moneys. The department shall use and account 19992
for that interest or other earnings in accordance with the 19993
applicable federal law. 19994

(e) Divisions (D)(1) to (3) of this section do not apply to 19995
proceeds or forfeited moneys received pursuant to federal law or 19996
to the interest or other earnings that are derived from the 19997
investment of proceeds or forfeited moneys received pursuant to 19998
federal law and that are described in division (D)(4)(b) of this 19999
section. 20000

(E) Upon the sale pursuant to this section of any property 20001
that is required to be titled or registered under law, the state 20002
shall issue an appropriate certificate of title or registration to 20003
the purchaser. If the state is vested with title pursuant to 20004
division (C) of this section and elects to retain property that is 20005
required to be titled or registered under law, the state shall 20006

issue an appropriate certificate of title or registration. 20007

(F) Notwithstanding any provisions of this section to the 20008
contrary, any property that is lawfully seized in relation to a 20009
violation of section 2923.32 of the Revised Code shall be subject 20010
to forfeiture and disposition in accordance with sections 2923.32 20011
to 2923.36 of the Revised Code; any property that is forfeited 20012
pursuant to section 2923.44 or 2923.45 of the Revised Code in 20013
relation to a violation of section 2923.42 of the Revised Code or 20014
in relation to an act of a juvenile that is a violation of section 20015
2923.42 of the Revised Code may be subject to forfeiture and 20016
disposition in accordance with sections 2923.44 to 2923.47 of the 20017
Revised Code; and any property that is forfeited pursuant to 20018
section 2925.42 or 2925.43 of the Revised Code in relation to a 20019
felony drug abuse offense, as defined in section 2925.01 of the 20020
Revised Code, or in relation to an act that, if committed by an 20021
adult, would be a felony drug abuse offense of that nature, may be 20022
subject to forfeiture and disposition in accordance with sections 20023
2925.41 to 2925.45 of the Revised Code or this section. 20024

(G) Any failure of a law enforcement officer or agency, a 20025
prosecuting attorney, village solicitor, city director of law, or 20026
similar chief legal officer, a court, or the attorney general to 20027
comply with any duty imposed by this section in relation to any 20028
property seized or with any other provision of this section in 20029
relation to any property seized does not affect the validity of 20030
the seizure of the property, provided the seizure itself was made 20031
in accordance with law, and is not and shall not be considered to 20032
be the basis for the suppression of any evidence resulting from 20033
the seizure of the property, provided the seizure itself was made 20034
in accordance with law. 20035

(H) Contraband that has been forfeited pursuant to division 20036
(C) of this section shall not be available for use to pay any fine 20037
imposed upon a person who is convicted of or pleads guilty to an 20038

underlying criminal offense or a different offense arising out of 20039
the same facts and circumstances. 20040

Sec. 2935.01. As used in this chapter: 20041

(A) "Magistrate" has the same meaning as in section 2931.01 20042
of the Revised Code. 20043

(B) "Peace officer" includes, except as provided in section 20044
2935.081 of the Revised Code, a sheriff; deputy sheriff; marshal; 20045
deputy marshal; member of the organized police department of any 20046
municipal corporation, including a member of the organized police 20047
department of a municipal corporation in an adjoining state 20048
serving in Ohio under a contract pursuant to section 737.04 of the 20049
Revised Code; member of a police force employed by a metropolitan 20050
housing authority under division (D) of section 3735.31 of the 20051
Revised Code; member of a police force employed by a regional 20052
transit authority under division (Y) of section 306.05 of the 20053
Revised Code; state university law enforcement officer appointed 20054
under section 3345.04 of the Revised Code; enforcement agent of 20055
the department of public safety designated under section 5502.14 20056
of the Revised Code; employee of the department of taxation to 20057
whom investigation powers have been delegated under section 20058
~~5743.45~~ 5703.58 of the Revised Code; employee of the department of 20059
natural resources who is a natural resources law enforcement staff 20060
officer designated pursuant to section 1501.013 of the Revised 20061
Code, a forest officer designated pursuant to section 1503.29 of 20062
the Revised Code, a preserve officer designated pursuant to 20063
section 1517.10 of the Revised Code, a wildlife officer designated 20064
pursuant to section 1531.13 of the Revised Code, a park officer 20065
designated pursuant to section 1541.10 of the Revised Code, or a 20066
state watercraft officer designated pursuant to section 1547.521 20067
of the Revised Code; individual designated to perform law 20068
enforcement duties under section 511.232, 1545.13, or 6101.75 of 20069

the Revised Code; veterans' home police officer appointed under 20070
section 5907.02 of the Revised Code; special police officer 20071
employed by a port authority under section 4582.04 or 4582.28 of 20072
the Revised Code; police constable of any township; police officer 20073
of a township or joint township police district; a special police 20074
officer employed by a municipal corporation at a municipal 20075
airport, or other municipal air navigation facility, that has 20076
scheduled operations, as defined in section 119.3 of Title 14 of 20077
the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and 20078
that is required to be under a security program and is governed by 20079
aviation security rules of the transportation security 20080
administration of the United States department of transportation 20081
as provided in Parts 1542. and 1544. of Title 49 of the Code of 20082
Federal Regulations, as amended; the house sergeant at arms if the 20083
house sergeant at arms has arrest authority pursuant to division 20084
(E)(1) of section 101.311 of the Revised Code; and an assistant 20085
house sergeant at arms; officer or employee of the bureau of 20086
criminal identification and investigation established pursuant to 20087
section 109.51 of the Revised Code who has been awarded a 20088
certificate by the executive director of the Ohio peace officer 20089
training commission attesting to the officer's or employee's 20090
satisfactory completion of an approved state, county, municipal, 20091
or department of natural resources peace officer basic training 20092
program and who is providing assistance upon request to a law 20093
enforcement officer or emergency assistance to a peace officer 20094
pursuant to section 109.54 or 109.541 of the Revised Code; and, 20095
for the purpose of arrests within those areas, for the purposes of 20096
Chapter 5503. of the Revised Code, and the filing of and service 20097
of process relating to those offenses witnessed or investigated by 20098
them, the superintendent and troopers of the state highway patrol. 20099

(C) "Prosecutor" includes the county prosecuting attorney and 20100
any assistant prosecutor designated to assist the county 20101
prosecuting attorney, and, in the case of courts inferior to 20102

courts of common pleas, includes the village solicitor, city 20103
director of law, or similar chief legal officer of a municipal 20104
corporation, any such officer's assistants, or any attorney 20105
designated by the prosecuting attorney of the county to appear for 20106
the prosecution of a given case. 20107

(D) "Offense," except where the context specifically 20108
indicates otherwise, includes felonies, misdemeanors, and 20109
violations of ordinances of municipal corporations and other 20110
public bodies authorized by law to adopt penal regulations. 20111

Sec. 2935.36. (A) The prosecuting attorney may establish 20112
pre-trial diversion programs for adults who are accused of 20113
committing criminal offenses and whom the prosecuting attorney 20114
believes probably will not offend again. The prosecuting attorney 20115
may require, as a condition of an accused's participation in the 20116
program, the accused to pay a reasonable fee for supervision 20117
services that include, but are not limited to, monitoring and drug 20118
testing. The programs shall be operated pursuant to written 20119
standards approved by journal entry by the presiding judge or, in 20120
courts with only one judge, the judge of the court of common pleas 20121
and shall not be applicable to any of the following: 20122

(1) Repeat offenders or dangerous offenders; 20123

(2) Persons accused of an offense of violence, of a violation 20124
of section 2903.06, 2907.04, 2907.05, 2907.21, 2907.22, 2907.31, 20125
2907.32, 2907.34, 2911.31, 2919.12, 2919.13, 2919.22, 2921.02, 20126
2921.11, 2921.12, 2921.32, or 2923.20 of the Revised Code, or of a 20127
violation of section 2905.01, 2905.02, or 2919.23 of the Revised 20128
Code that, had it occurred prior to July 1, 1996, would have been 20129
a violation of section 2905.04 of the Revised Code as it existed 20130
prior to that date, with the exception that the prosecuting 20131
attorney may permit persons accused of any such offense to enter a 20132
pre-trial diversion program, if the prosecuting attorney finds any 20133

of the following:	20134
(a) The accused did not cause, threaten, or intend serious physical harm to any person;	20135 20136
(b) The offense was the result of circumstances not likely to recur;	20137 20138
(c) The accused has no history of prior delinquency or criminal activity;	20139 20140
(d) The accused has led a law-abiding life for a substantial time before commission of the alleged offense;	20141 20142
(e) Substantial grounds tending to excuse or justify the alleged offense.	20143 20144
(3) Persons accused of a violation of Chapter 2925. or 3719. of the Revised Code;	20145 20146
(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.	20147 20148 20149 20150 20151
(5) Persons accused of a violation of section 4511.19 of the Revised Code or a violation of any substantially similar municipal ordinance.	20152 20153 20154
(B) An accused who enters a diversion program shall do all of the following:	20155 20156
(1) Waive, in writing and contingent upon the accused's successful completion of the program, the accused's right to a speedy trial, the preliminary hearing, the time period within which the grand jury may consider an indictment against the accused, and arraignment, unless the hearing, indictment, or arraignment has already occurred;	20157 20158 20159 20160 20161 20162
(2) Agree, in writing, to the tolling while in the program of	20163

all periods of limitation established by statutes or rules of 20164
court, that are applicable to the offense with which the accused 20165
is charged and to the conditions of the diversion program 20166
established by the prosecuting attorney; 20167

(3) Agree, in writing, to pay any reasonable fee for 20168
supervision services established by the prosecuting attorney. 20169

(C) The trial court, upon the application of the prosecuting 20170
attorney, shall order the release from confinement of any accused 20171
who has agreed to enter a pre-trial diversion program and shall 20172
discharge and release any existing bail and release any sureties 20173
on recognizances and shall release the accused on a recognizance 20174
bond conditioned upon the accused's compliance with the terms of 20175
the diversion program. The prosecuting attorney shall notify every 20176
victim of the crime and the arresting officers of the prosecuting 20177
attorney's intent to permit the accused to enter a pre-trial 20178
diversion program. The victim of the crime and the arresting 20179
officers shall have the opportunity to file written objections 20180
with the prosecuting attorney prior to the commencement of the 20181
pre-trial diversion program. 20182

(D) If the accused satisfactorily completes the diversion 20183
program, the prosecuting attorney shall recommend to the trial 20184
court that the charges against the accused be dismissed, and the 20185
court, upon the recommendation of the prosecuting attorney, shall 20186
dismiss the charges. If the accused chooses not to enter the 20187
prosecuting attorney's diversion program, or if the accused 20188
violates the conditions of the agreement pursuant to which the 20189
accused has been released, the accused may be brought to trial 20190
upon the charges in the manner provided by law, and the waiver 20191
executed pursuant to division (B)(1) of this section shall be void 20192
on the date the accused is removed from the program for the 20193
violation. 20194

(E) As used in this section: 20195

(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 felony drug abuse offense;

(e) Having been convicted of two or more felonies and having been imprisoned pursuant to sentence for one or more felonies, the person commits a subsequent offense;

(f) Having been convicted of three or more offenses of any type or degree other than traffic offenses, alcoholic intoxication offenses, or minor misdemeanors and having been imprisoned pursuant to sentence for any such offense, the person commits a subsequent offense.

(2) "Dangerous offender" means a person who has committed an offense, whose history, character, and condition reveal a substantial risk that the person will be a danger to others, and whose conduct has been characterized by a pattern of repetitive, compulsive, or aggressive behavior with heedless indifference to the consequences.

Sec. 2949.091. (A)(1) The court, in which any person is convicted of or pleads guilty to any offense other than a traffic offense that is not a moving violation, shall impose the sum of ~~eleven~~ fifteen dollars as costs in the case in addition to any other court costs that the court is required by law to impose upon the offender. All such moneys collected during a month shall be transmitted on or before the twentieth day of the following month by the clerk of the court to the treasurer of state and deposited by the treasurer of state into the general revenue fund. The court shall not waive the payment of the additional ~~eleven~~ fifteen dollars court costs, unless the court determines that the offender is indigent and waives the payment of all court costs imposed upon the indigent offender.

(2) The juvenile court, in which a child is found to be a delinquent child or a juvenile traffic offender for an act which, if committed by an adult, would be an offense other than a traffic offense that is not a moving violation, shall impose the sum of ~~eleven~~ fifteen dollars as costs in the case in addition to any other court costs that the court is required or permitted by law to impose upon the delinquent child or juvenile traffic offender. All such moneys collected during a month shall be transmitted on or before the twentieth day of the following month by the clerk of the court to the treasurer of state and deposited by the treasurer of state into the general revenue fund. The ~~eleven~~ fifteen dollars court costs shall be collected in all cases unless the court

determines the juvenile is indigent and waives the payment of all 20257
court costs, or enters an order on its journal stating that it has 20258
determined that the juvenile is indigent, that no other court 20259
costs are to be taxed in the case, and that the payment of the 20260
~~eleven~~ fifteen dollars court costs is waived. 20261

(B) Whenever a person is charged with any offense other than 20262
a traffic offense that is not a moving violation and posts bail, 20263
the court shall add to the amount of the bail the ~~eleven~~ fifteen 20264
dollars required to be paid by division (A)(1) of this section. 20265
The ~~eleven~~ fifteen dollars shall be retained by the clerk of the 20266
court until the person is convicted, pleads guilty, forfeits bail, 20267
is found not guilty, or has the charges dismissed. If the person 20268
is convicted, pleads guilty, or forfeits bail, the clerk shall 20269
transmit the ~~eleven~~ fifteen dollars on or before the twentieth day 20270
of the month following the month in which the person was 20271
convicted, pleaded guilty, or forfeited bail to the treasurer of 20272
state, who shall deposit it into the general revenue fund. If the 20273
person is found not guilty or the charges are dismissed, the clerk 20274
shall return the ~~eleven~~ fifteen dollars to the person. 20275

(C) No person shall be placed or held in a detention facility 20276
for failing to pay the additional ~~eleven~~ fifteen dollars court 20277
costs or bail that are required to be paid by this section. 20278

(D) As used in this section: 20279

(1) "Moving violation" and "bail" have the same meanings as 20280
in section 2743.70 of the Revised Code. 20281

(2) "Detention facility" has the same meaning as in section 20282
2921.01 of the Revised Code. 20283

Sec. 3111.04. (A) An action to determine the existence or 20284
nonexistence of the father and child relationship may be brought 20285
by the child or the child's personal representative, the child's 20286

mother or her personal representative, a man alleged or alleging 20287
himself to be the child's father, the child support enforcement 20288
agency of the county in which the child resides if the child's 20289
mother is a recipient of public assistance or of services under 20290
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 20291
U.S.C.A. 651, as amended, or the alleged father's personal 20292
representative. 20293

(B) An agreement does not bar an action under this section. 20294

(C) If an action under this section is brought before the 20295
birth of the child and if the action is contested, all 20296
proceedings, except service of process and the taking of 20297
depositions to perpetuate testimony, may be stayed until after the 20298
birth. 20299

(D) A recipient of public assistance or of services under 20300
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 20301
U.S.C.A. 651, as amended, shall cooperate with the child support 20302
enforcement agency of the county in which a child resides to 20303
obtain an administrative determination pursuant to sections 20304
3111.38 to 3111.54 of the Revised Code, or, if necessary, a court 20305
determination pursuant to sections 3111.01 to 3111.18 of the 20306
Revised Code, of the existence or nonexistence of a parent and 20307
child relationship between the father and the child. If the 20308
recipient fails to cooperate, the agency may commence an action to 20309
determine the existence or nonexistence of a parent and child 20310
relationship between the father and the child pursuant to sections 20311
3111.01 to 3111.18 of the Revised Code. 20312

(E) As used in this section, "public assistance" means 20313
medical assistance under Chapter 5111. of the Revised Code, 20314
assistance under Chapter 5107. of the Revised Code, ~~or~~ disability 20315
financial assistance under Chapter 5115. of the Revised Code, or 20316
disability medical assistance under Chapter 5115. of the Revised 20317
Code. 20318

Sec. 3119.01. (A) As used in the Revised Code, "child support enforcement agency" means a child support enforcement agency designated under former section 2301.35 of the Revised Code prior to October 1, 1997, or a private or government entity designated as a child support enforcement agency under section 307.981 of the Revised Code.

(B) As used in this chapter and Chapters 3121., 3123., and 3125. of the Revised Code:

(1) "Administrative child support order" means any order issued by a child support enforcement agency for the support of a child pursuant to section 3109.19 or 3111.81 of the Revised Code or former section 3111.211 of the Revised Code, section 3111.21 of the Revised Code as that section existed prior to January 1, 1998, or section 3111.20 or 3111.22 of the Revised Code as those sections existed prior to March 22, 2001.

(2) "Child support order" means either a court child support order or an administrative child support order.

(3) "Obligee" means the person who is entitled to receive the support payments under a support order.

(4) "Obligor" means the person who is required to pay support under a support order.

(5) "Support order" means either an administrative child support order or a court support order.

(C) As used in this chapter:

(1) "Combined gross income" means the combined gross income of both parents.

(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, 20348
3113.04, 3113.07, 3113.31, 3119.65, or 3119.70 of the Revised 20349
Code, or division (B) of former section 3113.21 of the Revised 20350
Code. 20351

(3) "Court support order" means either a court child support 20352
order or an order for the support of a spouse or former spouse 20353
issued pursuant to Chapter 3115. of the Revised Code, section 20354
3105.18, 3105.65, or 3113.31 of the Revised Code, or division (B) 20355
of former section 3113.21 of the Revised Code. 20356

(4) "Extraordinary medical expenses" means any uninsured 20357
medical expenses incurred for a child during a calendar year that 20358
exceed one hundred dollars. 20359

(5) "Income" means either of the following: 20360

(a) For a parent who is employed to full capacity, the gross 20361
income of the parent; 20362

(b) For a parent who is unemployed or underemployed, the sum 20363
of the gross income of the parent and any potential income of the 20364
parent. 20365

(6) "Insurer" means any person authorized under Title XXXIX 20366
of the Revised Code to engage in the business of insurance in this 20367
state, any health insuring corporation, and any legal entity that 20368
is self-insured and provides benefits to its employees or members. 20369

(7) "Gross income" means, except as excluded in division 20370
(C)(7) of this section, the total of all earned and unearned 20371
income from all sources during a calendar year, whether or not the 20372
income is taxable, and includes income from salaries, wages, 20373
overtime pay, and bonuses to the extent described in division (D) 20374
of section 3119.05 of the Revised Code; commissions; royalties; 20375
tips; rents; dividends; severance pay; pensions; interest; trust 20376
income; annuities; social security benefits, including retirement, 20377
disability, and survivor benefits that are not means-tested; 20378

workers' compensation benefits; unemployment insurance benefits; 20379
disability insurance benefits; benefits that are not means-tested 20380
and that are received by and in the possession of the veteran who 20381
is the beneficiary for any service-connected disability under a 20382
program or law administered by the United States department of 20383
veterans' affairs or veterans' administration; spousal support 20384
actually received; and all other sources of income. "Gross income" 20385
includes income of members of any branch of the United States 20386
armed services or national guard, including, amounts representing 20387
base pay, basic allowance for quarters, basic allowance for 20388
subsistence, supplemental subsistence allowance, cost of living 20389
adjustment, specialty pay, variable housing allowance, and pay for 20390
training or other types of required drills; self-generated income; 20391
and potential cash flow from any source. 20392

"Gross income" does not include any of the following: 20393

(a) Benefits received from means-tested government 20394
administered programs, including Ohio works first; prevention, 20395
retention, and contingency; means-tested veterans' benefits; 20396
supplemental security income; food stamps; disability financial 20397
assistance; or other assistance for which eligibility is 20398
determined on the basis of income or assets; 20399

(b) Benefits for any service-connected disability under a 20400
program or law administered by the United States department of 20401
veterans' affairs or veterans' administration that are not 20402
means-tested, that have not been distributed to the veteran who is 20403
the beneficiary of the benefits, and that are in the possession of 20404
the United States department of veterans' affairs or veterans' 20405
administration; 20406

(c) Child support received for children who were not born or 20407
adopted during the marriage at issue; 20408

(d) Amounts paid for mandatory deductions from wages such as 20409

union dues but not taxes, social security, or retirement in lieu	20410
of social security;	20411
(e) Nonrecurring or unsustainable income or cash flow items;	20412
(f) Adoption assistance and foster care maintenance payments	20413
made pursuant to Title IV-E of the "Social Security Act," 94 Stat.	20414
501, 42 U.S.C.A. 670 (1980), as amended.	20415
(8) "Nonrecurring or unsustainable income or cash flow item"	20416
means an income or cash flow item the parent receives in any year	20417
or for any number of years not to exceed three years that the	20418
parent does not expect to continue to receive on a regular basis.	20419
"Nonrecurring or unsustainable income or cash flow item" does not	20420
include a lottery prize award that is not paid in a lump sum or	20421
any other item of income or cash flow that the parent receives or	20422
expects to receive for each year for a period of more than three	20423
years or that the parent receives and invests or otherwise uses to	20424
produce income or cash flow for a period of more than three years.	20425
(9)(a) "Ordinary and necessary expenses incurred in	20426
generating gross receipts" means actual cash items expended by the	20427
parent or the parent's business and includes depreciation expenses	20428
of business equipment as shown on the books of a business entity.	20429
(b) Except as specifically included in "ordinary and	20430
necessary expenses incurred in generating gross receipts" by	20431
division (C)(9)(a) of this section, "ordinary and necessary	20432
expenses incurred in generating gross receipts" does not include	20433
depreciation expenses and other noncash items that are allowed as	20434
deductions on any federal tax return of the parent or the parent's	20435
business.	20436
(10) "Personal earnings" means compensation paid or payable	20437
for personal services, however denominated, and includes wages,	20438
salary, commissions, bonuses, draws against commissions, profit	20439
sharing, vacation pay, or any other compensation.	20440

(11) "Potential income" means both of the following for a parent who the court pursuant to a court support order, or a child support enforcement agency pursuant to an administrative child support order, determines is voluntarily unemployed or voluntarily underemployed:

(a) Imputed income that the court or agency determines the parent would have earned if fully employed as determined from the following criteria:

(i) The parent's prior employment experience;

(ii) The parent's education;

(iii) The parent's physical and mental disabilities, if any;

(iv) The availability of employment in the geographic area in which the parent resides;

(v) The prevailing wage and salary levels in the geographic area in which the parent resides;

(vi) The parent's special skills and training;

(vii) Whether there is evidence that the parent has the ability to earn the imputed income;

(viii) The age and special needs of the child for whom child support is being calculated under this section;

(ix) The parent's increased earning capacity because of experience;

(x) Any other relevant factor.

(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.

(12) "Schedule" means the basic child support schedule set

forth in section 3119.021 of the Revised Code. 20470

(13) "Self-generated income" means gross receipts received by 20471
a parent from self-employment, proprietorship of a business, joint 20472
ownership of a partnership or closely held corporation, and rents 20473
minus ordinary and necessary expenses incurred by the parent in 20474
generating the gross receipts. "Self-generated income" includes 20475
expense reimbursements or in-kind payments received by a parent 20476
from self-employment, the operation of a business, or rents, 20477
including company cars, free housing, reimbursed meals, and other 20478
benefits, if the reimbursements are significant and reduce 20479
personal living expenses. 20480

(14) "Split parental rights and responsibilities" means a 20481
situation in which there is more than one child who is the subject 20482
of an allocation of parental rights and responsibilities and each 20483
parent is the residential parent and legal custodian of at least 20484
one of those children. 20485

(15) "Worksheet" means the applicable worksheet that is used 20486
to calculate a parent's child support obligation as set forth in 20487
sections 3119.022 and 3119.023 of the Revised Code. 20488

Sec. 3121.01. As used in this chapter: 20489

(A) "Court child support order," "court support order," and 20490
"personal earnings" have the same meanings as in section 3119.01 20491
of the Revised Code. 20492

(B) "Default" means any failure to pay under a support order 20493
that is an amount greater than or equal to the amount of support 20494
payable under the support order for one month. 20495

(C) "Financial institution" means a bank, savings and loan 20496
association, or credit union, or a regulated investment company or 20497
mutual fund. 20498

(D) "Income" means any form of monetary payment, including 20499

personal earnings; workers' compensation payments; unemployment 20500
compensation benefits to the extent permitted by, and in 20501
accordance with, sections 3121.07 and 4141.284 of the Revised 20502
Code, and federal law governing the department of job and family 20503
services; pensions; annuities; allowances; private or governmental 20504
retirement benefits; disability or sick pay; insurance proceeds; 20505
lottery prize awards; federal, state, or local government benefits 20506
to the extent that the benefits can be withheld or deducted under 20507
the law governing the benefits; any form of trust fund or 20508
endowment; lump sum payments, other than a one-time pay supplement 20509
of less than one hundred fifty dollars paid under section 124.183 20510
of the Revised Code; and any other payment in money. 20511

(E) "Payor" means any person or entity that pays or 20512
distributes income to an obligor, including an obligor if the 20513
obligor is self-employed; an employer; an employer paying an 20514
obligor's workers' compensation benefits; the public employees 20515
retirement board; the governing entity of a municipal retirement 20516
system; the board of trustees of the Ohio police and fire pension 20517
fund; the state teachers retirement board; the school employees 20518
retirement board; the state highway patrol retirement board; a 20519
provider, as defined in section 3305.01 of the Revised Code; the 20520
bureau of workers' compensation; or any other person or entity 20521
other than the department of job and family services with respect 20522
to unemployment compensation benefits paid pursuant to Chapter 20523
4141. of the Revised Code. 20524

Sec. 3123.952. A child support enforcement agency may submit 20525
the name of a delinquent obligor to the office of child support 20526
for inclusion on a poster only if all of the following apply: 20527

(A) The obligor is subject to a support order and there has 20528
been an attempt to enforce the order through a public notice, a 20529
wage withholding order, a lien on property, a financial 20530

institution deduction order, or other court-ordered procedures. 20531

(B) The department of job and family services reviewed the 20532
obligor's records and confirms the child support enforcement 20533
agency's finding that the obligor's name and photograph may be 20534
submitted to be displayed on a poster. 20535

(C) The agency does not know or is unable to verify the 20536
obligor's whereabouts. 20537

(D) The obligor is not a participant in Ohio works first or 20538
the prevention, retention, and contingency program or a recipient 20539
of disability financial assistance, supplemental security income, 20540
or food stamps. 20541

(E) The child support enforcement agency does not have 20542
evidence that the obligor has filed for protection under the 20543
federal Bankruptcy Code, 11 U.S.C.A. 101, as amended. 20544

(F) The obligee gave written authorization to the agency to 20545
display the obligor on a poster. 20546

(G) A legal representative of the agency and a child support 20547
enforcement administrator reviewed the case. 20548

(H) The agency is able to submit to the department a 20549
description and photograph of the obligor, a statement of the 20550
possible locations of the obligor, and any other information 20551
required by the department. 20552

Sec. 3125.12. Each child support enforcement agency shall 20553
enter into a plan of cooperation with the board of county 20554
commissioners under section 307.983 of the Revised Code and comply 20555
with ~~the partnership~~ each fiscal agreement the board enters into 20556
under section 307.98 and contracts the board enters into under 20557
sections 307.981 and 307.982 of the Revised Code that affect the 20558
agency. 20559

Sec. 3301.0710. The state board of education shall adopt 20560
rules establishing a statewide program to test student 20561
achievement. The state board shall ensure that all tests 20562
administered under the testing program are aligned with the 20563
academic standards and model curricula adopted by the state board 20564
and are created with input from Ohio parents, Ohio classroom 20565
teachers, Ohio school administrators, and other Ohio school 20566
personnel pursuant to section 3301.079 of the Revised Code. 20567

The testing program shall be designed to ensure that students 20568
who receive a high school diploma demonstrate at least high school 20569
levels of achievement in reading, writing, mathematics, science, 20570
and social studies. 20571

(A)(1) The state board shall prescribe all of the following: 20572

(a) A statewide achievement test designed to measure the 20573
level of reading skill expected at the end of third grade; 20574

(b) Two statewide achievement tests, one each designed to 20575
measure the level of writing and mathematics skill expected at the 20576
end of fourth grade; 20577

(c) Two statewide achievement tests, one each designed to 20578
measure the level of science and social studies skill expected at 20579
the end of fifth grade; 20580

(d) Three statewide achievement tests, one each designed to 20581
measure the level of reading, writing, and mathematics skill 20582
expected at the end of seventh grade; 20583

(e) Two statewide achievement tests, one each designed to 20584
measure the level of science and social studies skill expected at 20585
the end of eighth grade. 20586

(2) The state board shall determine and designate at least 20587
four ranges of scores on each of the achievement tests described 20588
in division (A)(1) of this section. Each range of scores shall be 20589

deemed to demonstrate a level of achievement so that any student 20590
attaining a score within such range has achieved one of the 20591
following: 20592

(a) An advanced level of skill; 20593

(b) A proficient level of skill; 20594

(c) A basic level of skill; 20595

(d) A below basic level of skill. 20596

(B) The tests prescribed under this division shall 20597
collectively be known as the Ohio graduation tests. The state 20598
board shall prescribe five statewide high school achievement 20599
tests, one each designed to measure the level of reading, writing, 20600
mathematics, science, and social studies skill expected at the end 20601
of tenth grade, and shall determine and designate the score on 20602
each such test that shall be deemed to demonstrate that any 20603
student attaining such score has achieved at least a proficient 20604
level of skill appropriate for tenth grade. 20605

The state board may enter into a reciprocal agreement with 20606
the appropriate body or agency of any other state that has similar 20607
statewide achievement testing requirements for receiving high 20608
school diplomas, under which any student who has met an 20609
achievement testing requirement of one state is recognized as 20610
having met the similar achievement testing requirement of the 20611
other state for purposes of receiving a high school diploma. For 20612
purposes of this section and sections 3301.0711 and 3313.61 of the 20613
Revised Code, any student enrolled in any public high school in 20614
this state who has met an achievement testing requirement 20615
specified in a reciprocal agreement entered into under this 20616
division shall be deemed to have attained at least the applicable 20617
score designated under this division on each test required by this 20618
division that is specified in the agreement. 20619

(C) The state board shall annually designate as follows the 20620

dates on which the tests prescribed under this section shall be administered: 20621
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(1) For the test prescribed under division (A)(1)(a) of this section, as follows: 20623
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(a) One date prior to the thirty-first day of December each school year; 20625
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(b) At least one date of each school year that is not earlier than Monday of the week containing the eighth day of March; 20627
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(c) One date during the summer for students receiving summer remediation services under section 3313.608 of the Revised Code. 20629
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(2) For the tests prescribed under divisions (A)(1)(b), (c), (d), and (e) of this section, at least one date of each school year that is not earlier than Monday of the week containing the eighth day of March; 20631
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(3) For the tests prescribed under division (B) of this section, at least one date in each school year that is not earlier than Monday of the week containing the fifteenth day of March for all tenth grade students and at least one date prior to the thirty-first day of December and at least one date subsequent to that date but prior to the thirty-first day of March of each school year for eleventh and twelfth grade students. 20635
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(D) In prescribing test dates pursuant to division (C)(3) of this section, the board shall, to the greatest extent practicable, provide options to school districts in the case of tests administered under that division to eleventh and twelfth grade students and in the case of tests administered to students pursuant to division (C)(2) of section 3301.0711 of the Revised Code. Such options shall include at least an opportunity for school districts to give such tests outside of regular school hours. 20642
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(E) In prescribing test dates pursuant to this section, the state board of education shall designate the dates in such a way as to allow a reasonable length of time between the administration of tests prescribed under this section and any administration of the National Assessment of Education Progress Test given to students in the same grade level pursuant to section 3301.27 of the Revised Code.

(F) The state board shall prescribe a practice version of each Ohio graduation test described in division (B) of this section that is of comparable length to the actual test.

Sec. 3301.0711. (A) The department of education shall:

(1) Annually furnish to, grade, and score all tests required by section 3301.0710 of the Revised Code to be administered by city, local, exempted village, and joint vocational school districts, except that each district shall score any test administered pursuant to division (B)(8) of this section. In awarding contracts for grading tests, the department shall give preference to Ohio-based entities employing Ohio residents.

(2) Adopt rules for the ethical use of tests and prescribing the manner in which the tests prescribed by section 3301.0710 of the Revised Code shall be administered to students.

(B) Except as provided in divisions (C) and (J) of this section, the board of education of each city, local, and exempted village school district shall, in accordance with rules adopted under division (A) of this section:

(1) Administer the test prescribed under division (A)(1)(a) of section 3301.0710 of the Revised Code twice annually to all students in the third grade who have not attained the score designated for that test under division (A)(2)(b) of section 3301.0710 of the Revised Code and once each summer to students

receiving summer remediation services under section 3313.608 of the Revised Code. 20681
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(2) Administer the tests prescribed under division (A)(1)(b) of section 3301.0710 of the Revised Code at least once annually to all students in the fourth grade. 20683
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(3) Administer the tests prescribed under division (A)(1)(c) of section 3301.0710 of the Revised Code at least once annually to all students in the fifth grade. 20686
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(4) Administer the tests prescribed under division (A)(1)(d) of section 3301.0710 of the Revised Code at least once annually to all students in the seventh grade. 20689
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(5) Administer the tests prescribed under division (A)(1)(e) of section 3301.0710 of the Revised Code at least once annually to all students in the eighth grade. 20692
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(6) Except as provided in division (B)(7) of this ~~sections~~ section, administer any test prescribed under division (B) of section 3301.0710 of the Revised Code as follows: 20695
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(a) At least once annually to all tenth grade students and at least twice annually to all students in eleventh or twelfth grade who have not yet attained the score on that test designated under that division; 20698
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(b) To any person who has successfully completed the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code but has not received a high school diploma and who requests to take such test, at any time such test is administered in the district. 20702
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(7) In lieu of the board of education of any city, local, or exempted village school district in which the student is also enrolled, the board of a joint vocational school district shall 20708
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administer any test prescribed under division (B) of section 20711
3301.0710 of the Revised Code at least twice annually to any 20712
student enrolled in the joint vocational school district who has 20713
not yet attained the score on that test designated under that 20714
division. A board of a joint vocational school district may also 20715
administer such a test to any student described in division 20716
(B)(6)(b) of this section. 20717

(8) If the district has been declared to be under an academic 20718
watch or in a state of academic emergency pursuant to section 20719
3302.03 of the Revised Code, administer each test prescribed by 20720
division (F) of section 3301.0710 of the Revised Code in September 20721
to all ninth grade students, beginning in the school year that 20722
starts July 1, 2004. 20723

(C)(1)(a) Any student receiving special education services 20724
under Chapter 3323. of the Revised Code may be excused from taking 20725
any particular test required to be administered under this section 20726
if the individualized education program developed for the student 20727
pursuant to section 3323.08 of the Revised Code excuses the 20728
student from taking that test and instead specifies an alternate 20729
assessment method approved by the department of education as 20730
conforming to requirements of federal law for receipt of federal 20731
funds for disadvantaged pupils. To the extent possible, the 20732
individualized education program shall not excuse the student from 20733
taking a test unless no reasonable accommodation can be made to 20734
enable the student to take the test. 20735

(b) Any alternate assessment approved by the department for a 20736
student under this division shall produce measurable results 20737
comparable to those produced by the tests which the alternate 20738
assessments are replacing in order to allow for the student's 20739
assessment results to be included in the data compiled for a 20740
school district under section 3302.03 of the Revised Code. 20741

(c) Any student enrolled in a chartered nonpublic school who 20742

has been identified, based on an evaluation conducted in 20743
accordance with section 3323.03 of the Revised Code or section 504 20744
of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 20745
794, as amended, as a child with a disability shall be excused 20746
from taking any particular test required to be administered under 20747
this section if a plan developed for the student pursuant to rules 20748
adopted by the state board excuses the student from taking that 20749
test. In the case of any student so excused from taking a test, 20750
the chartered nonpublic school shall not prohibit the student from 20751
taking the test. 20752

(2) A district board may, for medical reasons or other good 20753
cause, excuse a student from taking a test administered under this 20754
section on the date scheduled, but any such test shall be 20755
administered to such excused student not later than nine days 20756
following the scheduled date. The board shall annually report the 20757
number of students who have not taken one or more of the tests 20758
required by this section to the state board of education not later 20759
than the thirtieth day of June. 20760

(3) As used in this division, "English-limited student" means 20761
a student whose primary language is not English, who has been 20762
enrolled in United States schools for less than three full school 20763
years, and who within the school year has been identified, in 20764
accordance with criteria provided by the department of education, 20765
as lacking adequate proficiency in English for a test under this 20766
section to produce valid results with respect to that student's 20767
academic progress. 20768

A school district board or governing authority of a nonpublic 20769
school may grant a temporary, one-year exemption from any test 20770
administered under this section to an English-limited student. Not 20771
more than three temporary one-year exemptions may be granted to 20772
any student. During any school year in which a student is excused 20773
from taking one or more tests administered under this section, the 20774

school district shall assess that student's progress in learning English, in accordance with procedures approved by the department.

No district board or governing authority of a chartered nonpublic school shall prohibit an English-limited student from taking a test under this section.

(D) This division does not apply to any student receiving services pursuant to an individualized education program developed for the student pursuant to section 3323.08 of the Revised Code.

(1) In the school year next succeeding the school year in which the tests prescribed by division (A)(1) of section 3301.0710 of the Revised Code or former division (A)(1), (A)(2), or (B) of section 3301.0710 of the Revised Code as it existed prior to the effective date of this amendment September 11, 2001, are administered to any student, the board of education of any school district in which the student is enrolled in that year shall provide to the student intervention services commensurate with the student's test performance, including any intensive intervention required under section 3313.608 of the Revised Code, in any skill in which the student failed to demonstrate at least a score at the proficient level on a proficiency test or a score in the basic range on an achievement test. This division does not apply to any student receiving services pursuant to an individualized education program developed for the student pursuant to section 3323.08 of the Revised Code.

(2) Following any administration of the tests prescribed by division (F) of section 3301.0710 of the Revised Code to ninth grade students, each school district that has been declared to be in a state of academic emergency pursuant to section 3302.03 of the Revised Code shall determine for each high school in the district whether the school shall be required to provide intervention services to any students who took the tests. In determining which high schools shall provide intervention services

based on the resources available, the district shall consider each 20807
school's graduation rate and scores on the practice tests. If any 20808
achievement tests in reading and math are adopted by the state 20809
board of education for administration in the eighth grade, the 20810
district also shall consider the scores received by ninth grade 20811
students on those tests in the eighth grade in determining which 20812
high schools shall provide intervention services. 20813

Each high school selected to provide intervention services 20814
under this division shall provide intervention services to any 20815
student whose test results indicate that the student is failing to 20816
make satisfactory progress toward being able to attain scores at 20817
the proficient level on the Ohio Graduation Tests. Intervention 20818
services shall be provided in any skill in which a student 20819
demonstrates unsatisfactory progress and shall be commensurate 20820
with the student's test performance. Schools shall provide the 20821
intervention services prior to the end of the school year, during 20822
the summer following the ninth grade, in the next succeeding 20823
school year, or at any combination of those times. 20824

(E) Except as provided in section 3313.608 of the Revised 20825
Code and division (M) of this section, no school district board of 20826
education shall utilize any student's failure to attain a 20827
specified score on any test administered under this section as a 20828
factor in any decision to deny the student promotion to a higher 20829
grade level. However, a district board may choose not to promote 20830
to the next grade level any student who does not take any test 20831
administered under this section or make up such test as provided 20832
by division (C)(2) of this section and who is not exempted from 20833
the requirement to take the test under division (C)(1) or (3) of 20834
this section. 20835

(F) No person shall be charged a fee for taking any test 20836
administered under this section. 20837

(G) Not later than sixty days after any administration of any 20838

test prescribed by section 3301.0710 of the Revised Code, the 20839
department shall send to each school district board a list of the 20840
individual test scores of all persons taking the test. For any 20841
tests administered under this section by a joint vocational school 20842
district, the department shall also send to each city, local, or 20843
exempted village school district a list of the individual test 20844
scores of any students of such city, local, or exempted village 20845
school district who are attending school in the joint vocational 20846
school district. 20847

(H) Individual test scores on any tests administered under 20848
this section shall be released by a district board only in 20849
accordance with section 3319.321 of the Revised Code and the rules 20850
adopted under division (A) of this section. No district board or 20851
its employees shall utilize individual or aggregate test results 20852
in any manner that conflicts with rules for the ethical use of 20853
tests adopted pursuant to division (A) of this section. 20854

(I) Except as provided in division (G) of this section, the 20855
department shall not release any individual test scores on any 20856
test administered under this section and shall adopt rules to 20857
ensure the protection of student confidentiality at all times. 20858

(J) Notwithstanding division (D) of section 3311.52 of the 20859
Revised Code, this section does not apply to the board of 20860
education of any cooperative education school district except as 20861
provided under rules adopted pursuant to this division. 20862

(1) In accordance with rules that the state board of 20863
education shall adopt, the board of education of any city, 20864
exempted village, or local school district with territory in a 20865
cooperative education school district established pursuant to 20866
divisions (A) to (C) of section 3311.52 of the Revised Code may 20867
enter into an agreement with the board of education of the 20868
cooperative education school district for administering any test 20869
prescribed under this section to students of the city, exempted 20870

village, or local school district who are attending school in the 20871
cooperative education school district. 20872

(2) In accordance with rules that the state board of 20873
education shall adopt, the board of education of any city, 20874
exempted village, or local school district with territory in a 20875
cooperative education school district established pursuant to 20876
section 3311.521 of the Revised Code shall enter into an agreement 20877
with the cooperative district that provides for the administration 20878
of any test prescribed under this section to both of the 20879
following: 20880

(a) Students who are attending school in the cooperative 20881
district and who, if the cooperative district were not 20882
established, would be entitled to attend school in the city, 20883
local, or exempted village school district pursuant to section 20884
3313.64 or 3313.65 of the Revised Code; 20885

(b) Persons described in division (B)(6)(b) of this section. 20886

Any testing of students pursuant to such an agreement shall 20887
be in lieu of any testing of such students or persons pursuant to 20888
this section. 20889

(K)(1) Any chartered nonpublic school may participate in the 20890
testing program by administering any of the tests prescribed by 20891
section 3301.0710 of the Revised Code if the chief administrator 20892
of the school specifies which tests the school wishes to 20893
administer. Such specification shall be made in writing to the 20894
superintendent of public instruction prior to the first day of 20895
August of any school year in which tests are administered and 20896
shall include a pledge that the nonpublic school will administer 20897
the specified tests in the same manner as public schools are 20898
required to do under this section and rules adopted by the 20899
department. 20900

(2) The department of education shall furnish the tests 20901

prescribed by section 3301.0710 of the Revised Code to any 20902
chartered nonpublic school electing to participate under this 20903
division. 20904

(L)(1) The superintendent of the state school for the blind 20905
and the superintendent of the state school for the deaf shall 20906
administer the tests described by section 3301.0710 of the Revised 20907
Code. Each superintendent shall administer the tests in the same 20908
manner as district boards are required to do under this section 20909
and rules adopted by the department of education and in conformity 20910
with division (C)(1)(a) of this section. 20911

(2) The department of education shall furnish the tests 20912
described by section 3301.0710 of the Revised Code to each 20913
superintendent. 20914

(M) Notwithstanding division (E) of this section, a school 20915
district may use a student's failure to attain a score in at least 20916
the basic range on any of the tests described by division 20917
(A)(1)(b), (c), (d), or (e) of section 3301.0710 of the Revised 20918
Code as a factor in retaining that student in the current grade 20919
level. 20920

(N)(1) All tests required by section 3301.0710 of the Revised 20921
Code shall become public records pursuant to section 149.43 of the 20922
Revised Code on the first day of July following the school year 20923
that the test was administered. 20924

(2) The department may field test proposed test questions 20925
with samples of students to determine the validity, reliability, 20926
or appropriateness of test questions for possible inclusion in a 20927
future year's test. 20928

Field test questions shall not be considered in computing 20929
test scores for individual students. Field test questions may be 20930
included as part of the administration of any test required by 20931
section 3301.0710 of the Revised Code. 20932

(3) Any field test question administered under division 20933
(N)(2) of this section shall not be a public record. Such field 20934
test questions shall be redacted from any tests which are released 20935
as a public record pursuant to division (N)(1) of this section. 20936

Sec. 3301.0714. (A) The state board of education shall adopt 20937
rules for a statewide education management information system. The 20938
rules shall require the state board to establish guidelines for 20939
the establishment and maintenance of the system in accordance with 20940
this section and the rules adopted under this section. The 20941
guidelines shall include: 20942

(1) Standards identifying and defining the types of data in 20943
the system in accordance with divisions (B) and (C) of this 20944
section; 20945

(2) Procedures for annually collecting and reporting the data 20946
to the state board in accordance with division (D) of this 20947
section; 20948

(3) Procedures for annually compiling the data in accordance 20949
with division (G) of this section; 20950

(4) Procedures for annually reporting the data to the public 20951
in accordance with division (H) of this section. 20952

(B) The guidelines adopted under this section shall require 20953
the data maintained in the education management information system 20954
to include at least the following: 20955

(1) Student participation and performance data, for each 20956
grade in each school district as a whole and for each grade in 20957
each school building in each school district, that includes: 20958

(a) The numbers of students receiving each category of 20959
instructional service offered by the school district, such as 20960
regular education instruction, vocational education instruction, 20961
specialized instruction programs or enrichment instruction that is 20962

part of the educational curriculum, instruction for gifted 20963
students, instruction for handicapped students, and remedial 20964
instruction. The guidelines shall require instructional services 20965
under this division to be divided into discrete categories if an 20966
instructional service is limited to a specific subject, a specific 20967
type of student, or both, such as regular instructional services 20968
in mathematics, remedial reading instructional services, 20969
instructional services specifically for students gifted in 20970
mathematics or some other subject area, or instructional services 20971
for students with a specific type of handicap. The categories of 20972
instructional services required by the guidelines under this 20973
division shall be the same as the categories of instructional 20974
services used in determining cost units pursuant to division 20975
(C)(3) of this section. 20976

(b) The numbers of students receiving support or 20977
extracurricular services for each of the support services or 20978
extracurricular programs offered by the school district, such as 20979
counseling services, health services, and extracurricular sports 20980
and fine arts programs. The categories of services required by the 20981
guidelines under this division shall be the same as the categories 20982
of services used in determining cost units pursuant to division 20983
(C)(4)(a) of this section. 20984

(c) Average student grades in each subject in grades nine 20985
through twelve; 20986

(d) Academic achievement levels as assessed by the testing of 20987
student achievement under sections 3301.0710 and 3301.0711 of the 20988
Revised Code; 20989

(e) The number of students designated as having a 20990
handicapping condition pursuant to division (C)(1) of section 20991
3301.0711 of the Revised Code; 20992

(f) The numbers of students reported to the state board 20993

pursuant to division (C)(2) of section 3301.0711 of the Revised Code;	20994 20995
(g) Attendance rates and the average daily attendance for the year. For purposes of this division, a student shall be counted as present for any field trip that is approved by the school administration.	20996 20997 20998 20999
(h) Expulsion rates;	21000
(i) Suspension rates;	21001
(j) The percentage of students receiving corporal punishment;	21002
(k) Dropout rates;	21003
(l) Rates of retention in grade;	21004
(m) For pupils in grades nine through twelve, the average number of carnegie units, as calculated in accordance with state board of education rules;	21005 21006 21007
(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;	21008 21009 21010 21011 21012
(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.	21013 21014 21015 21016 21017 21018 21019
(2) Personnel and classroom enrollment data for each school district, including:	21020 21021
(a) The total numbers of licensed employees and nonlicensed employees and the numbers of full-time equivalent licensed	21022 21023

employees and nonlicensed employees providing each category of 21024
instructional service, instructional support service, and 21025
administrative support service used pursuant to division (C)(3) of 21026
this section. The guidelines adopted under this section shall 21027
require these categories of data to be maintained for the school 21028
district as a whole and, wherever applicable, for each grade in 21029
the school district as a whole, for each school building as a 21030
whole, and for each grade in each school building. 21031

(b) The total number of employees and the number of full-time 21032
equivalent employees providing each category of service used 21033
pursuant to divisions (C)(4)(a) and (b) of this section, and the 21034
total numbers of licensed employees and nonlicensed employees and 21035
the numbers of full-time equivalent licensed employees and 21036
nonlicensed employees providing each category used pursuant to 21037
division (C)(4)(c) of this section. The guidelines adopted under 21038
this section shall require these categories of data to be 21039
maintained for the school district as a whole and, wherever 21040
applicable, for each grade in the school district as a whole, for 21041
each school building as a whole, and for each grade in each school 21042
building. 21043

(c) The total number of regular classroom teachers teaching 21044
classes of regular education and the average number of pupils 21045
enrolled in each such class, in each of grades kindergarten 21046
through five in the district as a whole and in each school 21047
building in the school district. 21048

(3)(a) Student demographic data for each school district, 21049
including information regarding the gender ratio of the school 21050
district's pupils, the racial make-up of the school district's 21051
pupils, and an appropriate measure of the number of the school 21052
district's pupils who reside in economically disadvantaged 21053
households. The demographic data shall be collected in a manner to 21054
allow correlation with data collected under division (B)(1) of 21055

this section. Categories for data collected pursuant to division 21056
(B)(3) of this section shall conform, where appropriate, to 21057
standard practices of agencies of the federal government. 21058

(b) With respect to each student entering kindergarten, 21059
whether the student previously participated in a public preschool 21060
program, a private preschool program, or a head start program, and 21061
the number of years the student participated in each of these 21062
programs. 21063

(C) The education management information system shall include 21064
cost accounting data for each district as a whole and for each 21065
school building in each school district. The guidelines adopted 21066
under this section shall require the cost data for each school 21067
district to be maintained in a system of mutually exclusive cost 21068
units and shall require all of the costs of each school district 21069
to be divided among the cost units. The guidelines shall require 21070
the system of mutually exclusive cost units to include at least 21071
the following: 21072

(1) Administrative costs for the school district as a whole. 21073
The guidelines shall require the cost units under this division 21074
(C)(1) to be designed so that each of them may be compiled and 21075
reported in terms of average expenditure per pupil in formula ADM 21076
in the school district, as determined pursuant to section 3317.03 21077
of the Revised Code. 21078

(2) Administrative costs for each school building in the 21079
school district. The guidelines shall require the cost units under 21080
this division (C)(2) to be designed so that each of them may be 21081
compiled and reported in terms of average expenditure per 21082
full-time equivalent pupil receiving instructional or support 21083
services in each building. 21084

(3) Instructional services costs for each category of 21085
instructional service provided directly to students and required 21086

by guidelines adopted pursuant to division (B)(1)(a) of this 21087
section. The guidelines shall require the cost units under 21088
division (C)(3) of this section to be designed so that each of 21089
them may be compiled and reported in terms of average expenditure 21090
per pupil receiving the service in the school district as a whole 21091
and average expenditure per pupil receiving the service in each 21092
building in the school district and in terms of a total cost for 21093
each category of service and, as a breakdown of the total cost, a 21094
cost for each of the following components: 21095

(a) The cost of each instructional services category required 21096
by guidelines adopted under division (B)(1)(a) of this section 21097
that is provided directly to students by a classroom teacher; 21098

(b) The cost of the instructional support services, such as 21099
services provided by a speech-language pathologist, classroom 21100
aide, multimedia aide, or librarian, provided directly to students 21101
in conjunction with each instructional services category; 21102

(c) The cost of the administrative support services related 21103
to each instructional services category, such as the cost of 21104
personnel that develop the curriculum for the instructional 21105
services category and the cost of personnel supervising or 21106
coordinating the delivery of the instructional services category. 21107

(4) Support or extracurricular services costs for each 21108
category of service directly provided to students and required by 21109
guidelines adopted pursuant to division (B)(1)(b) of this section. 21110
The guidelines shall require the cost units under division (C)(4) 21111
of this section to be designed so that each of them may be 21112
compiled and reported in terms of average expenditure per pupil 21113
receiving the service in the school district as a whole and 21114
average expenditure per pupil receiving the service in each 21115
building in the school district and in terms of a total cost for 21116
each category of service and, as a breakdown of the total cost, a 21117
cost for each of the following components: 21118

(a) The cost of each support or extracurricular services category required by guidelines adopted under division (B)(1)(b) of this section that is provided directly to students by a licensed employee, such as services provided by a guidance counselor or any services provided by a licensed employee under a supplemental contract;

(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;

(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.

(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 21151
section 3301.075 of the Revised Code and is authorized by the 21152
district or acquisition site to have access to such information. 21153
The guidelines may require school districts to provide the social 21154
security numbers of individual staff members. 21155

(2) The guidelines shall provide for each school district or 21156
community school to assign a data verification code that is unique 21157
on a statewide basis over time to each student whose initial Ohio 21158
enrollment is in that district or school and to report all 21159
required individual student data for that student utilizing such 21160
code. The guidelines shall also provide for assigning data 21161
verification codes to all students enrolled in districts or 21162
community schools on the effective date of the guidelines 21163
established under this section. 21164

Individual student data shall be reported to the department 21165
through the data acquisition sites utilizing the code but at no 21166
time shall the state board or the department have access to 21167
information that would enable any data verification code to be 21168
matched to personally identifiable student data. 21169

Each school district shall ensure that the data verification 21170
code is included in the student's records reported to any 21171
subsequent school district or community school in which the 21172
student enrolls and shall remove all references to the code in any 21173
records retained in the district or school that pertain to any 21174
student no longer enrolled. Any such subsequent district or school 21175
shall utilize the same identifier in its reporting of data under 21176
this section. 21177

(E) The guidelines adopted under this section may require 21178
school districts to collect and report data, information, or 21179
reports other than that described in divisions (A), (B), and (C) 21180
of this section for the purpose of complying with other reporting 21181
requirements established in the Revised Code. The other data, 21182

information, or reports may be maintained in the education 21183
management information system but are not required to be compiled 21184
as part of the profile formats required under division (G) of this 21185
section or the annual statewide report required under division (H) 21186
of this section. 21187

(F) Beginning with the school year that begins July 1, 1991, 21188
the board of education of each school district shall annually 21189
collect and report to the state board, in accordance with the 21190
guidelines established by the board, the data required pursuant to 21191
this section. A school district may collect and report these data 21192
notwithstanding section 2151.358 or 3319.321 of the Revised Code. 21193

(G) The state board shall, in accordance with the procedures 21194
it adopts, annually compile the data reported by each school 21195
district pursuant to division (D) of this section. The state board 21196
shall design formats for profiling each school district as a whole 21197
and each school building within each district and shall compile 21198
the data in accordance with these formats. These profile formats 21199
shall: 21200

(1) Include all of the data gathered under this section in a 21201
manner that facilitates comparison among school districts and 21202
among school buildings within each school district; 21203

(2) Present the data on academic achievement levels as 21204
assessed by the testing of student achievement maintained pursuant 21205
to division (B)(1)(e) of this section so that the academic 21206
achievement levels of students who are excused from taking any 21207
such test pursuant to division (C)(1) of section 3301.0711 of the 21208
Revised Code are distinguished from the academic achievement 21209
levels of students who are not so excused. 21210

(H)(1) The state board shall, in accordance with the 21211
procedures it adopts, annually prepare a statewide report for all 21212
school districts and the general public that includes the profile 21213

of each of the school districts developed pursuant to division (G) 21214
of this section. Copies of the report shall be sent to each school 21215
district. 21216

(2) The state board shall, in accordance with the procedures 21217
it adopts, annually prepare an individual report for each school 21218
district and the general public that includes the profiles of each 21219
of the school buildings in that school district developed pursuant 21220
to division (G) of this section. Copies of the report shall be 21221
sent to the superintendent of the district and to each member of 21222
the district board of education. 21223

(3) Copies of the reports received from the state board under 21224
divisions (H)(1) and (2) of this section shall be made available 21225
to the general public at each school district's offices. Each 21226
district board of education shall make copies of each report 21227
available to any person upon request and payment of a reasonable 21228
fee for the cost of reproducing the report. The board shall 21229
annually publish in a newspaper of general circulation in the 21230
school district, at least twice during the two weeks prior to the 21231
week in which the reports will first be available, a notice 21232
containing the address where the reports are available and the 21233
date on which the reports will be available. 21234

(I) Any data that is collected or maintained pursuant to this 21235
section and that identifies an individual pupil is not a public 21236
record for the purposes of section 149.43 of the Revised Code. 21237

(J) As used in this section: 21238

(1) "School district" means any city, local, exempted 21239
village, or joint vocational school district. 21240

(2) "Cost" means any expenditure for operating expenses made 21241
by a school district excluding any expenditures for debt 21242
retirement except for payments made to any commercial lending 21243
institution for any loan approved pursuant to section 3313.483 of 21244

the Revised Code.	21245
(K) Any person who removes data from the information system established under this section for the purpose of releasing it to any person not entitled under law to have access to such information is subject to section 2913.42 of the Revised Code prohibiting tampering with data.	21246 21247 21248 21249 21250
(L) Any time the department of education determines that a school district has taken any of the actions described under division (L)(1), (2), or (3) of this section, it shall make a report of the actions of the district, send a copy of the report to the superintendent of such school district, and maintain a copy of the report in its files:	21251 21252 21253 21254 21255 21256
(1) The school district fails to meet any deadline established pursuant to this section for the reporting of any data to the education management information system;	21257 21258 21259
(2) The school district fails to meet any deadline established pursuant to this section for the correction of any data reported to the education management information system;	21260 21261 21262
(3) The school district reports data to the education management information system in a condition, as determined by the department, that indicates that the district did not make a good faith effort in reporting the data to the system.	21263 21264 21265 21266
Any report made under this division shall include recommendations for corrective action by the school district.	21267 21268
Upon making a report for the first time in a fiscal year, the department shall withhold ten per cent of the total amount due during that fiscal year under Chapter 3317. of the Revised Code to the school district to which the report applies. Upon making a second report in a fiscal year, the department shall withhold an additional twenty per cent of such total amount due during that fiscal year to the school district to which the report applies.	21269 21270 21271 21272 21273 21274 21275

The department shall not release such funds unless it determines 21276
that the district has taken corrective action. However, no such 21277
release of funds shall occur if the district fails to take 21278
corrective action within forty-five days of the date upon which 21279
the report was made by the department. 21280

~~(M) The department of education, after consultation with the 21281
Ohio education computer network, may provide at no cost to school 21282
districts uniform computer software for use in reporting data to 21283
the education management information system, provided that no 21284
school district shall be required to utilize such software to 21285
report data to the education management information system if such 21286
district is so reporting data in an accurate, complete, and timely 21287
manner in a format compatible with that required by the education 21288
management information system No data acquisition site or school 21289
district shall acquire, change, or update its student 21290
administration software package to manage and report data required 21291
to be reported to the department unless it converts to a student 21292
software package that is certified by the department. 21293~~

(N) The state board of education, in accordance with sections 21294
3319.31 and 3319.311 of the Revised Code, may suspend or revoke a 21295
license as defined under division (A) of section 3319.31 of the 21296
Revised Code that has been issued to any school district employee 21297
found to have willfully reported erroneous, inaccurate, or 21298
incomplete data to the education management information system. 21299

(O) No person shall release or maintain any information about 21300
any student in violation of this section. Whoever violates this 21301
division is guilty of a misdemeanor of the fourth degree. 21302

(P) The department shall disaggregate the data collected 21303
under division (B)(1)(o) of this section according to the race and 21304
socioeconomic status of the students assessed. No data collected 21305
under that division shall be included on the report cards required 21306
by section 3302.03 of the Revised Code. 21307

(Q) If the department cannot compile any of the information 21308
required by division (D)(5) of section 3302.03 of the Revised Code 21309
based upon the data collected under this section, the department 21310
shall develop a plan and a reasonable timeline for the collection 21311
of any data necessary to comply with that division. 21312

Sec. 3301.31. As used in this section and sections 3301.32 to 21313
3301.38 of the Revised Code: 21314

(A) "Eligible individual" means an individual eligible for 21315
Title IV-A services. 21316

(B) "Head start agency" means any or all of the following: 21317

(1) An entity in this state that has been approved to be an 21318
agency for purposes of the "Head Start Act," 95 Stat. 489 (1981), 21319
42 U.S.C. 9831, as amended; 21320

(2) A Title IV-A head start agency; 21321

(3) A Title IV-A head start plus agency. 21322

(C) "Head start program" has the same meaning as in section 21323
5104.01 of the Revised Code. 21324

(D) "Title IV-A services" means benefits and services that 21325
are allowable under Title IV-A of the "Social Security Act," as 21326
specified in 42 U.S.C.A 604(a), except that they shall not be 21327
benefits and services included in the term "assistance" as defined 21328
in 45 C.F.R. 260.31(a) and shall be benefits and services that are 21329
excluded from the definition of the term "assistance" under 45 21330
C.F.R. 260.31(b). 21331

(E) "Title IV-A head start agency" means an agency receiving 21332
funds to operate a head start program as prescribed in section 21333
3301.34 of the Revised Code. 21334

(F) "Title IV-A head start plus agency" means an agency 21335
receiving funds to operate a head start program as prescribed in 21336

section 3301.35 of the Revised Code. 21337

Sec. 3301.33. (A) There is hereby established the Title IV-A 21338
head start program to provide head start program services to 21339
eligible individuals. 21340

(B) In accordance with the interagency agreement described in 21341
division (C) of this section, there is hereby established the 21342
Title IV-A head start plus program to provide year-long head start 21343
program services and child care services to eligible individuals. 21344

(C) The programs established under divisions (A) and (B) of 21345
this section shall be administered by the department of education 21346
in accordance with an interagency agreement entered into with the 21347
department of job and family services under section 5101.801 of 21348
the Revised Code. This interagency agreement shall establish the 21349
implementation date of the Title IV-A head start plus program, 21350
which is July 1, 2004. The programs shall provide Title IV-A 21351
services to eligible individuals who meet eligibility requirements 21352
established in rules and administrative orders adopted by the 21353
department of job and family services under Chapter 5104. of the 21354
Revised Code. The department of job and family services and the 21355
department of education jointly shall adopt policies and 21356
procedures establishing program requirements for eligibility, 21357
services, program administration, fiscal accountability, and other 21358
criteria necessary to comply with the provisions of Title IV-A of 21359
the "Social Security Act," 110 Stat. 2113, 42 U.S.C. 601 (1996), 21360
as amended. 21361

The department of education shall be responsible for 21362
approving all Title IV-A head start agencies and Title IV-A head 21363
start plus agencies for provision of services under the programs 21364
established under this section. An agency that is not approved by 21365
the department shall not be reimbursed for the cost of providing 21366
services under the programs. 21367

Sec. 3301.34. In administering the Title IV-A head start program established under division (A) of section 3301.33 of the Revised Code, the department of education shall enter into a contract with each Title IV-A head start agency establishing the terms and conditions applicable to the provision of Title IV-A services for eligible individuals. The contracts shall specify the respective duties of the Title IV-A head start agencies and the department of education, reporting requirements, eligibility requirements, reimbursement methodology, audit requirements, and other provisions determined necessary. The department of education shall reimburse the Title IV-A head start agencies for Title IV-A services provided to individuals determined eligible for Title IV-A services by the county department of job and family services in accordance with the terms of the contract, policies and procedures adopted by the department of education and the department of job and family services under section 3301.33 of the Revised Code, and the interagency agreement entered into by the departments.

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The department of education shall ensure that all reimbursements paid to a Title IV-A head start agency are only for Title IV-A services.

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The department of education shall ensure that all reimbursements paid to a Title IV-A head start agency are for only those individuals for Title IV-A services by the appropriate county department of job and family services, as provided for in section 3301.36 of the Revised Code.

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Sec. 3301.35. (A) In administering the Title IV-A head start plus program established under division (B) of section 3301.33, the department of education shall enter into a contract with each Title IV-A head start plus agency under which the department shall

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reimburse the agency for allowable expenses in connection to 21398
services provided to eligible individuals. 21399

(B) Each county department of job and family services shall 21400
assist the department of education in administering the program 21401
within its respective county in accordance with requirements 21402
established by the state department of job and family services 21403
under section 5101.801 of the Revised Code. The county department 21404
shall ensure that all reimbursements paid to a Title IV-A head 21405
start plus agency are for only Title IV-A services. 21406

The administration of the Title IV-A head start plus program 21407
by the county department shall include all of the following: 21408

(1) Determining eligibility of individuals and establishing 21409
co-payment requirements in accordance with rules adopted by the 21410
state department of job and family services; 21411

(2) Ensuring that any invoices from a Title IV-A head start 21412
plus agency comply with requirements of Title IV-A of the "Social 21413
Security Act," 110 Stat. 2113, 42 U.S.C. 601 (1996), as amended, 21414
including eligibility of individuals, reporting requirements, 21415
allowable benefits and services, use of funds, and audit 21416
requirements, as specified in state and federal laws and 21417
regulations, United States office of management and budget 21418
circulars, and the Title IV-A state plan; 21419

(3) Monitoring each Title IV-A head start plus agency that 21420
receives Title IV-A funds. The county department is responsible 21421
for assuring that all Title IV-A funds are used solely for 21422
purposes allowable under federal regulations, section 5101.801 of 21423
the Revised Code, and the Title IV-A state plan and shall take 21424
prompt action to recover funds that are not expended accordingly. 21425

(C) The department of education shall enter into contracts 21426
with only those agencies that have been approved by the department 21427
of education as a Title IV-A head start plus agency and that have 21428

been licensed in accordance with section 3301.37 of the Revised 21429
Code. Each contract entered into under this division shall specify 21430
all of the following: 21431

(1) Requirements applicable to the allowable use of and 21432
accountability for Title IV-A funds; 21433

(2) Requirements for access, inspection, and examination of 21434
the agency's financial and program records by the county 21435
department, the state department of job and family services, the 21436
department of education, the auditor of state, and any other state 21437
or federal agency with authority to inspect and examine such 21438
records; 21439

(3) Applicable audit requirements applicable to funds 21440
received under the contract; 21441

(4) Reporting requirements by and for the county department, 21442
the state department of job and family services, and the 21443
department of education; 21444

(5) Provisions for the department of education to suspend, 21445
modify, or terminate the contract if the department of education 21446
suspends or removes the agency from the list of approved Title 21447
IV-A head start plus agencies or if the state department of job 21448
and family services denies or revokes a license for the agency. 21449

Sec. 3301.36. Each county department of job and family 21450
services shall determine eligibility for Title IV-A services for 21451
individuals seeking Title IV-A services from a Title IV-A head 21452
start agency or Title IV-A head start plus agency. 21453

Sec. 3301.37. (A) Each entity operating a head start program 21454
shall be licensed or certified by the department of job and family 21455
services in accordance with Chapter 5104. of the Revised Code. 21456

(B) Notwithstanding division (A) of this section, any current 21457

license issued under section 3301.58 of the Revised Code by the 21458
department of education to an entity operating a head start 21459
program prior to the effective date of this section is hereby 21460
deemed to be a license issued by the department of job and family 21461
services under Chapter 5104. of the Revised Code. The expiration 21462
date of the license shall be the earlier of the expiration date 21463
specified in the license as issued under section 3301.58 of the 21464
Revised Code or September 1, 2005. In order to continue operation 21465
of its head start program after that expiration date, the entity 21466
shall obtain a license as prescribed in division (A) of this 21467
section. 21468

Sec. 3301.38. (A) The department of education shall adopt 21469
policies and procedures for the approval, suspension, and removal 21470
of Title IV-A head start and Title IV-A head start plus agencies 21471
from the approved list of providers. 21472

(B) If a head start program that received state funding prior 21473
to July 1, 2001, waives its right to state funding or has its 21474
state funding eliminated for not meeting financial standards or 21475
program performance standards, the grantee or delegates shall 21476
transfer control of title to property, equipment, and remaining 21477
supplies purchased with state funds to the department along with 21478
any reports prescribed by the department. 21479

(C) Title IV-A head start awards shall be distributed on a 21480
per-pupil basis, which the department may adjust so that the per 21481
pupil amount multiplied by the number of eligible children 21482
enrolled and receiving services, as defined by the department of 21483
education, reported on the first day of December or the first 21484
business day following that date equals the amount allocated. 21485

(D) The department of education shall prescribe the 21486
assessment instrument and determine target levels for critical 21487
performance indicators for the purpose of assessing Title IV-A 21488

head start and Title IV-A head start plus agencies. Onsite reviews 21489
and follow-up visits shall be based on progress in meeting the 21490
prescribed target levels. 21491

(E) The department of education shall require Title IV-A head 21492
start and Title IV-A head start plus agencies to: 21493

(1) Address federal head start education and assessment 21494
performance standards, as required by 45 C.F.R. 1304.20 to 1304.41 21495
and the Ohio department of education pre-kindergarten math and 21496
literacy content standards; 21497

(2) Comply with the department of education prescribed 21498
assessment requirements that are aligned with the assessment 21499
system for kindergarten through twelfth grade; 21500

(3) Comply with federal head start performance standards for 21501
comprehensive services in health, nutrition, mental health, family 21502
partnership, and social services as required by 45 C.F.R. 1304.20 21503
to 1304.41; 21504

(4) Require teachers to attend a minimum of twenty hours of 21505
professional development as prescribed by the department of 21506
education regarding the implementation of content standards and 21507
assessment; and 21508

(5) Document and report child progress using research-based 21509
indicators as prescribed by the department. 21510

(F) Costs for developing and administering a Title IV-A head 21511
start or Title IV-A head start plus program may not exceed fifteen 21512
percent of the total approved costs of the program. 21513

(G) In consultation with the department of job and family 21514
services, the department of education shall establish program 21515
requirements for Title IV-A head start and Title IV-A head start 21516
plus agencies. 21517

(H) The department of education may examine the financial and 21518

program records of Title IV-A head start agencies and Title IV-A 21519
head start plus agencies. The department of education shall 21520
monitor these agencies to ensure that all Title IV-A funds are 21521
used solely for purposes allowable under federal regulations, 21522
section 5101.801 of the Revised Code, and the Title IV-A state 21523
plan and shall take prompt action to recover funds that are not 21524
expended accordingly. The department of job and family services 21525
may examine the financial records of Title IV-A head start 21526
agencies and Title IV-A head start plus agencies. 21527

(I)(1) A Title IV-A head start agency or Title IV-A head 21528
start plus agency shall propose and implement a corrective action 21529
plan that has been approved by the department of education when 21530
the department determines either of the following: 21531

(a) The financial practices of the Title IV-A head start 21532
agency are not in accordance with standard accounting principles 21533
and federal requirements or do not meet financial standards 21534
required in the contract as specified under division (C) of 21535
section 3301.35 of the Revised Code; 21536

(b) The Title IV-A head start or Title IV-A head start plus 21537
agency fails to substantially meet the head start performance 21538
standards or exhibits below average performance as measured 21539
against the performance indicators. 21540

(2) The approved corrective action plan shall be signed by 21541
the appropriate official and agency governance body. 21542

(3) The corrective action plan shall include a schedule of 21543
monitoring by the department of education. This monitoring may 21544
include monthly reports, inspections, a timeline for correction of 21545
deficiencies, and technical assistance to be provided by the 21546
department or obtained by the Title IV-A head start agency or 21547
Title IV-A head start plus agency. The department may withhold 21548
funding to a Title IV-A head start agency or a Title IV-A head 21549

start plus agency. 21550

(4) If a Title IV-A head start agency or a Title IV-A head start plus agency fails to satisfactorily complete a corrective action, the department may suspend or terminate part or all of the funding to the agency and may remove the agency from the approved list. 21551
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(J) The department shall provide technical assistance to Title IV-A head start agencies in administering Title IV-A head start programs and to Title IV-A head start plus agencies and child care partners in administering head start plus programs. 21556
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Sec. ~~3301.33~~ 3301.40. (A) As used in this section, "adult education" has the meaning as established under the "adult education act," 102 Stat. 302 (1988), 20 U.S.C. 1201a(2), as amended. 21560
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(B) Beginning July 1, 1996, the department of education may distribute state funds to organizations that qualify for federal funds under the "Adult Education Act," 102 Stat. 302 (1988), 20 1201 to 1213d, as amended. The funds shall be used by qualifying organizations to provide adult education services. State funds distributed pursuant to this section shall be distributed in accordance with the rules adopted by the state board of education pursuant to this section. 21564
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Each organization that receives funds under this section shall file program performance reports with the department. The reports shall be filed at times required by state board of education rule and contain assessments of individual students as they enter, progress through, and exit the adult education program; records regarding individual student program participation time; reports of individual student retention rates; and any other information required by rule. 21572
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(C) The state board of education shall adopt rules for the 21580
distribution of funds under this section. The rules shall include 21581
the following: 21582

(1) Requirements for program performance reports. 21583

(2) Indicators of adult education program quality, including 21584
indicators of learner achievement, program environment, program 21585
planning, curriculum and instruction, staff development, support 21586
services, and recruitment and retention. 21587

(3) A formula for the distribution of funds under this 21588
section. The formula shall include as a factor an organization's 21589
quantifiable success in meeting the indicators of program quality 21590
established pursuant to division (C)(2) of this section. 21591

(4) Standards and procedures for reducing or discontinuing 21592
funding to organizations that fail to meet the requirements of 21593
this section. 21594

(5) Any other requirements or standards considered 21595
appropriate by the board. 21596

Sec. 3301.52. As used in sections 3301.52 to 3301.59 of the 21597
Revised Code: 21598

(A) "Preschool program" means either of the following: 21599

(1) A child day-care program for preschool children that is 21600
operated by a school district board of education, or an eligible 21601
nonpublic school, ~~a head start grantee, or a head start delegate~~ 21602
~~agency.~~ 21603

(2) A child day-care program for preschool children age three 21604
or older that is operated by a county MR/DD board. 21605

(B) "Preschool child" or "child" means a child who has not 21606
entered kindergarten and is not of compulsory school age. 21607

(C) "Parent, guardian, or custodian" means the person or 21608

government agency that is or will be responsible for a child's 21609
school attendance under section 3321.01 of the Revised Code. 21610

(D) "Superintendent" means the superintendent of a school 21611
district or the chief administrative officer of an eligible 21612
nonpublic school. 21613

(E) "Director" means the director, head teacher, elementary 21614
principal, or site administrator who is the individual on site and 21615
responsible for supervision of a preschool program. 21616

(F) "Preschool staff member" means a preschool employee whose 21617
primary responsibility is care, teaching, or supervision of 21618
preschool children. 21619

(G) "Nonteaching employee" means a preschool program or 21620
school child program employee whose primary responsibilities are 21621
duties other than care, teaching, and supervision of preschool 21622
children or school children. 21623

(H) "Eligible nonpublic school" means a nonpublic school 21624
chartered as described in division (B)(8) of section 5104.02 of 21625
the Revised Code or chartered by the state board of education for 21626
any combination of grades one through twelve, regardless of 21627
whether it also offers kindergarten. 21628

(I) "County MR/DD board" means a county board of mental 21629
retardation and developmental disabilities. 21630

(J) "School child program" means a child day-care program for 21631
only school children that is operated by a school district board 21632
of education, county MR/DD board, or eligible nonpublic school. 21633

(K) "School child" and "child day-care" have the same 21634
meanings as in section 5104.01 of the Revised Code. 21635

(L) "School child program staff member" means an employee 21636
whose primary responsibility is the care, teaching, or supervision 21637
of children in a school child program. 21638

~~(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.~~

Sec. 3301.53. (A) Not later than July 1, 1988, the state board of education, in consultation with the director of job and family services, shall formulate and prescribe by rule adopted under Chapter 119. of the Revised Code minimum standards to be applied to preschool programs operated by school district boards of education, county MR/DD boards, or eligible nonpublic schools, ~~head start grantees, and head start delegate agencies.~~ The rules shall include the following:

(1) Standards ensuring that the preschool program is located in a safe and convenient facility that accommodates the enrollment of the program, is of the quality to support the growth and development of the children according to the program objectives, and meets the requirements of section 3301.55 of the Revised Code;

(2) Standards ensuring that supervision, discipline, and programs will be administered according to established objectives and procedures;

(3) Standards ensuring that preschool staff members and nonteaching employees are recruited, employed, assigned, evaluated, and provided inservice education without discrimination on the basis of age, color, national origin, race, or sex; and that preschool staff members and nonteaching employees are assigned responsibilities in accordance with written position descriptions commensurate with their training and experience;

(4) A requirement that boards of education intending to establish a preschool program on or after March 17, 1989, demonstrate a need for a preschool program that is not being met by any existing program providing child day-care, prior to

establishing the program; 21669

(5) Requirements that children participating in preschool 21670
programs have been immunized to the extent considered appropriate 21671
by the state board to prevent the spread of communicable disease; 21672

(6) Requirements that the parents of preschool children 21673
complete the emergency medical authorization form specified in 21674
section 3313.712 of the Revised Code. 21675

(B) The state board of education in consultation with the 21676
director of job and family services shall ensure that the rules 21677
adopted by the state board under sections 3301.52 to 3301.58 of 21678
the Revised Code are consistent with and meet or exceed the 21679
requirements of Chapter 5104. of the Revised Code with regard to 21680
child day-care centers. The state board and the director of job 21681
and family services shall review all such rules at least once 21682
every five years. 21683

(C) On or before January 1, 1992, the state board of 21684
education, in consultation with the director of job and family 21685
services, shall adopt rules for school child programs that are 21686
consistent with and meet or exceed the requirements of the rules 21687
adopted for school child day-care centers under Chapter 5104. of 21688
the Revised Code. 21689

Sec. 3301.54. (A)(1) Each preschool program shall be directed 21690
and supervised by a director, a head teacher, an elementary 21691
principal, or a site administrator who is on site and responsible 21692
for supervision of the program. Except as otherwise provided in 21693
division (A)(2), (3), or (4) of this section, this person shall 21694
hold a valid educator license designated as appropriate for 21695
teaching or being an administrator in a preschool setting issued 21696
pursuant to section 3319.22 of the Revised Code and have completed 21697
at least four courses in child development or early childhood 21698
education from an accredited college, university, or technical 21699

college. 21700

(2) If the person was employed prior to July 1, 1988, by a 21701
school district board of education or an eligible nonpublic school 21702
to direct a preschool program, the person shall be considered to 21703
meet the requirements of this section if the person holds a valid 21704
kindergarten-primary certificate described under former division 21705
(A) of section 3319.22 of the Revised Code as it existed on 21706
January 1, 1996. 21707

(3) If the person is employed to direct a preschool program 21708
operated by an eligible, nontax-supported, nonpublic school, the 21709
person shall be considered to meet the requirements of this 21710
section if the person holds a valid teaching certificate issued in 21711
accordance with section 3301.071 of the Revised Code. 21712

~~(4) If the person is a site administrator for a head start 21713
grantee or head start delegate agency, the person shall be 21714
considered to meet the requirements of this section if the person 21715
provides evidence that the person has attained at least a high 21716
school diploma or certification of high school equivalency issued 21717
by the state board of education or a comparable agency of another 21718
state, and that the person meets at least one of the following 21719
requirements: 21720~~

~~(a) Two years of experience working as a child care staff 21721
member in a child day care center or preschool program and at 21722
least four courses in child development or early childhood 21723
education from an accredited college, university, or technical 21724
college, except that a person who has two years of experience 21725
working as a child care staff member in a particular day care 21726
center or preschool program and who has been promoted to or 21727
designated director shall have one year from the time the person 21728
was promoted or designated to complete the required four courses; 21729~~

~~(b) Two years of training in an accredited college, 21730~~

~~university, or technical college that includes at least four~~ 21731
~~courses in child development or early childhood education;~~ 21732

~~(c) A child development associate credential issued by the~~ 21733
~~national child development associate credentialing commission;~~ 21734

~~(d) An associate or higher degree in child development or~~ 21735
~~early childhood education from an accredited college, university,~~ 21736
~~or technical college.~~ 21737

(B) Each preschool staff member shall be at least eighteen 21738
years of age and have a high school diploma or a certification of 21739
high school equivalency issued by the state board of education or 21740
a comparable agency of another state, except that a staff member 21741
may be less than eighteen years of age if the staff member is a 21742
graduate of a two-year vocational child-care training program 21743
approved by the state board of education, or is a student enrolled 21744
in the second year of such a program that leads to high school 21745
graduation, provided that the student performs duties in the 21746
preschool program under the continuous supervision of an 21747
experienced preschool staff member and receives periodic 21748
supervision from the vocational child-care training program 21749
teacher-coordinator in the student's high school. 21750

A preschool staff member shall annually complete fifteen 21751
hours of inservice training in child development or early 21752
childhood education, child abuse recognition and prevention, and 21753
first aid, and in the prevention, recognition, and management of 21754
communicable diseases, until a total of forty-five hours has been 21755
completed, unless the staff member holds an associate or higher 21756
degree in child development or early childhood education from an 21757
accredited college, university, or technical college, or any type 21758
of educator license designated as appropriate for teaching in an 21759
associate teaching position in a preschool setting issued by the 21760
state board of education pursuant to section 3319.22 of the 21761
Revised Code. 21762

Sec. 3301.55. (A) A school district, county MR/DD board, or 21763
eligible nonpublic school, ~~head start grantee, or head start~~ 21764
~~delegate agency~~ operating a preschool program shall house the 21765
program in buildings that meet the following requirements: 21766

(1) The building is operated by the district, county MR/DD 21767
board, or eligible nonpublic school, ~~head start grantee, or head~~ 21768
~~start delegate agency~~ and has been approved by the division of 21769
industrial compliance in the department of commerce or a certified 21770
municipal, township, or county building department for the purpose 21771
of operating a program for preschool children. Any such structure 21772
shall be constructed, equipped, repaired, altered, and maintained 21773
in accordance with applicable provisions of Chapters 3781. and 21774
3791. and with rules adopted by the board of building standards 21775
under Chapter 3781. of the Revised Code for the safety and 21776
sanitation of structures erected for this purpose. 21777

(2) The building is in compliance with fire and safety laws 21778
and regulations as evidenced by reports of annual school fire and 21779
safety inspections as conducted by appropriate local authorities. 21780

(3) The school is in compliance with rules established by the 21781
state board of education regarding school food services. 21782

(4) The facility includes not less than thirty-five square 21783
feet of indoor space for each child in the program. Safe play 21784
space, including both indoor and outdoor play space, totaling not 21785
less than sixty square feet for each child using the space at any 21786
one time, shall be regularly available and scheduled for use. 21787

(5) First aid facilities and space for temporary placement or 21788
isolation of injured or ill children are provided. 21789

(B) Each school district, county MR/DD board, or eligible 21790
nonpublic school, ~~head start grantee, or head start delegate~~ 21791
~~agency~~ that operates, or proposes to operate, a preschool program 21792

shall submit a building plan including all information specified 21793
by the state board of education to the board not later than the 21794
first day of September of the school year in which the program is 21795
to be initiated. The board shall determine whether the buildings 21796
meet the requirements of this section and section 3301.53 of the 21797
Revised Code, and notify the superintendent of its determination. 21798
If the board determines, on the basis of the building plan or any 21799
other information, that the buildings do not meet those 21800
requirements, it shall cause the buildings to be inspected by the 21801
department of education. The department shall make a report to the 21802
superintendent specifying any aspects of the building that are not 21803
in compliance with the requirements of this section and section 21804
3301.53 of the Revised Code and the time period that will be 21805
allowed the district, county MR/DD board, or school, ~~grantee, or~~ 21806
~~agency~~ to meet the requirements. 21807

Sec. 3301.57. (A) For the purpose of improving programs, 21808
facilities, and implementation of the standards promulgated by the 21809
state board of education under section 3301.53 of the Revised 21810
Code, the state department of education shall provide consultation 21811
and technical assistance to school districts, county MR/DD boards, 21812
and eligible nonpublic schools, ~~head start grantees, and head~~ 21813
~~start delegate agencies~~ operating preschool programs or school 21814
child programs, and inservice training to preschool staff members, 21815
school child program staff members, and nonteaching employees. 21816

(B) The department and the school district board of 21817
education, county MR/DD board, or eligible nonpublic school, ~~head~~ 21818
~~start grantee, or head start delegate agency~~ shall jointly monitor 21819
each preschool program and each school child program. 21820

If the program receives any grant or other funding from the 21821
state or federal government, the department annually shall monitor 21822
all reports on attendance, financial support, and expenditures 21823

according to provisions for use of the funds. 21824

~~(C) The department of job and family services and the 21825
department of education shall enter into a contract pursuant to 21826
which the department of education inspects preschool programs and 21827
school child programs in accordance with sections 3301.52 to 21828
3301.59 of the Revised Code, the rules adopted under those 21829
sections, and any applicable procedures in Chapter 5104. of the 21830
Revised Code and investigates any complaints filed pursuant to 21831
those sections or rules. The contract shall require the department 21832
of job and family services to pay the department of education for 21833
conducting the inspections and investigations an amount equal to 21834
the amount that the department of job and family services would 21835
expend conducting the same number of inspections and 21836
investigations with its employees under Chapter 5104. of the 21837
Revised Code. 21838~~

~~(D) The department of education, at least twice during every 21839
twelve-month period of operation of a preschool program or a 21840
licensed school child program, shall inspect the program and 21841
provide a written inspection report to the superintendent of the 21842
school district, county MR/DD board, or eligible nonpublic school, 21843
head start grantee, or head start delegate agency. At least one 21844
inspection shall be unannounced, and all inspections may be 21845
unannounced. No person shall interfere with any inspection 21846
conducted pursuant to this division or to the rules adopted 21847
pursuant to sections 3301.52 to 3301.59 of the Revised Code. 21848~~

Upon receipt of any complaint that a preschool program or a 21849
licensed school child program is out of compliance with the 21850
requirements in sections 3301.52 to 3301.59 of the Revised Code or 21851
the rules adopted under those sections, the department shall 21852
investigate and may inspect the program. 21853

~~(E)~~ (D) If a preschool program or a licensed school child 21854
program is determined to be out of compliance with the 21855

requirements of sections 3301.52 to 3301.59 of the Revised Code or 21856
the rules adopted under those sections, the department of 21857
education shall notify the appropriate superintendent, county 21858
MR/DD board, or eligible nonpublic school, ~~head start grantee, or~~ 21859
~~head start delegate agency~~ in writing regarding the nature of the 21860
violation, what must be done to correct the violation, and by what 21861
date the correction must be made. If the correction is not made by 21862
the date established by the department, it may commence action 21863
under Chapter 119. of the Revised Code to close the program or to 21864
revoke the license of the program. If a program does not comply 21865
with an order to cease operation issued in accordance with Chapter 21866
119. of the Revised Code, the department shall notify the attorney 21867
general, the prosecuting attorney of the county in which the 21868
program is located, or the city attorney, village solicitor, or 21869
other chief legal officer of the municipal corporation in which 21870
the program is located that the program is operating in violation 21871
of sections 3301.52 to 3301.59 of the Revised Code or the rules 21872
adopted under those sections and in violation of an order to cease 21873
operation issued in accordance with Chapter 119. of the Revised 21874
Code. Upon receipt of the notification, the attorney general, 21875
prosecuting attorney, city attorney, village solicitor, or other 21876
chief legal officer shall file a complaint in the court of common 21877
pleas of the county in which the program is located requesting the 21878
court to issue an order enjoining the program from operating. The 21879
court shall grant the requested injunctive relief upon a showing 21880
that the program named in the complaint is operating in violation 21881
of sections 3301.52 to 3301.59 of the Revised Code or the rules 21882
adopted under those sections and in violation of an order to cease 21883
operation issued in accordance with Chapter 119. of the Revised 21884
Code. 21885

~~(F)~~(E) The department of education shall prepare an annual 21886
report on inspections conducted under this section. The report 21887
shall include the number of inspections conducted, the number and 21888

types of violations found, and the steps taken to address the 21889
violations. The department shall file the report with the 21890
governor, the president and minority leader of the senate, and the 21891
speaker and minority leader of the house of representatives on or 21892
before the first day of January of each year, beginning in 1999. 21893

Sec. 3301.58. (A) The department of education is responsible 21894
for the licensing of preschool programs and school child programs 21895
and for the enforcement of sections 3301.52 to 3301.59 of the 21896
Revised Code and of any rules adopted under those sections. No 21897
school district board of education, county MR/DD board, or 21898
~~eligible nonpublic school, head start grantee, or head start~~
~~delegate agency~~ shall operate, establish, manage, conduct, or 21900
maintain a preschool program without a license issued under this 21901
section. A school district board of education, county MR/DD board, 21902
or eligible nonpublic school may obtain a license under this 21903
section for a school child program. The school district board of 21904
education, county MR/DD board, or eligible nonpublic school, ~~head~~
~~start grantee, or head start delegate agency~~ shall post the 21905
current license for each preschool program and licensed school 21906
child program it operates, establishes, manages, conducts, or 21907
maintains in a conspicuous place in the preschool program or 21908
licensed school child program that is accessible to parents, 21909
custodians, or guardians and employees and staff members of the 21910
program at all times when the program is in operation. 21911
21912

(B) Any school district board of education, county MR/DD 21913
board, or eligible nonpublic school, ~~head start grantee, or head~~
~~start delegate agency~~ that desires to operate, establish, manage, 21914
conduct, or maintain a preschool program shall apply to the 21915
department of education for a license on a form that the 21916
department shall prescribe by rule. Any school district board of 21917
education, county MR/DD board, or eligible nonpublic school that 21918
desires to obtain a license for a school child program shall apply 21919
21920

to the department for a license on a form that the department 21921
shall prescribe by rule. The department shall provide at no charge 21922
to each applicant for a license under this section a copy of the 21923
requirements under sections 3301.52 to 3301.59 of the Revised Code 21924
and any rules adopted under those sections. The department shall 21925
mail application forms for the renewal of a license at least one 21926
hundred twenty days prior to the date of the expiration of the 21927
license, and the application for renewal of a license shall be 21928
filed with the department at least sixty days before the date of 21929
the expiration of the existing license. The department may 21930
establish application fees by rule adopted under Chapter 119. of 21931
the Revised Code, and all applicants for a license shall pay any 21932
fee established by the department at the time of making an 21933
application for a license. All fees collected pursuant to this 21934
section shall be paid into the state treasury to the credit of the 21935
general revenue fund. 21936

(C) Upon the filing of an application for a license, the 21937
department of education shall investigate and inspect the 21938
preschool program or school child program to determine the license 21939
capacity for each age category of children of the program and to 21940
determine whether the program complies with sections 3301.52 to 21941
3301.59 of the Revised Code and any rules adopted under those 21942
sections. When, after investigation and inspection, the department 21943
of education is satisfied that sections 3301.52 to 3301.59 of the 21944
Revised Code and any rules adopted under those sections are 21945
complied with by the applicant, the department of education shall 21946
issue the program a provisional license as soon as practicable in 21947
the form and manner prescribed by the rules of the department. The 21948
provisional license shall be valid for six months from the date of 21949
issuance unless revoked. 21950

(D) The department of education shall investigate and inspect 21951
a preschool program or school child program that has been issued a 21952

provisional license at least once during operation under the 21953
provisional license. If, after the investigation and inspection, 21954
the department of education determines that the requirements of 21955
sections 3301.52 to 3301.59 of the Revised Code and any rules 21956
adopted under those sections are met by the provisional licensee, 21957
the department of education shall issue a license that is 21958
effective for two years from the date of the issuance of the 21959
provisional license. 21960

(E) Upon the filing of an application for the renewal of a 21961
license by a preschool program or school child program, the 21962
department of education shall investigate and inspect the 21963
preschool program or school child program. If the department of 21964
education determines that the requirements of sections 3301.52 to 21965
3301.59 of the Revised Code and any rules adopted under those 21966
sections are met by the applicant, the department of education 21967
shall renew the license for two years from the date of the 21968
expiration date of the previous license. 21969

(F) The license or provisional license shall state the name 21970
of the school district board of education, county MR/DD board, or 21971
eligible nonpublic school, ~~head start grantee, or head start~~ 21972
~~delegate agency~~ that operates the preschool program or school 21973
child program and the license capacity of the program. The license 21974
shall include any other information required by section 5104.03 of 21975
the Revised Code for the license of a child day-care center. 21976

(G) The department of education may revoke the license of any 21977
preschool program or school child program that is not in 21978
compliance with the requirements of sections 3301.52 to 3301.59 of 21979
the Revised Code and any rules adopted under those sections. 21980

(H) If the department of education revokes a license or 21981
refuses to renew a license to a program, the department shall not 21982
issue a license to the program within two years from the date of 21983
the revocation or refusal. All actions of the department with 21984

respect to licensing preschool programs and school child programs 21985
shall be in accordance with Chapter 119. of the Revised Code. 21986

Sec. 3301.68. There is hereby created the legislative 21987
committee on education oversight as a subcommittee of the 21988
legislative service commission. The committee shall consist of 21989
five members of the house of representatives appointed by the 21990
speaker of the house of representatives and five members of the 21991
senate appointed by the president of the senate. Not more than 21992
three of the members appointed from each house shall be members of 21993
the same political party. Members shall serve during the term of 21994
office to which they were elected. 21995

The committee, subject to the oversight and direction of the 21996
legislative service commission, shall direct the work of the 21997
legislative office of education oversight, which is hereby 21998
established. The committee may employ a staff director and such 21999
other staff as are necessary for the operation of the office, who 22000
shall be in the unclassified service of the state, and may 22001
contract for the services of whatever technical advisors are 22002
necessary for the committee and the office to carry out their 22003
duties. 22004

The chairperson and vice-chairperson of the legislative 22005
service commission shall fix the compensation of the director. The 22006
director, with the approval of the director of the legislative 22007
service commission, shall fix the compensation of other staff of 22008
the office in accordance with a salary schedule established by the 22009
director of the legislative service commission. Contracts for the 22010
services of necessary technical advisors shall be approved by the 22011
director of the legislative service commission. 22012

All expenses incurred by the committee or office shall be 22013
paid upon vouchers approved by the chairperson of the committee. 22014
The committee shall adopt rules for the conduct of its business 22015

and the election of officers, except that the office of 22016
chairperson of the committee shall alternate each general assembly 22017
between a member of the house of representatives selected by the 22018
speaker and a member of the senate selected by the president. 22019

The committee shall select, for the office to review and 22020
evaluate, education and school-related programs that receive state 22021
financial assistance in any form. The reviews and evaluations may 22022
include any of the following: 22023

(A) Assessment of the uses school districts and institutions 22024
of higher education make of state money they receive and 22025
determination of the extent to which such money improves school 22026
district or institutional performance in the areas for which the 22027
money was intended to be used; 22028

(B) Determination of whether an education program meets its 22029
intended goals, has adequate operating or administrative 22030
procedures and fiscal controls, encompasses only authorized 22031
activities, has any undesirable or unintended effects, and is 22032
efficiently managed; 22033

(C) Examination of various pilot programs developed and 22034
initiated in school districts and at state-assisted colleges and 22035
universities to determine whether such programs suggest 22036
innovative, effective ways to deal with problems that may exist in 22037
other school districts or state-assisted colleges or universities, 22038
and to assess the fiscal costs and likely impact of adopting such 22039
programs throughout the state or in other state-assisted colleges 22040
and universities. 22041

The committee shall report the results of each program review 22042
the office conducts to the general assembly. 22043

If the general assembly directs the legislative office of 22044
education oversight to submit a study to the general assembly by a 22045
particular date, the committee has the authority to modify the 22046

scope and due date of the study to accommodate the availability of 22047
data and resources. 22048

Sec. 3301.80. (A) There is hereby created the Ohio SchoolNet 22049
commission as an independent agency. The commission shall 22050
administer programs to provide financial and other assistance to 22051
school districts and other educational institutions for the 22052
acquisition and utilization of educational technology. 22053

The commission is a body corporate and politic, an agency of 22054
the state performing essential governmental functions of the 22055
state. 22056

(B)(1) The commission shall consist of ~~eleven~~ thirteen 22057
members, ~~seven~~ nine of whom are voting members. Of the voting 22058
members, one shall be appointed by the speaker of the house of 22059
representatives ~~and~~, one shall be appointed by the president of 22060
the senate, and two shall be appointed by the governor. The 22061
members appointed by the speaker of the house and the president of 22062
the senate shall not be members of the general assembly. The state 22063
superintendent of public instruction or a designee of the 22064
superintendent, the director of budget and management or a 22065
designee of the director, the director of administrative services 22066
or a designee of the director, the chairperson of the public 22067
utilities commission or a designee of the chairperson, and the 22068
director of the Ohio educational telecommunications network 22069
commission or a designee of the director shall serve on the 22070
commission as ex officio voting members. Of the nonvoting members, 22071
two shall be members of the house of representatives appointed by 22072
the speaker of the house and two shall be members of the senate 22073
appointed by the president of the senate. The members appointed 22074
from each house shall not be members of the same political party. 22075
The commission shall appoint officers from among its members. 22076

(2) The members shall serve without compensation. The voting 22077

members appointed by the speaker of the house of representatives 22078
~~and~~, the president of the senate, and the governor shall be 22079
reimbursed, pursuant to office of budget and management 22080
guidelines, for necessary expenses incurred in the performance of 22081
official duties. 22082

(3) The terms of office for the members appointed by the 22083
speaker of the house ~~and~~, the president of the senate, and the 22084
governor shall be for two years, with each term ending on the same 22085
day of the same month as did the term that it succeeds, except 22086
that the voting members so appointed may be removed at ~~anytime~~ any 22087
time by their respective appointing authority. The members 22088
appointed by the speaker of the house ~~and~~, the president of the 22089
senate, and the governor may be reappointed. Any member appointed 22090
from the house of representatives or senate who ceases to be a 22091
member of the legislative house from which the member was 22092
appointed shall cease to be a member of the commission. Vacancies 22093
among appointed members shall be filled in the manner provided for 22094
original appointments. Any member appointed to fill a vacancy 22095
occurring prior to the expiration date of the term for which a 22096
predecessor was appointed shall hold office as a member for the 22097
remainder of that term. The members appointed by the speaker of 22098
the house ~~and~~, the president of the senate, and the governor shall 22099
continue in office subsequent to the expiration date of that 22100
member's term until a successor takes office or until a period of 22101
sixty days has elapsed, whichever occurs first. 22102

(C)(1) The commission shall be under the supervision of an 22103
executive director who shall be appointed by the commission. The 22104
executive director shall serve at the pleasure of the commission 22105
and shall direct commission employees in the administration of all 22106
programs for the provision of financial and other assistance to 22107
school districts and other educational institutions for the 22108
acquisition and utilization of educational technology. 22109

(2) The employees of the Ohio SchoolNet commission shall be placed in the unclassified service. The commission shall fix the compensation of the executive director. The executive director shall employ and fix the compensation for such employees as necessary to facilitate the activities and purposes of the commission. The employees shall serve at the pleasure of the executive director.

(3) The employees of the Ohio SchoolNet commission shall be exempt from Chapter 4117. of the Revised Code and shall not be public employees as defined in section 4117.01 of the Revised Code.

(D) The Ohio SchoolNet commission shall do all of the following:

(1) Make grants to institutions and other organizations as prescribed by the general assembly for the provision of technical assistance, professional development, and other support services to enable school districts, community schools established under Chapter 3314. of the Revised Code, and other educational institutions to utilize educational technology;

(2) Contract with the department of education, state institutions of higher education, private nonprofit institutions of higher education holding certificates of authorization under section 1713.02 of the Revised Code, and such other public or private entities as the executive director deems necessary for the administration and implementation of the programs under the commission's jurisdiction;

(3) Establish a reporting system to which school districts, community schools established under Chapter 3314. of the Revised Code, and other educational institutions receiving financial assistance pursuant to this section for the acquisition of educational technology report information as to the manner in

which such assistance was expended, the manner in which the 22141
equipment or services purchased with the assistance is being 22142
utilized, the results or outcome of this utilization, and other 22143
information as may be required by the commission; 22144

(4) Establish necessary guidelines governing purchasing and 22145
procurement by participants in programs administered by the 22146
commission that facilitate the timely and effective implementation 22147
of such programs; 22148

(5) Take into consideration the efficiency and cost savings 22149
of statewide procurement prior to allocating and releasing funds 22150
for any programs under its administration. 22151

(E)(1) The executive director shall implement policies and 22152
directives issued by the Ohio SchoolNet commission. 22153

(2) The Ohio SchoolNet commission may establish a systems 22154
support network to facilitate the timely implementation of the 22155
programs, projects, or activities for which it provides 22156
assistance. 22157

(3) Chapters 123., 124., 125., and 153., and sections 9.331, 22158
9.332, and 9.333 of the Revised Code do not apply to contracts, 22159
programs, projects, or activities of the Ohio SchoolNet 22160
commission. 22161

Sec. 3302.03. (A) Annually the department of education shall 22162
report for each school district the extent to which it meets each 22163
of the performance indicators created by the state board of 22164
education under section 3302.02 of the Revised Code and shall 22165
specify for each such district the number of performance 22166
indicators that have been achieved and whether the district is an 22167
excellent school district, an effective school district, needs 22168
continuous improvement, is under an academic watch, or is in a 22169
state of academic emergency. 22170

When possible, the department shall also determine for each 22171
school building in a district the extent to which it meets any of 22172
the performance indicators applicable to the grade levels of the 22173
students in that school building and whether the school building 22174
is an excellent school, an effective school, needs continuous 22175
improvement, is under an academic watch, or is in a state of 22176
academic emergency. 22177

(B) If the state board establishes seventeen performance 22178
indicators applicable to a school district or building under 22179
section 3302.02 of the Revised Code: 22180

(1) A school district or building shall be declared excellent 22181
if it meets at least sixteen of the applicable state performance 22182
indicators. 22183

(2) A school district or building shall be declared effective 22184
if it meets thirteen through fifteen of the applicable state 22185
performance indicators. 22186

(3) A school district or building shall be declared to be in 22187
need of continuous improvement if it meets more than eight but 22188
less than thirteen of the applicable state performance indicators. 22189

(4) A school district or building shall be declared to be 22190
under an academic watch if it meets more than five but not more 22191
than eight of the applicable state performance indicators. 22192

(5) A school district or building shall be declared to be in 22193
a state of academic emergency if it does not meet more than five 22194
of the applicable state performance indicators. 22195

(C) If the state board establishes more than seventeen 22196
performance indicators under section 3302.02 of the Revised Code, 22197
or if less than seventeen performance indicators are applicable to 22198
a school building, the state board shall establish the number of 22199
indicators that must be met in order for a district or building to 22200

be designated as excellent, effective, needs continuous 22201
improvement, is under an academic watch, or is in a state of 22202
academic emergency. The number established for each such category 22203
under this division shall bear a similar relationship to the total 22204
number of indicators as the number of indicators required for the 22205
respective categories stated in division (B) of this section bears 22206
to seventeen. 22207

(D)(1) The department shall issue annual report cards for 22208
each school district, each building within each district, and for 22209
the state as a whole reflecting performance on the indicators 22210
created by the state board under section 3302.02 of the Revised 22211
Code. 22212

(2) The department shall include on the report card for each 22213
district information pertaining to any change from the previous 22214
year made by the school district or school buildings within the 22215
district on any performance indicator. 22216

(3) When reporting data on student performance, the 22217
department shall disaggregate that data according to the following 22218
categories: 22219

(a) Performance of students by age group; 22220

(b) Performance of students by race and ethnic group; 22221

(c) Performance of students by gender; 22222

(d) Performance of students grouped by those who have been 22223
enrolled in a district or school for three or more years; 22224

(e) Performance of students grouped by those who have been 22225
enrolled in a district or school for more than one year and less 22226
than three years; 22227

(f) Performance of students grouped by those who have been 22228
enrolled in a district or school for one year or less; 22229

(g) ~~Performance of students grouped by those who are~~ 22230

classified as vocational education students pursuant to guidelines	22231
adopted by the department for purposes of this division;	22232
(h) Performance of students grouped by those who are	22233
economically disadvantaged, to the extent that such data is	22234
available from the education management information system	22235
established under section 3301.0714 of the Revised Code;	22236
(i) <u>(h)</u> Performance of students grouped by those who are	22237
enrolled in a conversion community school established under	22238
Chapter 3314. of the Revised Code.	22239
The department may disaggregate data on student performance	22240
according to other categories that the department determines are	22241
appropriate.	22242
In reporting data pursuant to division (D)(3) of this	22243
section, the department shall not include in the report cards any	22244
data statistical in nature that is statistically unreliable or	22245
that could result in the identification of individual students.	22246
(4) The department may include with the report cards any	22247
additional education and fiscal performance data it deems	22248
valuable.	22249
(5) The department shall include on each report card a list	22250
of additional information collected by the department that is	22251
available regarding the district or building for which the report	22252
card is issued. When available, such additional information shall	22253
include student mobility data disaggregated by race and	22254
socioeconomic status, college enrollment data, and the reports	22255
prepared under section 3302.031 of the Revised Code.	22256
The department shall maintain a site on the world wide web.	22257
The report card shall include the address of the site and shall	22258
specify that such additional information is available to the	22259
public at that site. The department shall also provide a copy of	22260
each item on the list to the superintendent of each school	22261

district. The district superintendent shall provide a copy of any 22262
item on the list to anyone who requests it. 22263

(6) For any district that sponsors a conversion community 22264
school under Chapter 3314. of the Revised Code, the department 22265
shall combine data regarding the academic performance of students 22266
enrolled in the community school with comparable data from the 22267
schools of the district for the purpose of calculating the 22268
performance of the district as a whole on the report card issued 22269
for the district. 22270

(E) In calculating reading, writing, mathematics, social 22271
studies, or science proficiency or achievement test passage rates 22272
used to determine school district performance under this section, 22273
the department shall include all students taking a test with 22274
accommodation or to whom an alternate assessment is administered 22275
pursuant to division (C)(1) of section 3301.0711 of the Revised 22276
Code, but shall not include any student excused from taking a test 22277
pursuant to division (C)(3) of that section, whether or not the 22278
student chose to take the test voluntarily in spite of the 22279
exemption granted in that division. 22280

Sec. 3311.05. (A) The territory within the territorial limits 22281
of a county, or the territory included in a district formed under 22282
either section 3311.053 or 3311.059 of the Revised Code, exclusive 22283
of the territory embraced in any city school district or exempted 22284
village school district, and excluding the territory detached 22285
therefrom for school purposes and including the territory attached 22286
thereto for school purposes constitutes an educational service 22287
center. 22288

(B) A county school financing district created under section 22289
3311.50 of the Revised Code is not the school district described 22290
in division (A) of this section or any other school district but 22291
is a taxing district. 22292

Sec. 3311.059. The procedure prescribed in this section may 22293
be used in lieu of a transfer prescribed under section 3311.231 of 22294
the Revised Code. 22295

(A) Subject to divisions (B) and (C) of this section, a board 22296
of education of a local school district may by a resolution 22297
approved by a majority of all its members propose to sever that 22298
local school district from the territory of the educational 22299
service center in which the local school district is currently 22300
included and to instead annex the local school district to the 22301
territory of another educational service center, the current 22302
territory of which is adjacent to the territory of the educational 22303
service center in which the local school district is currently 22304
included. The resolution shall promptly be filed with the 22305
governing board of each educational service center affected by the 22306
resolution and with the superintendent of public instruction. 22307

(B) The resolution adopted under division (A) of this section 22308
shall not be effective unless it is approved by both the governing 22309
board of the educational service center to which the board of 22310
education proposes to annex the local school district and the 22311
state board of education. The severance of the local school 22312
district from one educational service center and its annexation to 22313
another educational service center under this section shall not be 22314
effective until one year after the first day of July following the 22315
later of the date that the governing board of the educational 22316
service center to which the local school district is proposed to 22317
be annexed approves the resolution or the date the board of 22318
elections certifies the results of the referendum election as 22319
provided in division (C) of this section. 22320

(C) Within sixty days following the date of the adoption of 22321
the resolution under division (A) of this section, the electors of 22322
the local school district may petition for a referendum vote on 22323

the resolution. The question whether to approve or disapprove the 22324
resolution shall be submitted to the electors of such school 22325
district if a number of qualified electors equal to twenty per 22326
cent of the number of electors in the school district who voted 22327
for the office of governor at the most recent general election for 22328
that office sign a petition asking that the question of whether 22329
the resolution shall be disapproved be submitted to the electors. 22330
The petition shall be filed with the board of elections of the 22331
county in which the school district is located. If the school 22332
district is located in more than one county, the petition shall be 22333
filed with the board of elections of the county in which the 22334
majority of the territory of the school district is located. The 22335
board shall certify the validity and sufficiency of the signatures 22336
on the petition. 22337

The board of elections shall immediately notify the board of 22338
education of the local school district and the governing board of 22339
each educational service center affected by the resolution that 22340
the petition has been filed. 22341

The effect of the resolution shall be stayed until the board 22342
of elections certifies the validity and sufficiency of the 22343
signatures on the petition. If the board of elections determines 22344
that the petition does not contain a sufficient number of valid 22345
signatures and sixty days have passed since the adoption of the 22346
resolution, the resolution shall become effective as provided in 22347
division (B) of this section. 22348

If the board of elections certifies that the petition 22349
contains a sufficient number of valid signatures, the board shall 22350
submit the question to the qualified electors of the school 22351
district on the day of the next general or primary election held 22352
at least seventy-five days after the board of elections certifies 22353
the validity and sufficiency of signatures on the petition. The 22354
election shall be conducted and canvassed and the results shall be 22355

certified in the same manner as in regular elections for the 22356
election of members of a board of education. 22357

If a majority of the electors voting on the question 22358
disapprove the resolution, the resolution shall not become 22359
effective. If a majority of the electors voting on the question 22360
approve the resolution, the resolution shall become effective as 22361
provided in division (B) of this section. 22362

(D) Upon the effective date of the severance of the local 22363
school district from one educational service center and its 22364
annexation to another educational service center as provided in 22365
division (B) of this section, the governing board of each 22366
educational service center shall take such steps for the election 22367
of members of the governing board and for organization of the 22368
governing board as prescribed in Chapter 3313. of the Revised 22369
Code. 22370

Sec. 3311.24. (A) Except as provided in division (B) of this 22371
section, if the board of education of a city, exempted village, or 22372
local school district deems it advisable to transfer territory 22373
from such district to an adjoining city, exempted village, or 22374
local school district, or if a petition, signed by seventy-five 22375
per cent of the qualified electors residing within that portion of 22376
a city, exempted village, or local school district proposed to be 22377
transferred voting at the last general election, requests such a 22378
transfer, the board of education of the district in which such 22379
proposal originates shall file such proposal, together with a map 22380
showing the boundaries of the territory proposed to be 22381
transferred, with the state board of education prior to the first 22382
day of April in any even-numbered year. The state board of 22383
education may, if it is advisable, provide for a hearing in any 22384
suitable place in any of the school districts affected by such 22385
proposed transfer of territory. The state board of education or 22386

its representatives shall preside at any such hearing. 22387

A board of education of a city, exempted village, or local 22388
school district that receives a petition of transfer under this 22389
division shall cause the board of elections to check the 22390
sufficiency of signatures on the petition. 22391

Not later than the first day of September the state board of 22392
education shall either approve or disapprove a proposed transfer 22393
of territory filed with it as provided by this section and shall 22394
notify, in writing, the boards of education of the districts 22395
affected by such proposed transfer of territory of its decision. 22396

If the decision of the state board of education is an 22397
approval of the proposed transfer of territory then the board of 22398
education of the district in which the territory is located shall, 22399
within thirty days after receiving the state board of education's 22400
decision, adopt a resolution transferring the territory and shall 22401
forthwith submit a copy of such resolution to the treasurer of the 22402
board of education of the city, exempted village, or local school 22403
district to which the territory is transferred. Such transfer 22404
shall not be complete however, until: 22405

(1) A resolution accepting the transfer has been passed by a 22406
majority vote of the full membership of the board of education of 22407
the city, exempted village, or local school district to which the 22408
territory is transferred; 22409

(2) An equitable division of the funds and indebtedness 22410
between the districts involved has been made by the board of 22411
education making the transfer; 22412

(3) A map showing the boundaries of the territory transferred 22413
has been filed, by the board of education accepting the transfer, 22414
with the county auditor of each county affected by the transfer. 22415

When such transfer is complete the legal title of the school 22416
property in the territory transferred shall be vested in the board 22417

of education or governing board of the school district to which 22418
the territory is transferred. 22419

(B) Whenever the transfer of territory pursuant to this 22420
section is initiated by a board of education, the board shall, 22421
before filing a proposal for transfer with the state board of 22422
education under this section, make a good faith effort to 22423
negotiate the terms of transfer with any other school district 22424
whose territory would be affected by the transfer. Before the 22425
state board may hold a hearing on the transfer, or approve or 22426
disapprove any such transfer, it must receive the following: 22427

(1) A resolution requesting approval of the transfer, passed 22428
by the school district submitting the proposal; 22429

(2) Evidence determined to be sufficient by the state board 22430
to show that good faith negotiations have taken place or that the 22431
district requesting the transfer has made a good faith effort to 22432
hold such negotiations; 22433

(3) If any negotiations took place, a statement signed by all 22434
boards that participated in the negotiations, listing the terms 22435
agreed on and the points on which no agreement could be reached. 22436

Negotiations held pursuant to this section shall be governed 22437
by the rules adopted by the state board under division (D) of 22438
section 3311.06 of the Revised Code. Districts involved in a 22439
transfer under division (B) of this section may agree to share 22440
revenues from the property included in the territory to be 22441
transferred, establish cooperative programs between the 22442
participating districts, and establish mechanisms for the 22443
settlement of any future boundary disputes. 22444

~~Sec. 3311.26. A governing board of an educational service~~ 22445
~~center~~ The state board of education may, by resolution adopted by 22446
majority vote of its full membership, propose the creation of a 22447

new local school district from one or more local school districts 22448
or parts thereof, including the creation of a local district with 22449
noncontiguous territory from one or more local school districts if 22450
one of those districts has entered into an agreement under section 22451
3313.42 of the Revised Code. Such proposal shall include an 22452
accurate map showing the territory affected. After the adoption of 22453
the resolution, the ~~governing~~ state board shall file a copy of 22454
such proposal with the board of education of each school district 22455
whose boundaries would be altered by such proposal. 22456

~~A governing board of a service center proposing~~ Upon the 22457
creation of a new district under this section, the state board 22458
shall at its next regular meeting that occurs not earlier than 22459
thirty days after the adoption by the ~~governing~~ state board of the 22460
resolution proposing such creation, adopt a resolution making the 22461
creation effective prior to the next succeeding first day of July, 22462
unless, prior to the expiration of such thirty-day period, 22463
qualified electors residing in the area included in such proposed 22464
new district, equal in number to thirty-five per cent of the 22465
qualified electors voting at the last general election, file a 22466
petition of referendum against the creation of the proposed new 22467
district. 22468

A petition of referendum filed under this section shall be 22469
filed at the office of the ~~educational service center~~ state 22470
superintendent of public instruction. The person presenting the 22471
petition shall be given a receipt containing thereon the time of 22472
day, the date, and the purpose of the petition. 22473

If a petition of referendum is filed, the ~~governing~~ state 22474
board shall, at the next regular meeting of the ~~governing~~ state 22475
board, certify the proposal to the board of elections for the 22476
purpose of having the proposal placed on the ballot at the next 22477
general or primary election which occurs not less than 22478
seventy-five days after the date of such certification, or at a 22479

special election, the date of which shall be specified in the 22480
certification, which date shall not be less than seventy-five days 22481
after the date of such certification. 22482

Upon certification of a proposal to the board or boards of 22483
elections pursuant to this section, the board or boards of 22484
elections shall make the necessary arrangements for the submission 22485
of such question to the electors of the county or counties 22486
qualified to vote thereon, and the election shall be conducted and 22487
canvassed and the results shall be certified in the same manner as 22488
in regular elections for the election of members of a board of 22489
education. 22490

The persons qualified to vote upon a proposal are the 22491
electors residing in the proposed new districts. 22492

If the proposed district be approved by at least a majority 22493
of the electors voting on the proposal, the ~~governing state~~ board 22494
shall then create such new district prior to the next succeeding 22495
first day of July, ~~and shall so notify the state board of~~ 22496
~~education.~~ 22497

Upon the creation of such district, the indebtedness of each 22498
former district becoming in its entirety a part of the new 22499
district shall be assumed in full by the new district. Upon the 22500
creation of such district, that part of the net indebtedness of 22501
each former district becoming only in part a part of the new 22502
district shall be assumed by the new district which bears the same 22503
ratio to the entire net indebtedness of the former district as the 22504
assessed valuation of the part taken by the new district bears to 22505
the entire assessed valuation of the former district as fixed on 22506
the effective date of transfer. As used in this section, "net 22507
indebtedness" means the difference between the par value of the 22508
outstanding and unpaid bonds and notes of the school district and 22509
the amount held in the sinking fund and other indebtedness 22510
retirement funds for their redemption. Upon the creation of such 22511

district, the funds of each former district becoming in its 22512
entirety a part of the new district shall be paid over in full to 22513
the new district. Upon the creation of such district, the funds of 22514
each former district becoming only in part a part of the new 22515
district shall be divided equitably by the ~~governing~~ state board 22516
between the new district and that part of the former district not 22517
included in the new district as such funds existed on the 22518
effective date of the creation of the new district. 22519

The ~~governing~~ state board shall, following the election, file 22520
with the county auditor of each county affected by the creation of 22521
a new district an accurate map showing the boundaries of such 22522
newly created district. 22523

When a new local school district is so created ~~within an~~ 22524
~~educational service center~~, a board of education for such newly 22525
created district shall be appointed by the ~~educational service~~ 22526
~~center~~ governing state board. The members of such appointed board 22527
of education shall hold their office until their successors are 22528
elected and qualified. A board of education shall be elected for 22529
such newly created district at the next general election held in 22530
an odd numbered year occurring more than thirty days after the 22531
appointment of the board of education of such newly created 22532
district. At such election two members shall be elected for a term 22533
of two years and three members shall be elected for a term of four 22534
years, and, thereafter, their successors shall be elected in the 22535
same manner and for the same terms as members of the board of 22536
education of a local school district. 22537

When the new district consists of territory lying in two or 22538
more counties, the state board shall determine to which 22539
educational service center the new district shall be assigned. 22540

The legal title of all property of the board of education in 22541
the territory taken shall become vested in the board of education 22542
of the newly created school district. 22543

Foundation program moneys accruing to a district created 22544
under the provisions of this section or previous section 3311.26 22545
of the Revised Code, shall not be less, in any year during the 22546
next succeeding three years following the creation, than the sum 22547
of the amounts received by the districts separately in the year in 22548
which the creation of the district became effective. 22549

If, prior to the effective date of this amendment, a local 22550
school district board of education or a group of individuals 22551
requests the governing board of an educational service center to 22552
consider proposing the creation of a new local school district, 22553
the governing board, at any time during the one-year period 22554
following the date that request is made, may adopt a resolution 22555
proposing the creation of a new local school district in response 22556
to that request and in accordance with the first paragraph of the 22557
version of this section in effect prior to the effective date of 22558
this amendment. If the governing board so proposes within that 22559
one-year period, the governing board may proceed to create the new 22560
local school district as it proposed, in accordance with the 22561
version of this section in effect prior to the effective date of 22562
this amendment, subject to the provisions of that version 22563
authorizing a petition and referendum on the matter. 22564

Consolidations of school districts which include all of the 22565
schools of a county and which become effective on or after July 1, 22566
1959, shall be governed and included under this section. 22567

Sec. 3313.41. (A) Except as provided in divisions (C), (D), 22568
(F), and (G) of this section, when a board of education decides to 22569
dispose of real or personal property that it owns in its corporate 22570
capacity, and that exceeds in value ten thousand dollars, it shall 22571
sell the property at public auction, after giving at least thirty 22572
days' notice of the auction by publication in a newspaper of 22573
general circulation or by posting notices in five of the most 22574

public places in the school district in which the property, if it 22575
is real property, is situated, or, if it is personal property, in 22576
the school district of the board of education that owns the 22577
property. The board may offer real property for sale as an entire 22578
tract or in parcels. 22579

(B) When the board of education has offered real or personal 22580
property for sale at public auction at least once pursuant to 22581
division (A) of this section, and the property has not been sold, 22582
the board may sell it at a private sale. Regardless of how it was 22583
offered at public auction, at a private sale, the board shall, as 22584
it considers best, sell real property as an entire tract or in 22585
parcels, and personal property in a single lot or in several lots. 22586

(C) If a board of education decides to dispose of real or 22587
personal property that it owns in its corporate capacity and that 22588
exceeds in value ten thousand dollars, it may sell the property to 22589
the adjutant general; to any subdivision or taxing authority as 22590
respectively defined in divisions (A) and (C) of section 5705.01 22591
of the Revised Code, township park district, board of park 22592
commissioners established under Chapter 755. of the Revised Code, 22593
or park district established under Chapter 1545. of the Revised 22594
Code; to a wholly or partially tax-supported university, 22595
university branch, or college; or to the board of trustees of a 22596
school district library, upon such terms as are agreed upon. The 22597
sale of real or personal property to the board of trustees of a 22598
school district library is limited, in the case of real property, 22599
to a school district library within whose boundaries the real 22600
property is situated, or, in the case of personal property, to a 22601
school district library whose boundaries lie in whole or in part 22602
within the school district of the selling board of education. 22603

(D) When a board of education decides to trade as a part or 22604
an entire consideration, an item of personal property on the 22605
purchase price of an item of similar personal property, it may 22606

trade the same upon such terms as are agreed upon by the parties 22607
to the trade. 22608

(E) The president and the treasurer of the board of education 22609
shall execute and deliver deeds or other necessary instruments of 22610
conveyance to complete any sale or trade under this section. 22611

(F) When a board of education has identified a parcel of real 22612
property that it determines is needed for school purposes, the 22613
board may, upon a majority vote of the members of the board, 22614
acquire that property by exchanging real property that the board 22615
owns in its corporate capacity for the identified real property or 22616
by using real property that the board owns in its corporate 22617
capacity as part or an entire consideration for the purchase price 22618
of the identified real property. Any exchange or acquisition made 22619
pursuant to this division shall be made by a conveyance executed 22620
by the president and the treasurer of the board. 22621

(G)(1) When a school district board of education decides to 22622
dispose of real property suitable for use as classroom space, 22623
prior to disposing of such property under division (A) through (F) 22624
of this section, it shall first offer that property for sale to 22625
the governing authorities of the start-up community schools, 22626
established under Chapter 3314. of the Revised Code and located 22627
within the territory of the school district, at a price that is 22628
not higher than the appraised fair market value of that property. 22629
If more than one community school governing authority accepts the 22630
offer made by the school district board, the board shall sell the 22631
property to the governing authority that accepted the offer first 22632
in time. If no community school governing authority accepts the 22633
offer within sixty days after the offer is made by the school 22634
district board, the board may dispose of the property in the 22635
applicable manner prescribed under divisions (A) to (F) of this 22636
section. 22637

(2) If disposal of real property is planned as a part of a 22638

school district project under Chapter 3318. of the Revised Code, 22639
the Ohio school facilities commission shall not release any state 22640
funds to a school district until the district has complied with 22641
the provisions of division (G)(1) of this section, except for 22642
funds specified for demolition of a facility to clear a site for 22643
construction of a replacement facility included in the district's 22644
project. 22645

Sec. 3313.843. (A) Notwithstanding division (D) of section 22646
3311.52 of the Revised Code, this section does not apply to either 22647
of the following: 22648

(1) Any cooperative education school district; 22649

(2) Any city or exempted village school district with a total 22650
student count of thirteen thousand or more determined pursuant to 22651
section 3317.03 of the Revised Code that has not entered into one 22652
or more agreements pursuant to this section prior to July 1, 1993, 22653
unless the district's total student count did not exceed thirteen 22654
thousand at the time it entered into an initial agreement under 22655
this section. 22656

(B) The board of education of a city or exempted village 22657
school district and the governing board of an educational service 22658
center with territory in a county in which the city or exempted 22659
village school district also has territory may enter into an 22660
agreement, through adoption of identical resolutions, under which 22661
the educational service center governing board will provide 22662
services to the city or exempted village school district. 22663

Services provided under the agreement shall be specified in 22664
the agreement, and may include any one or a combination of the 22665
following: supervisory teachers; in-service and continuing 22666
education programs for city or exempted village school district 22667
personnel; curriculum services as provided to the local school 22668
districts under the supervision of the service center governing 22669

board; research and development programs; academic instruction for 22670
which the governing board employs teachers pursuant to section 22671
3319.02 of the Revised Code; and assistance in the provision of 22672
special accommodations and classes for handicapped students. 22673
Services included in the agreement shall be provided to the city 22674
or exempted village district in the same manner they are provided 22675
to local school districts under the governing board's supervision, 22676
unless otherwise specified in the agreement. The city or exempted 22677
village board of education shall reimburse the educational service 22678
center governing board pursuant to section 3317.11 of the Revised 22679
Code. 22680

(C)(1) If an educational service center received funding 22681
under division (B) of former section 3317.11 or division (F) of 22682
section 3317.11 of the Revised Code for an agreement under this 22683
section involving a city school district whose total student count 22684
was less than thirteen thousand, the service center may continue 22685
to receive funding under that division for such an agreement in 22686
any subsequent year if the city district's total student count 22687
exceeds thirteen thousand. However, only the first thirteen 22688
thousand pupils in the formula ADM of such district shall be 22689
included in determining the amount of the per pupil subsidy the 22690
service center shall receive under division ~~(B)~~(F) of section 22691
3317.11 of the Revised Code. 22692

(2) If, prior to ~~the effective date of this amendment~~ July 1, 22693
1998, an educational service center received funding under 22694
division (B) of former section 3317.11 of the Revised Code for a 22695
period of at least three years, for a good faith agreement under 22696
this section involving a city school district with no territory in 22697
the county in which the educational service center has territory, 22698
that educational service center and that city school district may 22699
enter into an agreement under this section, and the service center 22700
shall receive funding under division ~~(B)~~(F) of section 3317.11 of 22701

the Revised Code for any such agreement, notwithstanding the 22702
territorial boundaries of the service center and the city school 22703
district. 22704

(D) Any agreement entered into pursuant to this section shall 22705
be valid only if a copy is filed with the department of education 22706
by the first day of the school year for which the agreement is in 22707
effect. 22708

Sec. 3313.976. (A) No private school may receive scholarship 22709
payments from parents pursuant to section 3313.979 of the Revised 22710
Code until the chief administrator of the private school registers 22711
the school with the superintendent of public instruction. The 22712
state superintendent shall register any school that meets the 22713
following requirements: 22714

(1) The school is located within the boundaries of the pilot 22715
project school district; 22716

(2) The school indicates in writing its commitment to follow 22717
all requirements for a state-sponsored scholarship program 22718
specified under sections 3313.974 to 3313.979 of the Revised Code, 22719
including, but not limited to, the requirements for admitting 22720
students pursuant to section 3313.977 of the Revised Code; 22721

(3) The school meets all state minimum standards for 22722
chartered nonpublic schools in effect on July 1, 1992, except that 22723
the state superintendent at the superintendent's discretion may 22724
register nonchartered nonpublic schools meeting the other 22725
requirements of this division; 22726

(4) The school does not discriminate on the basis of race, 22727
religion, or ethnic background; 22728

(5) The school enrolls a minimum of ten students per class or 22729
a sum of at least twenty-five students in all the classes offered; 22730

(6) The school does not advocate or foster unlawful behavior 22731

or teach hatred of any person or group on the basis of race, 22732
ethnicity, national origin, or religion; 22733

(7) The school does not provide false or misleading 22734
information about the school to parents, students, or the general 22735
public; 22736

(8) The school agrees not to charge any tuition to low-income 22737
families ~~participating in receiving ninety per cent of the~~ 22738
scholarship amount through the scholarship program, pursuant to 22739
division (A) of section 3313.978 of the Revised Code, in excess of 22740
ten per cent of the scholarship amount established pursuant to 22741
division (C)(1) of section 3313.978 of the Revised Code, excluding 22742
any increase described in division (C)(2) of that section. The 22743
school shall permit any such tuition, at the discretion of the 22744
parent, to be satisfied by the low-income family's provision of 22745
in-kind contributions or services. 22746

(9) The school agrees not to charge any tuition to low-income 22747
families receiving a seventy-five per cent scholarship amount 22748
through the scholarship program, pursuant to division (A) of 22749
section 3313.978 of the Revised Code, in excess of the difference 22750
between the actual tuition charge of the school and seventy-five 22751
per cent of the scholarship amount established pursuant to 22752
division (C)(1) of section 3313.978 of the Revised Code, excluding 22753
any increase described in division (C)(2) of that section. The 22754
school shall permit such tuition, at the discretion of the parent, 22755
to be satisfied by the low-income family's provision of in-kind 22756
contributions or services. 22757

(B) The state superintendent shall revoke the registration of 22758
any school if, after a hearing, the superintendent determines that 22759
the school is in violation of any of the provisions of division 22760
(A) of this section. 22761

(C) Any public school located in a school district adjacent 22762

to the pilot project district may receive scholarship payments on 22763
behalf of parents pursuant to section 3313.979 of the Revised Code 22764
if the superintendent of the district in which such public school 22765
is located notifies the state superintendent prior to the first 22766
day of March that the district intends to admit students from the 22767
pilot project district for the ensuing school year pursuant to 22768
section 3327.06 of the Revised Code. 22769

(D) Any parent wishing to purchase tutorial assistance from 22770
any person or governmental entity pursuant to the pilot project 22771
program under sections 3313.974 to 3313.979 of the Revised Code 22772
shall apply to the state superintendent. The state superintendent 22773
shall approve providers who appear to possess the capability of 22774
furnishing the instructional services they are offering to 22775
provide. 22776

Sec. 3313.978. (A) Annually by the first day of November, the 22777
superintendent of public instruction shall notify the pilot 22778
project school district of the number of initial scholarships that 22779
the state superintendent will be awarding in each of grades 22780
kindergarten through third. 22781

The state superintendent shall provide information about the 22782
scholarship program to all students residing in the district, 22783
shall accept applications from any such students until such date 22784
as shall be established by the state superintendent as a deadline 22785
for applications, and shall establish criteria for the selection 22786
of students to receive scholarships from among all those applying 22787
prior to the deadline, which criteria shall give preference to 22788
students from low-income families. For each student selected, the 22789
state superintendent shall also determine whether the student 22790
qualifies for seventy-five or ninety per cent of the scholarship 22791
amount. Students whose family income is at or above two hundred 22792
per cent of the maximum income level established by the state 22793

superintendent for low-income families shall qualify for 22794
seventy-five per cent of the scholarship amount and students whose 22795
family income is below two hundred per cent of that maximum income 22796
level shall qualify for ninety per cent of the scholarship amount. 22797
The state superintendent shall notify students of their selection 22798
prior to the fifteenth day of January and whether they qualify for 22799
seventy-five or ninety per cent of the scholarship amount. 22800

(1) A student receiving a pilot project scholarship may 22801
utilize it at an alternative public school by notifying the 22802
district superintendent, at any time before the beginning of the 22803
school year, of the name of the public school in an adjacent 22804
school district to which the student has been accepted pursuant to 22805
section 3327.06 of the Revised Code. 22806

(2) A student may decide to utilize a pilot project 22807
scholarship at a registered private school in the district if all 22808
of the following conditions are met: 22809

(a) By the fifteenth day of February of the preceding school 22810
year, or at any time prior to the start of the school year, the 22811
parent makes an application on behalf of the student to a 22812
registered private school. 22813

(b) The registered private school notifies the parent and the 22814
state superintendent as follows that the student has been 22815
admitted: 22816

(i) By the fifteenth day of March of the preceding school 22817
year if the student filed an application by the fifteenth day of 22818
February and was admitted by the school pursuant to division (A) 22819
of section 3313.977 of the Revised Code; 22820

(ii) Within one week of the decision to admit the student if 22821
the student is admitted pursuant to division (C) of section 22822
3313.977 of the Revised Code. 22823

(c) The student actually enrolls in the registered private 22824

school to which the student was first admitted or in another 22825
registered private school in the district or in a public school in 22826
an adjacent school district. 22827

(B) The state superintendent shall also award in any school 22828
year tutorial assistance grants to a number of students equal to 22829
the number of students who receive scholarships under division (A) 22830
of this section. Tutorial assistance grants shall be awarded 22831
solely to students who are enrolled in the public schools of the 22832
district in a grade level covered by the pilot project. Tutorial 22833
assistance grants may be used solely to obtain tutorial assistance 22834
from a provider approved pursuant to division (D) of section 22835
3313.976 of the Revised Code. 22836

All students wishing to obtain tutorial assistance grants 22837
shall make application to the state superintendent by the first 22838
day of the school year in which the assistance will be used. The 22839
state superintendent shall award assistance grants in accordance 22840
with criteria the superintendent shall establish. For each student 22841
awarded a grant, the state superintendent shall also determine 22842
whether the student qualifies for seventy-five or ninety per cent 22843
of the grant amount and so notify the student. Students whose 22844
family income is at or above two hundred per cent of the maximum 22845
income level established by the state superintendent for 22846
low-income families shall qualify for seventy-five per cent of the 22847
grant amount and students whose family income is below two hundred 22848
per cent of that maximum income level shall qualify for ninety per 22849
cent of the grant amount. 22850

(C)(1) In the case of basic scholarships, the scholarship 22851
amount shall not exceed the lesser of the tuition charges of the 22852
alternative school the scholarship recipient attends or an amount 22853
established by the state superintendent not in excess of 22854
~~twenty-five hundred~~ three thousand dollars. 22855

(2) The state superintendent shall provide for an increase in 22856

the basic scholarship amount in the case of any student who is a 22857
mainstreamed handicapped student and shall further increase such 22858
amount in the case of any separately educated handicapped child. 22859
Such increases shall take into account the instruction, related 22860
services, and transportation costs of educating such students. 22861

(3) In the case of tutorial assistance grants, the grant 22862
amount shall not exceed the lesser of the provider's actual 22863
charges for such assistance or a percentage established by the 22864
state superintendent, not to exceed twenty per cent, of the amount 22865
of the pilot project school district's average basic scholarship 22866
amount. 22867

(4) No scholarship or tutorial assistance grant shall be 22868
awarded unless the state superintendent determines that 22869
twenty-five or ten per cent, as applicable, of the amount 22870
specified for such scholarship or grant pursuant to division 22871
(C)(1), (2), or (3) of this section will be furnished by a 22872
political subdivision, a private nonprofit or for profit entity, 22873
or another person. Only seventy-five or ninety per cent of such 22874
amounts, as applicable, shall be paid from state funds pursuant to 22875
section 3313.979 of the Revised Code. 22876

(D)(1) Annually by the first day of November, the state 22877
superintendent shall estimate the maximum per-pupil scholarship 22878
amounts for the ensuing school year. The state superintendent 22879
shall make this estimate available to the general public at the 22880
offices of the district board of education together with the forms 22881
required by division (D)(2) of this section. 22882

(2) Annually by the fifteenth day of January, the chief 22883
administrator of each registered private school located in the 22884
pilot project district and the principal of each public school in 22885
such district shall complete a parental information form and 22886
forward it to the president of the board of education. The 22887
parental information form shall be prescribed by the department of 22888

education and shall provide information about the grade levels 22889
offered, the numbers of students, tuition amounts, achievement 22890
test results, and any sectarian or other organizational 22891
affiliations. 22892

Sec. 3313.979. Each scholarship ~~or grant~~ to be used for 22893
payments to a registered private school ~~or to an approved tutorial~~ 22894
~~assistance provider~~ is payable to the parents of the student 22895
entitled to the scholarship ~~or grant~~. Each scholarship to be used 22896
for payments to a public school in an adjacent school district is 22897
payable to the school district of attendance by the superintendent 22898
of public instruction. Each grant to be used for payments to an 22899
approved tutorial assistance provider is payable to the approved 22900
tutorial assistance provider. 22901

(A)(1) By the fifteenth day of each month of the school year 22902
that any scholarship students are enrolled in a registered private 22903
school, the chief administrator of that school shall notify the 22904
state superintendent of: 22905

(a) The number of students who were reported to the school 22906
district as having been admitted by that private school pursuant 22907
to division (A)(2)(b) of section 3313.978 of the Revised Code and 22908
who were still enrolled in the private school as of the first day 22909
of such month, and the numbers of such students who qualify for 22910
seventy-five and ninety per cent of the scholarship amount; 22911

(b) The number of students who were reported to the school 22912
district as having been admitted by another private school 22913
pursuant to division (A)(2)(b) of section 3313.978 of the Revised 22914
Code and since the date of admission have transferred to the 22915
school providing the notification under division (A)(1) of this 22916
section, and the numbers of such students who qualify for 22917
seventy-five and ninety per cent of the scholarship amount. 22918

(2) From time to time, the state superintendent shall make a 22919

payment to the parent of each student entitled to a scholarship. 22920
Each payment shall include for each student reported under 22921
division (A)(1) of this section, a portion of seventy-five or 22922
ninety per cent, as applicable, of the scholarship amount 22923
specified in divisions (C)(1) and (2) of section 3313.978 of the 22924
Revised Code. This amount shall be proportionately reduced in the 22925
case of any such student who is not enrolled in a registered 22926
private school for the entire school year. 22927

(3) The first payment under this division shall be made by 22928
the last day of November and shall equal one-third of seventy-five 22929
or ninety per cent, as applicable, of the estimated total amount 22930
that will be due to the parent for the school year pursuant to 22931
division (A)(2) of this section. 22932

(B) The state superintendent, on behalf of the parents of a 22933
scholarship student enrolled in a public school in an adjacent 22934
school district pursuant to section 3327.06 of the Revised Code, 22935
shall make the tuition payments required by that section to the 22936
school district admitting the student, except that, 22937
notwithstanding sections 3323.13, 3323.14, and 3327.06 of the 22938
Revised Code, the total payments in any school year shall not 22939
exceed seventy-five or ninety per cent, as applicable, of the 22940
scholarship amount provided in divisions (C)(1) and (2) of section 22941
3313.978 of the Revised Code. 22942

(C) Whenever an approved provider provides tutorial 22943
assistance to a student, the state superintendent shall pay the 22944
~~parent~~ approved provider for such costs upon receipt of a 22945
statement ~~from the parent~~ specifying the services provided and the 22946
costs of the services, which statement shall be signed by the 22947
provider and verified by the chief administrator having 22948
supervisory control over the tutoring site. The total payments to 22949
any ~~parent~~ approved provider under this division for all provider 22950
services to any individual student in any school year shall not 22951

exceed seventy-five or ninety per cent, as applicable, of the 22952
grant amount provided in division (C)(3) of section 3313.978 of 22953
the Revised Code. 22954

Sec. 3313.981. (A) The state board shall adopt rules 22955
requiring all of the following: 22956

(1) The board of education of each city, exempted village, 22957
and local school district to annually report to the department of 22958
education all of the following: 22959

(a) The number of adjacent district or other district 22960
students, as applicable, and adjacent district or other district 22961
joint vocational students, as applicable, enrolled in the district 22962
and the number of native students enrolled in adjacent or other 22963
districts, in accordance with a policy adopted under division (B) 22964
of section 3313.98 of the Revised Code; 22965

(b) Each adjacent district or other district student's or 22966
adjacent district or other district joint vocational student's 22967
date of enrollment in the district; 22968

(c) The full-time equivalent number of adjacent district or 22969
other district students enrolled in vocational education programs 22970
or classes described in division (A) of section 3317.014 of the 22971
Revised Code and the full-time equivalent number of such students 22972
enrolled in vocational education programs or classes described in 22973
division (B) of that section; 22974

(d) Each native student's date of enrollment in an adjacent 22975
or other district. 22976

(2) The board of education of each joint vocational school 22977
district to annually report to the department all of the 22978
following: 22979

(a) The number of adjacent district or other district joint 22980
vocational students, as applicable, enrolled in the district; 22981

(b) The full-time equivalent number of adjacent district or other district joint vocational students enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code and the full-time equivalent number of such students enrolled in vocational education programs or classes described in division (B) of that section;

(c) For each adjacent district or other district joint vocational student, the city, exempted village, or local school district in which the student is also enrolled.

(3) Prior to the first full school week in October each year, the superintendent of each city, local, or exempted village school district that admits adjacent district or other district students or adjacent district or other district joint vocational students in accordance with a policy adopted under division (B) of section 3313.98 of the Revised Code to notify each adjacent or other district where those students are entitled to attend school under section 3313.64 or 3313.65 of the Revised Code of the number of the adjacent or other district's native students who are enrolled in the superintendent's district under the policy.

The rules shall provide for the method of counting students who are enrolled for part of a school year in an adjacent or other district or as an adjacent district or other district joint vocational student.

(B) From the payments made to a city, exempted village, or local school district under Chapter 3317. of the Revised Code, the department of education shall annually subtract both of the following:

(1) An amount equal to the number of the district's native students reported under division (A)(1) of this section who are enrolled in adjacent or other school districts pursuant to policies adopted by such districts under division (B) of section

3313.98 of the Revised Code multiplied by the adjusted formula	23013
amount for the district;	23014
(2) The excess costs computed in accordance with division (E)	23015
of this section for any such native students receiving special	23016
education and related services in adjacent or other school	23017
districts or as an adjacent district or other district joint	23018
vocational student;	23019
(3) For the full-time equivalent number of the district's	23020
native students reported under division (A)(1)(c) or (2)(b) of	23021
this section as enrolled in vocational education programs or	23022
classes described in section 3317.014 of the Revised Code, an	23023
amount equal to the formula amount times the applicable multiple	23024
prescribed by that section.	23025
(C) To the payments made to a city, exempted village, or	23026
local school district under Chapter 3317. of the Revised Code, the	23027
department of education shall annually add all of the following:	23028
(1) An amount equal to the adjusted formula amount for the	23029
district multiplied by the remainder obtained by subtracting the	23030
number of adjacent district or other district joint vocational	23031
students from the number of adjacent district or other district	23032
students enrolled in the district, as reported under division	23033
(A)(1) of this section;	23034
(2) The excess costs computed in accordance with division (E)	23035
of this section for any adjacent district or other district	23036
students, except for any adjacent or other district joint	23037
vocational students, receiving special education and related	23038
services in the district;	23039
(3) For the full-time equivalent number of the adjacent or	23040
other district students who are not adjacent district or other	23041
district joint vocational students and are reported under division	23042
(A)(1)(c) of this section as enrolled in vocational education	23043

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 student is also enrolled;

(2) An amount equal to the full-time equivalent number of students reported pursuant to division (A)(2)(b) of this section times the formula amount times the applicable multiple prescribed by section 3317.014 of the Revised Code.

(E)(1) A city, exempted village, or local school board providing special education and related services to an adjacent or other district student in accordance with an IEP shall, pursuant to rules of the state board, compute the excess costs to educate such student as follows:

(a) Subtract the adjusted formula amount for the district from the actual costs to educate the student;

(b) From the amount computed under division (E)(1)(a) of this section subtract the amount of any funds received by the district under Chapter 3317. of the Revised Code to provide special education and related services to the student.

(2) The board shall report the excess costs computed under 23074
this division to the department of education. 23075

(3) If any student for whom excess costs are computed under 23076
division (E)(1) of this section is an adjacent or other district 23077
joint vocational student, the department of education shall add 23078
the amount of such excess costs to the payments made under Chapter 23079
3317. of the Revised Code to the joint vocational school district 23080
enrolling the student. 23081

(F) As provided in division (D)(1)(b) of section 3317.03 of 23082
the Revised Code, no joint vocational school district shall count 23083
any adjacent or other district joint vocational student enrolled 23084
in the district in its formula ADM certified under section 3317.03 23085
of the Revised Code. 23086

(G) No city, exempted village, or local school district shall 23087
receive a payment under division (C) of this section for a 23088
student, and no joint vocational school district shall receive a 23089
payment under division (D) of this section for a student, if for 23090
the same school year that student is counted in the district's 23091
formula ADM certified under section 3317.03 of the Revised Code. 23092

(H) Upon request of a parent, and provided the board offers 23093
transportation to native students of the same grade level and 23094
distance from school under section 3327.01 of the Revised Code, a 23095
city, exempted village, or local school board enrolling an 23096
adjacent or other district student shall provide transportation 23097
for the student within the boundaries of the board's district, 23098
except that the board shall be required to pick up and drop off a 23099
nonhandicapped student only at a regular school bus stop 23100
designated in accordance with the board's transportation policy. 23101
Pursuant to rules of the state board of education, such board may 23102
reimburse the parent from funds received under division (D) of 23103
section 3317.022 of the Revised Code for the reasonable cost of 23104

transportation from the student's home to the designated school 23105
bus stop if the student's family has an income below the federal 23106
poverty line. 23107

Sec. 3314.02. (A) As used in this chapter: 23108

(1) "Sponsor" means an entity listed in division (C)(1) of 23109
this section, which has been approved by the department of 23110
education to sponsor community schools and with which the 23111
governing authority of the proposed community school enters into a 23112
contract pursuant to this section. 23113

(2) "Pilot project area" means the school districts included 23114
in the territory of the former community school pilot project 23115
established by former Section 50.52 of Am. Sub. H.B. No. 215 of 23116
the 122nd general assembly. 23117

(3) "Challenged school district" means any of the following: 23118

(a) A school district that is part of the pilot project area; 23119

(b) A school district that is either in a state of academic 23120
emergency or in a state of academic watch under section 3302.03 of 23121
the Revised Code; 23122

(c) A big eight school district; 23123

~~(d) An urban school district.~~ 23124

(4) "Big eight school district" means a school district that 23125
for fiscal year 1997 had both of the following: 23126

(a) A percentage of children residing in the district and 23127
participating in the predecessor of Ohio works first greater than 23128
thirty per cent, as reported pursuant to section 3317.10 of the 23129
Revised Code; 23130

(b) An average daily membership greater than twelve thousand, 23131
as reported pursuant to former division (A) of section 3317.03 of 23132
the Revised Code. 23133

(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.

(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.

(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.

(B) Any person or group of individuals may initially propose under this division the conversion of all or a portion of a public school to a community school. The proposal shall be made to the board of education of the city, local, or exempted village school district in which the public school is proposed to be converted. Upon receipt of a proposal, a board may enter into a preliminary agreement with the person or group proposing the conversion of the public school, indicating the intention of the board of education to support the conversion to a community school. A proposing person or group that has a preliminary agreement under this division may proceed to finalize plans for the school, establish a governing authority for the school, and negotiate a contract with the board of education. Provided the proposing person or group adheres to the preliminary agreement and all provisions of this chapter, the board of education shall negotiate in good faith to enter into a contract in accordance with section 3314.03 of the Revised Code and division (C) of this section.

(C)(1) Any person or group of individuals may propose under 23165
this division the establishment of a new start-up school to be 23166
located in a challenged school district. The proposal may be made 23167
to any of the following entities: 23168

(a) The board of education of the district in which the 23169
school is proposed to be located; 23170

(b) The board of education of any joint vocational school 23171
district with territory in the county in which is located the 23172
majority of the territory of the district in which the school is 23173
proposed to be located; 23174

(c) The board of education of any other city, local, or 23175
exempted village school district having territory in the same 23176
county where the district in which the school is proposed to be 23177
located has the major portion of its territory; 23178

(d) The governing board of any educational service center as 23179
long as the proposed school will be located in a county within the 23180
territory of the service center or in a county contiguous to such 23181
county; 23182

(e) A sponsoring authority designated by the board of 23183
trustees of any of the thirteen state universities listed in 23184
section 3345.011 of the Revised Code or the board of trustees 23185
itself as long as a mission of the proposed school to be specified 23186
in the contract under division (A)(2) of section 3314.03 of the 23187
Revised Code and as approved by the department of education under 23188
division (B)(2) of section 3314.015 of the Revised Code will be 23189
the practical demonstration of teaching methods, educational 23190
technology, or other teaching practices that are included in the 23191
curriculum of the university's teacher preparation program 23192
approved by the state board of education; 23193

(f) Any qualified tax-exempt entity under section 501(c)(3) 23194
of the Internal Revenue Code as long as all of the following 23195

conditions are satisfied:	23196
(i) The entity has been in operation for at least five years prior to applying to be a community school sponsor.	23197 23198
(ii) The entity has assets of at least five hundred thousand dollars.	23199 23200
(iii) The department of education has determined that the entity is an education-oriented entity under division (B)(3) of section 3314.015 of the Revised Code.	23201 23202 23203
Until July 1, 2005, any entity described in division (C)(1)(f) of this section may sponsor only schools that formerly were sponsored by the state board of education under division (C)(1)(d) of this section, as it existed prior to April 8, 2003. After July 1, 2005, such entity may sponsor any new or existing school.	23204 23205 23206 23207 23208 23209
Any entity described in division (C)(1) of this section may enter into a preliminary agreement pursuant to division (C)(2) of this section with the proposing person or group.	23210 23211 23212
(2) A preliminary agreement indicates the intention of an entity described in division (C)(1) of this section to sponsor the community school. A proposing person or group that has such a preliminary agreement may proceed to finalize plans for the school, establish a governing authority as described in division (E) of this section for the school, and negotiate a contract with the entity. Provided the proposing person or group adheres to the preliminary agreement and all provisions of this chapter, the entity shall negotiate in good faith to enter into a contract in accordance with section 3314.03 of the Revised Code.	23213 23214 23215 23216 23217 23218 23219 23220 23221 23222
(3) A new start-up school that is established in a school district while that district is either in a state of academic emergency or in a state of academic watch under section 3302.03 of the Revised Code may continue in existence once the school	23223 23224 23225 23226

district is no longer in a state of academic emergency or academic 23227
watch, provided there is a valid contract between the school and a 23228
sponsor. 23229

(4) A copy of every preliminary agreement entered into under 23230
this division shall be filed with the superintendent of public 23231
instruction. 23232

(D) A majority vote of the board of a sponsoring entity and a 23233
majority vote of the members of the governing authority of a 23234
community school shall be required to adopt a contract and convert 23235
the public school to a community school or establish the new 23236
start-up school. Up to the statewide limit prescribed in section 23237
3314.013 of the Revised Code, an unlimited number of community 23238
schools may be established in any school district provided that a 23239
contract is entered into for each community school pursuant to 23240
this chapter. 23241

(E) As used in this division, "immediate relatives" are 23242
limited to spouses, children, parents, grandparents, siblings, and 23243
in-laws. 23244

Each new start-up community school established under this 23245
chapter shall be under the direction of a governing authority 23246
which shall consist of a board of not less than five individuals 23247
who are not owners or employees, or immediate relatives of owners 23248
or employees, of any for-profit firm that operates or manages a 23249
school for the governing authority. 23250

No person shall serve on the governing authority or operate 23251
the community school under contract with the governing authority 23252
so long as the person owes the state any money or is in a dispute 23253
over whether the person owes the state any money concerning the 23254
operation of a community school that has closed. 23255

(F) Nothing in this chapter shall be construed to permit the 23256
establishment of a community school in more than one school 23257

district under the same contract. 23258

(G) A new start-up school that is established prior to the 23259
effective date of this amendment in an urban school district that 23260
is not also a big-eight school district may continue to operate 23261
after the effective date of this amendment and the contract 23262
between the school's governing authority and the school's sponsor 23263
may be renewed, as provided under this chapter, after the 23264
effective date of this amendment, but no additional new start-up 23265
schools may be established in such a district unless the district 23266
is a challenged school district as defined in this section as it 23267
exists on and after the effective date of this amendment. 23268

Sec. 3314.033. (A) Not later than ninety days after the 23269
effective date of this section, the state board of education shall 23270
adopt rules in accordance with Chapter 119. of the Revised Code 23271
establishing standards governing the operation of internet- or 23272
computer-based community schools, as defined in section 3314.02 of 23273
the Revised Code, and other educational courses delivered 23274
primarily via electronic media. 23275

(B) Each internet- or computer-based community school in 23276
operation on or after the effective date of this section shall 23277
comply with the standards adopted by the state board under 23278
division (A) of this section regardless of whether the school's 23279
contract with its sponsor contains a stipulation requiring such 23280
compliance. 23281

Sec. 3314.041. The governing authority of each community 23282
school and any operator of such school shall ~~place in a~~ 23283
~~conspicuous manner in all documents that are distributed~~ 23284
distribute to parents of students of the school ~~or to the general~~ 23285
~~public~~ upon their enrollment in the school the following statement 23286
in writing: 23287

"The (here fill in name of the school) school 23288
is a community school established under Chapter 3314. of the 23289
Revised Code. The school is a public school and students enrolled 23290
in and attending the school are required to take proficiency tests 23291
and other examinations prescribed by law. In addition, there may 23292
be other requirements for students at the school that are 23293
prescribed by law. Students who have been excused from the 23294
compulsory attendance law for the purpose of home education as 23295
defined by the Administrative Code shall no longer be excused for 23296
that purpose upon their enrollment in a community school. For more 23297
information about this matter contact the school administration or 23298
the Ohio Department of Education." 23299

Sec. 3314.07. (A) The expiration of the contract for a 23300
community school between a sponsor and a school shall be the date 23301
provided in the contract. A successor contract may be entered into 23302
pursuant to division (E) of section 3314.03 of the Revised Code 23303
unless the contract is terminated or not renewed pursuant to this 23304
section. 23305

(B)(1) A sponsor may choose not to renew a contract at its 23306
expiration or may choose to terminate a contract prior to its 23307
expiration for any of the following reasons: 23308

(a) Failure to meet student performance requirements stated 23309
in the contract; 23310

(b) Failure to meet generally accepted standards of fiscal 23311
management; 23312

(c) Violation of any provision of the contract or applicable 23313
state or federal law; 23314

(d) Other good cause. 23315

(2) A sponsor may choose to terminate a contract prior to its 23316
expiration if the sponsor has suspended the operation of the 23317

contract under section 3314.072 of the Revised Code. 23318

(3) At least ninety days prior to the termination or 23319
nonrenewal of a contract, the sponsor shall notify the school of 23320
the proposed action in writing. The notice shall include the 23321
reasons for the proposed action in detail, the effective date of 23322
the termination or nonrenewal, and a statement that the school 23323
may, within fourteen days of receiving the notice, request an 23324
informal hearing before the sponsor. Such request must be in 23325
writing. The informal hearing shall be held within seventy days of 23326
the receipt of a request for the hearing. Promptly following the 23327
informal hearing, the sponsor shall issue a written decision 23328
either affirming or rescinding the decision to terminate or not 23329
renew the contract. 23330

(4) A decision by the sponsor to terminate a contract may be 23331
appealed to the state board of education. The decision by the 23332
state board pertaining to an appeal under this division is final. 23333
If the sponsor is the state board, its decision to terminate a 23334
contract under division (B)(3) of this section shall be final. 23335

(5) The termination of a contract under this section shall be 23336
effective upon the occurrence of the later of the following 23337
events: 23338

(a) Ninety days following the date the sponsor notifies the 23339
school of its decision to terminate the contract as prescribed in 23340
division (B)(3) of this section; 23341

(b) If an informal hearing is requested under division (B)(3) 23342
of this section and as a result of that hearing the sponsor 23343
affirms its decision to terminate the contract, the effective date 23344
of the termination specified in the notice issued under division 23345
(B)(3) of this section, or if that decision is appealed to the 23346
state board under division (B)(4) of this section and the state 23347
board affirms that decision, the date established in the 23348

resolution of the state board affirming the sponsor's decision. 23349

(6) Any community school whose contract is terminated under this division shall not enter into a contract with any other sponsor. 23350
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(C) A child attending a community school whose contract has 23353
been terminated, nonrenewed, or suspended or that closes for any 23354
reason shall be admitted to the schools of the district in which 23355
the child is entitled to attend under section 3313.64 or 3313.65 23356
of the Revised Code. Any deadlines established for the purpose of 23357
admitting students under section 3313.97 or 3313.98 of the Revised 23358
Code shall be waived for students to whom this division pertains. 23359

(D) If a community school does not intend to renew a contract with its sponsor, the community school shall notify its sponsor in writing of that fact at least one hundred eighty days prior to the expiration of the contract. Such a community school may enter into a contract with a new sponsor in accordance with section 3314.03 of the Revised Code upon the expiration of the previous contract. 23360
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(E) A sponsor of a community school and the officers, 23366
directors, or employees of such a sponsor are not liable in 23367
damages in a tort or other civil action for harm allegedly arising 23368
from either of the following: 23369

(1) A failure of the community school or any of its officers, 23370
directors, or employees to perform any statutory or common law 23371
duty or responsibility or any other legal obligation; 23372

(2) An action or omission of the community school or any of 23373
its officers, directors, or employees that results in harm. 23374

~~(E)~~(F) As used in this section: 23375

(1) "Harm" means injury, death, or loss to person or 23376
property. 23377

(2) "Tort action" means a civil action for damages for 23378

injury, death, or loss to person or property other than a civil 23379
action for damages for a breach of contract or another agreement 23380
between persons. 23381

Sec. 3314.08. (A) As used in this section: 23382

(1) "Base formula amount" means the amount specified as such 23383
in a community school's financial plan for a school year pursuant 23384
to division (A)(15) of section 3314.03 of the Revised Code. 23385

(2) "Cost-of-doing-business factor" has the same meaning as 23386
in section 3317.02 of the Revised Code. 23387

(3) "IEP" means an individualized education program as 23388
defined in section 3323.01 of the Revised Code. 23389

(4) "Applicable special education weight" means the multiple 23390
specified in section 3317.013 of the Revised Code for a handicap 23391
described in that section. 23392

(5) "Applicable vocational education weight" means: 23393

(a) For a student enrolled in vocational education programs 23394
or classes described in division (A) of section 3317.014 of the 23395
Revised Code, the multiple specified in that division; 23396

(b) For a student enrolled in vocational education programs 23397
or classes described in division (B) of section 3317.014 of the 23398
Revised Code, the multiple specified in that division. 23399

(6) "Entitled to attend school" means entitled to attend 23400
school in a district under section 3313.64 or 3313.65 of the 23401
Revised Code. 23402

(7) A community school student is "included in the DPIA 23403
student count" of a school district if the student is entitled to 23404
attend school in the district and: 23405

(a) For school years prior to fiscal year 2004, the student's 23406
family receives assistance under the Ohio works first program. 23407

(b) For school years in and after fiscal year 2004, the student's family income does not exceed the federal poverty guidelines, as defined in section 5101.46 of the Revised Code, and the student's family receives family assistance, as defined in section 3317.029 of the Revised Code.

(8) "DPIA reduction factor" means the percentage figure, if any, for reducing the per pupil amount of disadvantaged pupil impact aid a community school is entitled to receive pursuant to divisions (D)(5) and (6) of this section in any year, as specified in the school's financial plan for the year pursuant to division (A)(15) of section 3314.03 of the Revised Code.

(9) "All-day kindergarten" has the same meaning as in section 3317.029 of the Revised Code.

(10) "SF-3 payment" means the sum of the payments to a school district in a fiscal year under divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 3317.022, divisions (J), (P), and (R) of section 3317.024, and sections 3317.029, 3317.0212, 3317.0213, 3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 3317.053 of the Revised Code after making the adjustments required by sections 3313.981 and 3313.979, divisions (B), (C), (D), (E), (K), (L), and (M) of section 3317.023, and division (C) of section 3317.20 of the Revised Code.

(B) The state board of education shall adopt rules requiring 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 23439
for each child, the community school in which the child is 23440
enrolled. 23441

(2) The governing authority of each community school 23442
established under this chapter to annually report all of the 23443
following: 23444

(a) The number of students enrolled in grades one through 23445
twelve and the number of students enrolled in kindergarten in the 23446
school who are not receiving special education and related 23447
services pursuant to an IEP; 23448

(b) The number of enrolled students in grades one through 23449
twelve and the number of enrolled students in kindergarten, who 23450
are receiving special education and related services pursuant to 23451
an IEP; 23452

(c) The number of students reported under division (B)(2)(b) 23453
of this section receiving special education and related services 23454
pursuant to an IEP for a handicap described in each of divisions 23455
(A) to (F) of section 3317.013 of the Revised Code; 23456

(d) The full-time equivalent number of students reported 23457
under divisions (B)(2)(a) and (b) of this section who are enrolled 23458
in vocational education programs or classes described in each of 23459
divisions (A) and (B) of section 3317.014 of the Revised Code that 23460
are provided by the community school; 23461

(e) ~~One-fourth~~ Ten per cent of the number of students 23462
reported under divisions (B)(2)(a) and (b) of this section who are 23463
not reported under division (B)(2)(d) of this section but who are 23464
enrolled in vocational education programs or classes described in 23465
each of divisions (A) and (B) of section 3317.014 of the Revised 23466
Code at a joint vocational school district under a contract 23467
between the community school and the joint vocational school 23468
district and are entitled to attend school in a city, local, or 23469

exempted village school district whose territory is part of the	23470
territory of the joint vocational district;	23471
(f) The number of enrolled preschool handicapped students	23472
receiving special education services in a state-funded unit;	23473
(g) The community school's base formula amount;	23474
(h) For each student, the city, exempted village, or local	23475
school district in which the student is entitled to attend school;	23476
(i) Any DPIA reduction factor that applies to a school year.	23477
(C) From the payments <u>SF-3 payment</u> made to a city, exempted	23478
village, or local school district under Chapter 3317. of the	23479
Revised Code and, if necessary, <u>from the payment made to the</u>	23480
<u>district under</u> sections 321.14 <u>321.24</u> and 323.156 of the Revised	23481
Code, the department of education shall annually subtract all the	23482
<u>sum</u> of the following: <u>amounts described in divisions (C)(1) to (5)</u>	23483
<u>of this section. However, the aggregate amount deducted under this</u>	23484
<u>division shall not exceed the sum of the district's SF-3 payment</u>	23485
<u>and its payment under sections 321.24 and 323.156 of the Revised</u>	23486
<u>Code.</u>	23487
(1) An amount equal to the sum of the amounts obtained when,	23488
for each community school where the district's students are	23489
enrolled, the number of the district's students reported under	23490
divisions (B)(2)(a), (b), and (e) of this section who are enrolled	23491
in grades one through twelve, and one-half the number of students	23492
reported under those divisions who are enrolled in kindergarten,	23493
in that community school is multiplied by the base formula amount	23494
of that community school as adjusted by the school district's	23495
cost-of-doing-business factor.	23496
(2) The sum of the amounts calculated under divisions	23497
(C)(2)(a) and (b) of this section:	23498
(a) For each of the district's students reported under	23499

division (B)(2)(c) of this section as enrolled in a community 23500
school in grades one through twelve and receiving special 23501
education and related services pursuant to an IEP for a handicap 23502
described in section 3317.013 of the Revised Code, the product of 23503
the applicable special education weight times the community 23504
school's base formula amount; 23505

(b) For each of the district's students reported under 23506
division (B)(2)(c) of this section as enrolled in kindergarten in 23507
a community school and receiving special education and related 23508
services pursuant to an IEP for a handicap described in section 23509
3317.013 of the Revised Code, one-half of the amount calculated as 23510
prescribed in division (C)(2)(a) of this section. 23511

(3) For each of the district's students reported under 23512
division (B)(2)(d) of this section for whom payment is made under 23513
division (D)(4) of this section, the amount of that payment; 23514

(4) An amount equal to the sum of the amounts obtained when, 23515
for each community school where the district's students are 23516
enrolled, the number of the district's students enrolled in that 23517
community school who are included in the district's DPIA student 23518
count is multiplied by the per pupil amount of disadvantaged pupil 23519
impact aid the school district receives that year pursuant to 23520
division (B) or (C) of section 3317.029 of the Revised Code, as 23521
adjusted by any DPIA reduction factor of that community school. If 23522
the district receives disadvantaged pupil impact aid under 23523
division (B) of that section, the per pupil amount of that aid is 23524
the quotient of the amount the district received under that 23525
division divided by the district's DPIA student count, as defined 23526
in that section. If the district receives disadvantaged pupil 23527
impact aid under division (C) of section 3317.029 of the Revised 23528
Code, the per pupil amount of that aid is the per pupil dollar 23529
amount prescribed for the district in division (C)(1) or (2) of 23530
that section. 23531

(5) An amount equal to the sum of the amounts obtained when, 23532
for each community school where the district's students are 23533
enrolled, the district's per pupil amount of aid received under 23534
division (E) of section 3317.029 of the Revised Code, as adjusted 23535
by any DPIA reduction factor of the community school, is 23536
multiplied by the sum of the following: 23537

(a) The number of the district's students reported under 23538
division (B)(2)(a) of this section who are enrolled in grades one 23539
to three in that community school and who are not receiving 23540
special education and related services pursuant to an IEP; 23541

(b) One-half of the district's students who are enrolled in 23542
all-day or any other kindergarten class in that community school 23543
and who are not receiving special education and related services 23544
pursuant to an IEP; 23545

(c) One-half of the district's students who are enrolled in 23546
all-day kindergarten in that community school and who are not 23547
receiving special education and related services pursuant to an 23548
IEP. 23549

The district's per pupil amount of aid under division (E) of 23550
section 3317.029 of the Revised Code is the quotient of the amount 23551
the district received under that division divided by the 23552
district's kindergarten through third grade ADM, as defined in 23553
that section. 23554

(D) The department shall annually pay to a community school 23555
established under this chapter ~~all the sum of the following:~~ 23556
amounts described in divisions (D)(1) to (6) of this section. 23557
However, the sum of the payments to all community schools under 23558
divisions (D)(1), (2), (4), (5), and (6) of this section for the 23559
students entitled to attend school in any particular school 23560
district shall not exceed the sum of that district's SF-3 payment 23561
and its payment under sections 321.24 and 323.156 of the Revised 23562

Code. If the sum of the payments calculated under those divisions 23563
for the students entitled to attend school in a particular school 23564
district exceeds the sum of that district's SF-3 payment and its 23565
payment under sections 321.24 and 323.156 of the Revised Code, the 23566
department shall calculate and apply a proration factor to the 23567
payments to all community schools under those divisions for the 23568
students entitled to attend school in that district. 23569

(1) An amount equal to the sum of the amounts obtained when 23570
the number of students enrolled in grades one through twelve, plus 23571
one-half of the kindergarten students in the school, reported 23572
under divisions (B)(2)(a), (b), and (e) of this section who are 23573
not receiving special education and related services pursuant to 23574
an IEP for a handicap described in section 3317.013 of the Revised 23575
Code is multiplied by the community school's base formula amount, 23576
as adjusted by the cost-of-doing-business factor of the school 23577
district in which the student is entitled to attend school; 23578

(2) The greater of the following: 23579

(a) The aggregate amount that the department paid to the 23580
community school in fiscal year 1999 for students receiving 23581
special education and related services pursuant to IEPs, excluding 23582
federal funds and state disadvantaged pupil impact aid funds; 23583

(b) The sum of the amounts calculated under divisions 23584
(D)(2)(b)(i) and (ii) of this section: 23585

(i) For each student reported under division (B)(2)(c) of 23586
this section as enrolled in the school in grades one through 23587
twelve and receiving special education and related services 23588
pursuant to an IEP for a handicap described in section 3317.013 of 23589
the Revised Code, the following amount: 23590

(the community school's base formula amount 23591

X the cost-of-doing-business factor 23592

of the district where the student 23593

is entitled to attend school) + 23594
(the applicable special education weight X 23595
the community school's base formula amount); 23596

(ii) For each student reported under division (B)(2)(c) of 23597
this section as enrolled in kindergarten and receiving special 23598
education and related services pursuant to an IEP for a handicap 23599
described in section 3317.013 of the Revised Code, one-half of the 23600
amount calculated under the formula prescribed in division 23601
(D)(2)(b)(i) of this section. 23602

(3) An amount received from federal funds to provide special 23603
education and related services to students in the community 23604
school, as determined by the superintendent of public instruction. 23605

(4) For each student reported under division (B)(2)(d) of 23606
this section as enrolled in vocational education programs or 23607
classes that are described in section 3317.014 of the Revised 23608
Code, are provided by the community school, and are comparable as 23609
determined by the superintendent of public instruction to school 23610
district vocational education programs and classes eligible for 23611
state weighted funding under section 3317.014 of the Revised Code, 23612
an amount equal to the applicable vocational education weight 23613
times the community school's base formula amount times the 23614
percentage of time the student spends in the vocational education 23615
programs or classes. 23616

(5) An amount equal to the sum of the amounts obtained when, 23617
for each school district where the community school's students are 23618
entitled to attend school, the number of that district's students 23619
enrolled in the community school who are included in the 23620
district's DPIA student count is multiplied by the per pupil 23621
amount of disadvantaged pupil impact aid that school district 23622
receives that year pursuant to division (B) or (C) of section 23623
3317.029 of the Revised Code, as adjusted by any DPIA reduction 23624
factor of the community school. The per pupil amount of aid shall 23625

be determined as described in division (C)(4) of this section. 23626

(6) An amount equal to the sum of the amounts obtained when, 23627
for each school district where the community school's students are 23628
entitled to attend school, the district's per pupil amount of aid 23629
received under division (E) of section 3317.029 of the Revised 23630
Code, as adjusted by any DPIA reduction factor of the community 23631
school, is multiplied by the sum of the following: 23632

(a) The number of the district's students reported under 23633
division (B)(2)(a) of this section who are enrolled in grades one 23634
to three in that community school and who are not receiving 23635
special education and related services pursuant to an IEP; 23636

(b) One-half of the district's students who are enrolled in 23637
all-day or any other kindergarten class in that community school 23638
and who are not receiving special education and related services 23639
pursuant to an IEP; 23640

(c) One-half of the district's students who are enrolled in 23641
all-day kindergarten in that community school and who are not 23642
receiving special education and related services pursuant to an 23643
IEP. 23644

The district's per pupil amount of aid under division (E) of 23645
section 3317.029 of the Revised Code shall be determined as 23646
described in division (C)(5) of this section. 23647

(E)(1) If a community school's costs for a fiscal year for a 23648
student receiving special education and related services pursuant 23649
to an IEP for a handicap described in divisions (B) to (F) of 23650
section 3317.013 of the Revised Code exceed the threshold 23651
catastrophic cost for serving the student as specified in division 23652
(C)(3)(b) of section 3317.022 of the Revised Code, the school may 23653
submit to the superintendent of public instruction documentation, 23654
as prescribed by the superintendent, of all its costs for that 23655
student. Upon submission of documentation for a student of the 23656

type and in the manner prescribed, the department shall pay to the 23657
community school an amount equal to the school's costs for the 23658
student in excess of the threshold catastrophic costs. 23659

(2) The community school shall only report under division 23660
(E)(1) of this section, and the department shall only pay for, the 23661
costs of educational expenses and the related services provided to 23662
the student in accordance with the student's individualized 23663
education program. Any legal fees, court costs, or other costs 23664
associated with any cause of action relating to the student may 23665
not be included in the amount. 23666

(F) A community school may apply to the department of 23667
education for preschool handicapped or gifted unit funding the 23668
school would receive if it were a school district. Upon request of 23669
its governing authority, a community school that received unit 23670
funding as a school district-operated school before it became a 23671
community school shall retain any units awarded to it as a school 23672
district-operated school provided the school continues to meet 23673
eligibility standards for the unit. 23674

A community school shall be considered a school district and 23675
its governing authority shall be considered a board of education 23676
for the purpose of applying to any state or federal agency for 23677
grants that a school district may receive under federal or state 23678
law or any appropriations act of the general assembly. The 23679
governing authority of a community school may apply to any private 23680
entity for additional funds. 23681

(G) A board of education sponsoring a community school may 23682
utilize local funds to make enhancement grants to the school or 23683
may agree, either as part of the contract or separately, to 23684
provide any specific services to the community school at no cost 23685
to the school. 23686

(H) A community school may not levy taxes or issue bonds 23687

secured by tax revenues. 23688

(I) No community school shall charge tuition for the 23689
enrollment of any student. 23690

(J)(1)(a) A community school may borrow money to pay any 23691
necessary and actual expenses of the school in anticipation of the 23692
receipt of any portion of the payments to be received by the 23693
school pursuant to division (D) of this section. The school may 23694
issue notes to evidence such borrowing . The proceeds of the notes 23695
shall be used only for the purposes for which the anticipated 23696
receipts may be lawfully expended by the school. 23697

(b) A school may also borrow money for a term not to exceed 23698
fifteen years for the purpose of acquiring facilities. 23699

(2) Except for any amount guaranteed under section 3318.50 of 23700
the Revised Code, the state is not liable for debt incurred by the 23701
governing authority of a community school. 23702

(K) For purposes of determining the number of students for 23703
which divisions (D)(5) and (6) of this section applies in any 23704
school year, a community school may submit to the department of 23705
job and family services, no later than the first day of March, a 23706
list of the students enrolled in the school. For each student on 23707
the list, the community school shall indicate the student's name, 23708
address, and date of birth and the school district where the 23709
student is entitled to attend school. Upon receipt of a list under 23710
this division, the department of job and family services shall 23711
determine, for each school district where one or more students on 23712
the list is entitled to attend school, the number of students 23713
residing in that school district who were included in the 23714
department's report under section 3317.10 of the Revised Code. The 23715
department shall make this determination on the basis of 23716
information readily available to it. Upon making this 23717
determination and no later than ninety days after submission of 23718

the list by the community school, the department shall report to 23719
the state department of education the number of students on the 23720
list who reside in each school district who were included in the 23721
department's report under section 3317.10 of the Revised Code. In 23722
complying with this division, the department of job and family 23723
services shall not report to the state department of education any 23724
personally identifiable information on any student. 23725

(L) The department of education shall adjust the amounts 23726
subtracted and paid under divisions (C) and (D) of this section to 23727
reflect any enrollment of students in community schools for less 23728
than the equivalent of a full school year. The state board of 23729
education within ninety days after ~~the effective date of this~~ 23730
~~amendment~~ April 8, 2003, shall adopt in accordance with Chapter 23731
119. of the Revised Code rules governing the payments to community 23732
schools under this section including initial payments in a school 23733
year and adjustments and reductions made in subsequent periodic 23734
payments to community schools and corresponding deductions from 23735
school district accounts as provided under divisions (C) and (D) 23736
of this section. For purposes of this section: 23737

(1) A student shall be considered enrolled in the community 23738
school for any portion of the school year the student is 23739
participating at a college under Chapter 3365. of the Revised 23740
Code. 23741

(2) A student shall be considered to be enrolled in a 23742
community school during a school year for the period of time 23743
between the date on which the school both has received 23744
documentation of the student's enrollment from a parent and has 23745
commenced participation in learning opportunities as defined in 23746
the contract with the sponsor. For purposes of applying this 23747
division to a community school student, "learning opportunities" 23748
shall be defined in the contract, which shall describe both 23749
classroom-based and non-classroom-based learning opportunities and 23750

shall be in compliance with criteria and documentation 23751
requirements for student participation which shall be established 23752
by the department. Any student's instruction time in 23753
non-classroom-based learning opportunities shall be certified by 23754
an employee of the community school. A student's enrollment shall 23755
be considered to cease on the date on which any of the following 23756
occur: 23757

(a) The community school receives documentation from a parent 23758
terminating enrollment of the student. 23759

(b) The community school is provided documentation of a 23760
student's enrollment in another public or private school. 23761

(c) The community school ceases to offer learning 23762
opportunities to the student pursuant to the terms of the contract 23763
with the sponsor or the operation of any provision of this 23764
chapter. 23765

(3) A student's percentage of full-time equivalency shall be 23766
considered to be the percentage the hours of learning opportunity 23767
offered to that student is of nine hundred and twenty hours. 23768

(M) The department of education shall reduce the amounts paid 23769
under division (D) of this section to reflect payments made to 23770
colleges under division (B) of section 3365.07 of the Revised 23771
Code. 23772

(N)(1) No student shall be considered enrolled in any 23773
internet- or computer-based community school unless ~~the~~ both of 23774
the following conditions are satisfied: 23775

(a) The student possesses or has been provided with all 23776
required hardware and software materials and all such materials 23777
are fully operational and the so that the student is capable of 23778
fully participating in the learning opportunities specified in the 23779
contract between the school and the school's sponsor as required 23780
by division (A)(23) of section 3314.03 of the Revised Code; 23781

(b) The school is in compliance with division (A)(1) or (2) 23782
of section 3314.032 of the Revised Code, relative to such student. 23783
~~In~~ 23784

(2) In accordance with policies adopted jointly by the 23785
superintendent of public instruction and the auditor of state, the 23786
department shall reduce the amounts otherwise payable under 23787
division (D) of this section to any internet- or computer-based 23788
community school that includes in its program the provision of 23789
computer hardware and software materials to each student, if such 23790
hardware and software materials have not been delivered, 23791
installed, and activated for all students in a timely manner or 23792
other educational materials or services have not been provided 23793
according to the contract between the individual community school 23794
and its sponsor. 23795

The superintendent of public instruction and the auditor of 23796
state shall jointly establish a method for auditing any community 23797
school to which this division pertains to ensure compliance with 23798
this section. 23799

The superintendent, auditor of state, and the governor shall 23800
jointly make recommendations to the general assembly for 23801
legislative changes that may be required to assure fiscal and 23802
academic accountability for such internet- or computer-based 23803
schools. 23804

(O)(1) If the department determines that a review of a 23805
community school's enrollment is necessary, such review shall be 23806
completed and written notice of the findings shall be provided to 23807
the governing authority of the community school and its sponsor 23808
within ninety days of the end of the community school's fiscal 23809
year, unless extended for a period not to exceed thirty additional 23810
days for one of the following reasons: 23811

(a) The department and the community school mutually agree to 23812

the extension.	23813
(b) Delays in data submission caused by either a community school or its sponsor.	23814 23815
(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:	23816 23817 23818 23819 23820
(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.	23821 23822 23823
(b) The board or its designee shall conduct an informal hearing on the matter within thirty days of receipt of such an appeal and shall issue a decision within fifteen days of the conclusion of the hearing.	23824 23825 23826 23827
(c) If the board has enlisted a designee to conduct the hearing, the designee shall certify its decision to the board. The board may accept the decision of the designee or may reject the decision of the designee and issue its own decision on the matter.	23828 23829 23830 23831
(d) Any decision made by the board under this division is final.	23832 23833
(3) If it is decided that the community school owes moneys to the state, the department shall deduct such amount from the school's future payments in accordance with guidelines issued by the superintendent of public instruction.	23834 23835 23836 23837
<u>Sec. 3314.083. If the department of education pays a joint vocational school district under division (G)(4) of section 3317.16 of the Revised Code for excess costs of providing special education and related services to a handicapped student who is enrolled in a community school, as calculated under division</u>	23838 23839 23840 23841 23842

(G)(2) of that section, the department shall deduct the amount of 23843
that payment from the amount calculated for payment to the 23844
community school under section 3314.08 of the Revised Code. 23845

Sec. 3314.17. (A) Each community school established under 23846
this chapter shall participate in the statewide education 23847
management information system established under section 3301.0714 23848
of the Revised Code. All provisions of that section and the rules 23849
adopted under that section apply to each community school as if it 23850
were a school district, except as modified for community schools 23851
under division (B) of this section. 23852

(B) The rules adopted by the state board of education under 23853
section 3301.0714 of the Revised Code may distinguish methods and 23854
timelines for community schools to annually report data, which 23855
methods and timelines differ from those prescribed for school 23856
districts. Any methods and timelines prescribed for community 23857
schools shall be appropriate to the academic schedule and 23858
financing of community schools. The guidelines, however, shall not 23859
modify the actual data required to be reported under that section. 23860

(C) Each fiscal officer appointed under section 3314.011 of 23861
the Revised Code is responsible for annually reporting the 23862
community school's data under section 3301.0714 of the Revised 23863
Code. If the superintendent of public instruction determines that 23864
a community school fiscal officer has willfully failed to report 23865
data or has willfully reported erroneous, inaccurate, or 23866
incomplete data in any year, or has negligently reported 23867
erroneous, inaccurate, or incomplete data in the current and any 23868
previous year, the superintendent may impose a civil penalty of 23869
one hundred dollars on the fiscal officer after providing the 23870
officer with notice and an opportunity for a hearing in accordance 23871
with Chapter 119. of the Revised Code. The superintendent's 23872
authority to impose civil penalties under this division does not 23873

preclude the state board of education from suspending or revoking 23874
the license of a community school employee under division (N) of 23875
section 3301.0714 of the Revised Code. 23876

(D) No community school shall acquire, change, or update its 23877
student administration software package to manage and report data 23878
required to be reported to the department unless it converts to a 23879
student software package that is certified by the department. 23880

Sec. 3316.031. (A) The state superintendent of public 23881
instruction, in consultation with the auditor of state, shall 23882
develop guidelines for identifying fiscal practices and budgetary 23883
conditions that, if uncorrected, could result in a future 23884
declaration of a fiscal watch or fiscal emergency within a school 23885
district. 23886

The guidelines shall not include a requirement that a school 23887
district submit financial statements according to generally 23888
accepted accounting principles. 23889

(B)(1) If the state superintendent determines from a school 23890
district's five-year forecast submitted under section 5705.391 of 23891
the Revised Code that a district is engaging in any of those 23892
practices or that any of those conditions exist within the 23893
district, after consulting with the district board of education 23894
concerning the practices or conditions, the state superintendent 23895
may declare the district to be under a fiscal caution. 23896

(2) If the auditor of state finds that a district is engaging 23897
in any of those practices or that any of those conditions exist 23898
within the district, the auditor of state shall report that 23899
finding to the state superintendent and, after consulting with the 23900
district board of education concerning the practices or 23901
conditions, the state superintendent may declare the district to 23902
be under a fiscal caution. 23903

(3) Unless the auditor of state has elected to declare a state of fiscal watch under division (A)(4) of section 3316.03 of the Revised Code, the state superintendent shall declare a school district to be under a fiscal caution if the conditions described in divisions (A)(4)(a) and (b) of that section are both satisfied with respect to the school district.

(C) When the state superintendent declares a district to be under fiscal caution, the state superintendent shall promptly notify the district board of education of that declaration and shall request the board to provide written proposals for discontinuing or correcting the fiscal practices or budgetary conditions that prompted the declaration and for preventing the district from experiencing further fiscal difficulties that could result in the district being declared to be in a state of fiscal watch or fiscal emergency.

(D) The state superintendent, or a designee, may visit and inspect any district that is declared to be under a fiscal caution. The department of education shall provide technical assistance to the district board in implementing proposals to eliminate the practices or budgetary conditions that prompted the declaration of fiscal caution and may make recommendations concerning the board's proposals.

(E) If the state superintendent finds that a school district declared to be under a fiscal caution has not made reasonable proposals or otherwise taken action to discontinue or correct the fiscal practices or budgetary conditions that prompted the declaration of fiscal caution, and if the state superintendent considers it necessary to prevent further fiscal decline, the state superintendent may determine that the district should be in a state of fiscal watch. As provided in division (A)(3) of section 3316.03 of the Revised Code, the auditor of state shall declare the district to be in a state of fiscal watch if the auditor of

state finds the superintendent's determination to be reasonable. 23936

Sec. 3316.08. During a school district's fiscal emergency 23937
period, the auditor of state shall determine annually, or at any 23938
other time upon request of the financial planning and supervision 23939
commission, whether the school district will incur an operating 23940
deficit. If the auditor of state determines that a school district 23941
will incur an operating deficit, the auditor of state shall 23942
certify that determination to the superintendent of public 23943
instruction, the financial planning and supervision commission, 23944
and the board of education of the school district. Upon receiving 23945
the auditor of state's certification, the ~~board of education or~~ 23946
commission shall adopt a resolution ~~to submit a ballot question~~ 23947
~~proposing the levy of a tax requesting that the board of education~~ 23948
~~work with the county auditor or tax commissioner to estimate the~~ 23949
~~amount and rate of a tax levy that is needed under section~~ 23950
5705.194 or 5705.21 or Chapter 5748. of the Revised Code to 23951
produce a positive fund balance not later than the fifth year of 23952
the five-year forecast submitted under section 5705.391 of the 23953
Revised Code. ~~Except~~ 23954

The board of education shall recommend to the commission 23955
whether the board supports or opposes a tax levy under section 23956
5705.194 or 5705.21 or Chapter 5748. of the Revised Code and shall 23957
provide supporting documentation to the commission of its 23958
recommendation. 23959

After considering the board of education's recommendation and 23960
supporting documentation, the commission shall adopt a resolution 23961
to either submit a ballot question proposing a tax levy or not to 23962
submit such a question. 23963

Except as otherwise provided in this division, the tax shall 23964
be levied in the manner prescribed for a tax levied under section 23965
5705.194 or 5705.21 or under Chapter 5748. of the Revised Code. 23966

~~The If the commission decides that a tax shall should be levied,~~ 23967
~~the tax shall be levied~~ for the purpose of paying current 23968
operating expenses of the school district. ~~The question shall~~ 23969
~~propose that the tax be levied at the rate required to produce~~ 23970
~~annual revenue sufficient to eliminate the operating deficit as~~ 23971
~~certified by the auditor of state and to repay outstanding loans~~ 23972
~~or other obligations incurred by the board of education for the~~ 23973
~~purpose of reducing or eliminating operating deficits, as~~ 23974
~~determined by the financial planning and supervision commission.~~ 23975
The rate of a tax levied under section 5705.194 or 5705.21 of the 23976
Revised Code shall be determined by the county auditor, and the 23977
rate of a tax levied under section 5748.02 or 5748.08 of the 23978
Revised Code shall be determined by the tax commissioner, upon the 23979
request of the commission. The commission, in consultation with 23980
the board of education, shall determine the election at which the 23981
question of the tax shall appear on the ballot, and the ~~board of~~ 23982
~~education or~~ commission shall submit a copy of its resolution to 23983
the board of elections not later than seventy-five days prior to 23984
the day of that election. The board of elections conducting the 23985
election shall certify the results of the election to the board of 23986
education and to the financial planning and supervision 23987
commission. 23988

Sec. 3317.012. (A)(1) The general assembly, having analyzed 23989
school district expenditure and cost data for fiscal year 1999, 23990
performed the calculation described in division (B) of this 23991
section, adjusted the results for inflation, and added the amounts 23992
described in division (A)(2) of this section, hereby determines 23993
that the base cost of an adequate education per pupil for the 23994
fiscal year beginning July 1, 2001, is \$4,814. For the ~~five~~ three 23995
following fiscal years, the base cost per pupil for each of those 23996
years, reflecting an annual rate of inflation of two and 23997
eight-tenths per cent, is \$4,949 for fiscal year 2003, \$5,088 for 23998

fiscal year 2004, and \$5,230 for fiscal year 2005, ~~\$5,376 for~~ 23999
~~fiscal year 2006, and \$5,527 for fiscal year 2007.~~ 24000

(2) The base cost per pupil amounts specified in division 24001
(A)(1) of this section include amounts to reflect the cost to 24002
school districts of increasing the minimum number of high school 24003
academic units required for graduation beginning September 15, 24004
2001, under section 3313.603 of the Revised Code. Analysis of 24005
fiscal year 1999 data revealed that the school districts meeting 24006
the requirements of division (B) of this section on average 24007
required high school students to complete a minimum of nineteen 24008
and eight-tenths units to graduate. The general assembly 24009
determines that the cost of funding the additional two-tenths unit 24010
required by section 3313.603 of the Revised Code is \$12 per pupil 24011
in fiscal year 2002. This amount was added after the calculation 24012
described in division (B) of this section and the adjustment for 24013
inflation from fiscal year 1999 to fiscal year 2002. It is this 24014
total amount, the calculated base cost plus the supplement to pay 24015
for the additional partial unit, that constitutes the base cost 24016
amount specified in division (A)(1) of this section for fiscal 24017
year 2002 and that is inflated to produce the base cost amounts 24018
for fiscal years 2003 through ~~2007~~ 2005. 24019

(B) In determining the base cost stated in division (A) of 24020
this section, capital and debt costs, costs paid for by federal 24021
funds, and costs covered by funds provided for disadvantaged pupil 24022
impact aid and transportation were excluded, as were the effects 24023
on the districts' state funds of the application of the 24024
cost-of-doing-business factors, assuming a seven and one-half per 24025
cent variance. 24026

The base cost for fiscal year 1999 was calculated as the 24027
unweighted average cost per student, on a school district basis, 24028
of educating students who were not receiving vocational education 24029
or services pursuant to Chapter 3323. of the Revised Code and who 24030

were enrolled in a city, exempted village, or local school district that in fiscal year 1999 met all of the following criteria:

(1) The district met at least twenty of the following twenty-seven performance indicators:

(a) A ninety per cent or higher graduation rate;

(b) At least seventy-five per cent of fourth graders proficient on the mathematics test prescribed under former division (A)(1) of section 3301.0710 of the Revised Code;

(c) At least seventy-five per cent of fourth graders proficient on the reading test prescribed under former division (A)(1) of section 3301.0710 of the Revised Code;

(d) At least seventy-five per cent of fourth graders proficient on the writing test prescribed under former division (A)(1) of section 3301.0710 of the Revised Code;

(e) At least seventy-five per cent of fourth graders proficient on the citizenship test prescribed under former division (A)(1) of section 3301.0710 of the Revised Code;

(f) At least seventy-five per cent of fourth graders proficient on the science test prescribed under former division (A)(1) of section 3301.0710 of the Revised Code;

(g) At least seventy-five per cent of sixth graders proficient on the mathematics test prescribed under former division (A)(2) of section 3301.0710 of the Revised Code;

(h) At least seventy-five per cent of sixth graders proficient on the reading test prescribed under former division (A)(2) of section 3301.0710 of the Revised Code;

(i) At least seventy-five per cent of sixth graders proficient on the writing test prescribed under former division (A)(2) of section 3301.0710 of the Revised Code;

(j) At least seventy-five per cent of sixth graders	24061
proficient on the citizenship test prescribed under <u>former</u>	24062
division (A)(2) of section 3301.0710 of the Revised Code;	24063
(k) At least seventy-five per cent of sixth graders	24064
proficient on the science test prescribed under <u>former</u> division	24065
(A)(2) of section 3301.0710 of the Revised Code;	24066
(l) At least seventy-five per cent of ninth graders	24067
proficient on the mathematics test prescribed under Section 4 of	24068
Am. Sub. S.B. 55 of the 122nd general assembly;	24069
(m) At least seventy-five per cent of ninth graders	24070
proficient on the reading test prescribed under Section 4 of Am.	24071
Sub. S.B. 55 of the 122nd general assembly;	24072
(n) At least seventy-five per cent of ninth graders	24073
proficient on the writing test prescribed under Section 4 of Am.	24074
Sub. S.B. 55 of the 122nd general assembly;	24075
(o) At least seventy-five per cent of ninth graders	24076
proficient on the citizenship test prescribed under Section 4 of	24077
Am. Sub. S.B. 55 of the 122nd general assembly;	24078
(p) At least seventy-five per cent of ninth graders	24079
proficient on the science test prescribed under Section 4 of Am.	24080
Sub. S.B. 55 of the 122nd general assembly;	24081
(q) At least eighty-five per cent of tenth graders proficient	24082
on the mathematics test prescribed under Section 4 of Am. Sub.	24083
S.B. 55 of the 122nd general assembly;	24084
(r) At least eighty-five per cent of tenth graders proficient	24085
on the reading test prescribed under Section 4 of Am. Sub. S.B. 55	24086
of the 122nd general assembly;	24087
(s) At least eighty-five per cent of tenth graders proficient	24088
on the writing test prescribed under Section 4 of Am. Sub. S.B. 55	24089
of the 122nd general assembly;	24090

(t) At least eighty-five per cent of tenth graders proficient on the citizenship test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly; 24091
24092
24093

(u) At least eighty-five per cent of tenth graders proficient on the science test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly; 24094
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(v) At least sixty per cent of twelfth graders proficient on the mathematics test prescribed under former division (A)(3) of section 3301.0710 of the Revised Code; 24097
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(w) At least sixty per cent of twelfth graders proficient on the reading test prescribed under former division (A)(3) of section 3301.0710 of the Revised Code; 24100
24101
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(x) At least sixty per cent of twelfth graders proficient on the writing test prescribed under former division (A)(3) of section 3301.0710 of the Revised Code; 24103
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24105

(y) At least sixty per cent of twelfth graders proficient on the citizenship test prescribed under former division (A)(3) of section 3301.0710 of the Revised Code; 24106
24107
24108

(z) At least sixty per cent of twelfth graders proficient on the science test prescribed under former division (A)(3) of section 3301.0710 of the Revised Code; 24109
24110
24111

(aa) An attendance rate for the year of at least ninety-three per cent as defined in section 3302.01 of the Revised Code. 24112
24113

In determining whether a school district met any of the performance standards specified in divisions (B)(1)(a) to (aa) of this section, the general assembly used a rounding procedure previously recommended by the department of education. It is the same rounding procedure the general assembly used in 1998 to determine whether a district had met the standards of former divisions (B)(1)(a) to (r) of this section for purposes of 24114
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constructing the previous model based on fiscal year 1996 data. 24121

(2) The district was not among the five per cent of all 24122
districts with the highest income, nor among the five per cent of 24123
all districts with the lowest income. 24124

(3) The district was not among the five per cent of all 24125
districts with the highest valuation per pupil, nor among the five 24126
per cent of all districts with the lowest valuation per pupil. 24127

This model for calculating the base cost of an adequate 24128
education is expenditure-based. The general assembly recognizes 24129
that increases in state funding to school districts since fiscal 24130
year 1996, the fiscal year upon which the general assembly based 24131
its model for calculating state funding to school districts for 24132
fiscal years 1999 through 2001, has increased school district base 24133
cost expenditures for fiscal year 1999, the fiscal year upon which 24134
the general assembly based its model for calculating state funding 24135
for fiscal years 2002 through ~~2007~~ 2005. In the case of school 24136
districts included in the fiscal year 1999 model that also had met 24137
the fiscal year 1996 performance criteria of former division 24138
(B)(1) of this section, the increased state funding may have 24139
driven the districts' expenditures beyond the expenditures that 24140
were actually needed to maintain their educational programs at the 24141
level necessary to maintain their ability to meet the fiscal year 24142
1999 performance criteria of current division (B)(1) of this 24143
section. The general assembly has determined to control for this 24144
effect by stipulating in the later model that the fiscal year 1999 24145
base cost expenditures of the districts that also met the 24146
performance criteria of former division (B)(1) of this section 24147
equals their base cost expenditures per pupil for fiscal year 24148
1996, inflated to fiscal year 1999 using an annual rate of 24149
inflation of two and eight-tenths per cent. However, if this 24150
inflated amount exceeded the district's actual fiscal year 1999 24151
base cost expenditures per pupil, the district's actual fiscal 24152

year 1999 base cost expenditures per pupil were used in the 24153
calculation. For districts in the 1999 model that did not also 24154
meet the performance criteria of former division (B)(1) of this 24155
section, the actual 1999 base cost per pupil expenditures were 24156
used in the calculation of the average district per pupil costs of 24157
the model districts. 24158

~~(C) In July of 2005, and in July of every six years 24159
thereafter, the speaker of the house of representatives and the 24160
president of the senate shall each appoint three members to a 24161
committee to reexamine the cost of an adequate education. No more 24162
than two members from any political party shall represent each 24163
house. The director of budget and management and the 24164
superintendent of public instruction shall serve as nonvoting ex 24165
officio members of the committee. 24166~~

~~The committee shall select a rational methodology for 24167
calculating the costs of an adequate education system for the 24168
ensuing six year period, and shall report the methodology and the 24169
resulting costs to the general assembly. In performing its 24170
function, the committee is not bound by any method used by 24171
previous general assemblies to examine and calculate costs and 24172
instead may utilize any rational method it deems suitable and 24173
reasonable given the educational needs and requirements of the 24174
state at that time. 24175~~

~~The methodology for determining the cost of an adequate 24176
education system shall take into account the basic educational 24177
costs that all districts incur in educating regular students, the 24178
unique needs of special categories of students, and significant 24179
special conditions encountered by certain classifications of 24180
school districts. 24181~~

~~The committee also shall redetermine, for purposes of 24182
updating the parity aid calculation under section 3317.0217 of the 24183
Revised Code, the average number of effective operating mills that 24184~~

~~school districts in the seventieth to ninetieth percentiles of 24185~~
~~valuations per pupil collect above the revenues required to 24186~~
~~finance their attributed local shares of the calculated cost of an 24187~~
~~adequate education. 24188~~

~~Any committee appointed pursuant to this section shall make 24189~~
~~its report to the office of budget and management and the general 24190~~
~~assembly within one year of its appointment so that the 24191~~
~~information is available for use by the office and the general 24192~~
~~assembly in preparing the next biennial appropriations act. 24193~~

~~(D)(1) For purposes of this division, an "update year" is the 24194~~
~~first fiscal year for which the per pupil base cost of an adequate 24195~~
~~education is in effect after being recalculated by the general 24196~~
~~assembly. The first update year is fiscal year 2002. The second 24197~~
~~update year is fiscal year 2008. 24198~~

~~(2) The general assembly shall recalculate the per pupil base 24199~~
~~cost of an adequate education every six years after considering 24200~~
~~the recommendations of the committee appointed under division (C) 24201~~
~~of this section. At the time of the recalculation, for each of the 24202~~
~~five fiscal years following the update year, the general assembly 24203~~
~~shall adjust the base cost recalculated for the update year using 24204~~
~~an annual rate of inflation that the general assembly determines 24205~~
~~appropriate. 24206~~

~~(3) The general assembly shall include, in the act 24207~~
~~appropriating state funds for education programs for a fiscal 24208~~
~~biennium that begins with an update year, a statement of its 24209~~
~~determination of the total state share percentage of base cost and 24210~~
~~parity aid funding for the update year. 24211~~

~~(4) During its biennial budget deliberations, the general 24212~~
~~assembly shall determine the total state share percentage of base 24213~~
~~cost and parity aid funding for each fiscal year of the upcoming 24214~~
~~biennium. This determination shall be based on the latest 24215~~

~~projections and data provided by the department of education under 24216
division (D)(6) of this section prior to the enactment of 24217
education appropriations for the upcoming biennium. If, based on 24218
those latest projections and data, the general assembly determines 24219
that the total state share percentage for either or both nonupdate 24220
fiscal years varies more than two and one half percentage points 24221
more or less than the total state share percentage for the most 24222
recent update year, as previously stated by the general assembly 24223
under division (D)(3) of this section, the general assembly shall 24224
determine and enact a method that it considers appropriate to 24225
restrict the estimated variance for each year to within two and 24226
one half percentage points. The general assembly's methods may 24227
include, but are not required to include and need not be limited 24228
to, reexamining the rate of millage charged off as the local share 24229
of base cost funding under divisions (A)(1) and (2) of section 24230
3317.022 of the Revised Code. Regardless of any changes in 24231
charge off millage rates in years between update years, however, 24232
the charge off millage rate for update years shall be twenty three 24233
mills, unless the general assembly determines that a different 24234
millage rate is more appropriate to share the total calculated 24235
base cost between the state and school districts. 24236~~

~~(5) The total state share percentage of base cost and parity 24237
aid funding for any fiscal year is calculated as follows: 24238~~

~~{(Total state base cost + total state parity aid funding) — 24239
statewide charge off amount} / (Total state base cost + total 24240
state parity aid funding) 24241~~

~~Where: 24242~~

~~(a) The total state base cost equals the sum of the base 24243
costs for all school districts for the fiscal year. 24244~~

~~(b) The base cost for each school district equals: 24245~~

~~formula amount X cost of doing business factor X 24246~~

~~the greater of formula ADM or 24247~~

~~three year average formula ADM 24248~~

~~(c) The total state parity aid funding equals the sum of the 24249
amounts paid to all school districts for the fiscal year under 24250
section 3317.0217 of the Revised Code. 24251~~

~~(d) The statewide charge off amount equals the sum of the 24252
charge off amounts for all school districts. 24253~~

~~(e) The charge off amount for each school district is the 24254
amount calculated as its local share of base cost funding and 24255
deducted from the total calculated base cost to determine the 24256
amount of its state payment under divisions (A)(1) and (2) of 24257
section 3317.022 of the Revised Code. The charge off amount for 24258
each school district in fiscal year 2002 is the product of 24259
twenty three mills multiplied by the district's recognized 24260
valuation as adjusted, if applicable, under division (A)(2) of 24261
section 3317.022 of the Revised Code. If however, in any fiscal 24262
year, including fiscal year 2002, a school district's calculated 24263
charge off amount exceeds its base cost calculated as described in 24264
division (D)(5)(b) of this section, the district's charge off 24265
amount shall be deemed to equal its calculated base cost. 24266~~

~~(6) Whenever requested by the chairperson of the standing 24267
committee of the house or representatives or the senate having 24268
primary jurisdiction over appropriations, the legislative budget 24269
officer, or the director of budget and management, the department 24270
of education shall report its latest projections for total base 24271
cost, total parity aid funding, and the statewide charge off 24272
amount, as those terms are defined in division (D)(5) of this 24273
section, for each year of the upcoming fiscal biennium, and all 24274
data it used to make the projections. 24275~~

Sec. 3317.013. This section does not apply to handicapped 24276
preschool students. 24277

Analysis of special education cost data has resulted in a 24278
finding that the average special education additional cost per 24279
pupil, including the costs of related services, can be expressed 24280
as a multiple of the base cost per pupil calculated under section 24281
3317.012 of the Revised Code. The multiples for the following 24282
categories of special education programs, as these programs are 24283
defined for purposes of Chapter 3323. of the Revised Code, and 24284
adjusted as provided in this section, are as follows: 24285

(A) A multiple of 0.2892 for students whose primary or only 24286
identified handicap is a speech and language handicap, as this 24287
term is defined pursuant to Chapter 3323. of the Revised Code; 24288

(B) A multiple of 0.3691 for students identified as specific 24289
learning disabled or developmentally handicapped, as these terms 24290
are defined pursuant to Chapter 3323. of the Revised Code, or 24291
other health handicapped-minor; 24292

(C) A multiple of 1.7695 for students identified as hearing 24293
handicapped, vision impaired, or severe behavior handicapped, as 24294
these terms are defined pursuant to Chapter 3323. of the Revised 24295
Code; 24296

(D) A multiple of 2.3646 for students identified as 24297
orthopedically handicapped, as this term is defined pursuant to 24298
Chapter 3323. of the Revised Code or other health handicapped - 24299
major; 24300

(E) A multiple of 3.1129 for students identified as 24301
multihandicapped, as this term is defined pursuant to Chapter 24302
3323. of the Revised Code; 24303

(F) A multiple of 4.7342 for students identified as autistic, 24304
having traumatic brain injuries, or as both visually and hearing 24305
disabled, as these terms are defined pursuant to Chapter 3323. of 24306
the Revised Code. 24307

In fiscal year ~~2002~~ 2004, the multiples specified in 24308
divisions (A) to (F) of this section shall be adjusted by 24309
multiplying them by ~~0.825~~ 0.88. In fiscal year ~~2003~~ 2005, the 24310
multiples specified in those divisions shall be adjusted by 24311
multiplying them by ~~0.875~~ 0.90. 24312

Not later than May 30, 2004, and May 30, 2005, the department 24313
shall submit to the office of budget and management a report that 24314
specifies for each city, local, exempted village, and joint 24315
vocational school district the fiscal year allocation of the state 24316
and local shares of special education and related services 24317
additional weighted funding and federal special education funds 24318
passed through to the district. 24319

Sec. 3317.014. The average vocational education additional 24320
cost per pupil can be expressed as a multiple of the base cost per 24321
pupil calculated under section 3317.012 of the Revised Code. the 24322
multiples for the following categories of vocational education 24323
programs are as follows: 24324

(A) A multiple of 0.57 for students enrolled in vocational 24325
education job-training and workforce development programs approved 24326
by the department of education in accordance with rules adopted 24327
under section 3313.90 of the Revised Code. 24328

(B) A multiple of 0.28 for students enrolled in vocational 24329
education classes other than job-training and workforce 24330
development programs. 24331

Vocational education associated services costs can be 24332
expressed as a multiple of 0.05 of the base cost per pupil 24333
calculated under section 3317.012 of the Revised Code. 24334

The general assembly has adjusted the multiples specified in 24335
this section for calculating payments beginning in fiscal year 24336
2002 in recognition that its policy change regarding the 24337

application of the cost-of-doing-business factor produces a higher 24338
base cost amount than would exist if no change were made to its 24339
application. The adjustment maintains the same weighted costs as 24340
would exist if no change were made to the application of the 24341
cost-of-doing-business factor. 24342

The department of education shall annually report to the 24343
governor and the general assembly the amount of weighted funding 24344
for vocational education and associated services that is spent by 24345
each city, local, exempted village, and joint vocational school 24346
district specifically for vocational educational and associated 24347
services. 24348

Sec. 3317.022. (A)(1) The department of education shall 24349
compute and distribute state base cost funding to each school 24350
district for the fiscal year in accordance with the following 24351
formula, making any adjustment required by division (A)(2) of this 24352
section and using the information obtained under section 3317.021 24353
of the Revised Code in the calendar year in which the fiscal year 24354
begins. 24355

Compute the following for each eligible district: 24356

$$\dagger(\text{cost-of-doing-business factor X} \quad 24357$$

$$\text{the formula amount X } \langle \text{the greater of formula ADM} \quad 24358$$

$$\text{or three-year average formula ADM} \rangle \dagger - \quad 24359$$

$$(.023 \text{ X recognized valuation}) \quad 24360$$

If the difference obtained is a negative number, the 24361
district's computation shall be zero. 24362

(2)(a) For each school district for which the tax exempt 24363
value of the district equals or exceeds twenty-five per cent of 24364
the potential value of the district, the department of education 24365
shall calculate the difference between the district's tax exempt 24366
value and twenty-five per cent of the district's potential value. 24367

(b) For each school district to which division (A)(2)(a) of this section applies, the department shall adjust the recognized valuation used in the calculation under division (A)(1) of this section by subtracting from it the amount calculated under division (A)(2)(a) of this section.	24368 24369 24370 24371 24372
(B) As used in this section:	24373
(1) The "total special education weight" for a district means the sum of the following amounts:	24374 24375
(a) The district's category one special education ADM multiplied by the multiple specified in division (A) of section 3317.013 of the Revised Code;	24376 24377 24378
(b) The district's category two special education ADM multiplied by the multiple specified in division (B) of section 3317.013 of the Revised Code;	24379 24380 24381
(c) The district's category three special education ADM multiplied by the multiple specified in division (C) of section 3317.013 of the Revised Code;	24382 24383 24384
(d) The district's category four special education ADM multiplied by the multiple specified in division (D) of section 3317.013 of the Revised Code;	24385 24386 24387
(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;	24388 24389 24390
(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.	24391 24392 24393
(2) "State share percentage" means the percentage calculated for a district as follows:	24394 24395
(a) Calculate the state base cost funding amount for the district for the fiscal year under division (A) of this section.	24396 24397

If the district would not receive any state base cost funding for 24398
that year under that division, the district's state share 24399
percentage is zero. 24400

(b) If the district would receive state base cost funding 24401
under that division, divide that amount by an amount equal to the 24402
following: 24403

Cost-of-doing-business factor X 24404
the formula amount X ~~(the greater of formula~~ 24405
~~ADM or three-year average formula ADM)~~ 24406

The resultant number is the district's state share 24407
percentage. 24408

(3) "Related services" includes: 24409

(a) Child study, special education supervisors and 24410
coordinators, speech and hearing services, adaptive physical 24411
development services, occupational or physical therapy, teacher 24412
assistants for handicapped children whose handicaps are described 24413
in division (B) of section 3317.013 or division (F)(3) of section 24414
3317.02 of the Revised Code, behavioral intervention, interpreter 24415
services, work study, nursing services, and specialized 24416
integrative services as those terms are defined by the department; 24417

(b) Speech and language services provided to any student with 24418
a handicap, including any student whose primary or only handicap 24419
is a speech and language handicap; 24420

(c) Any related service not specifically covered by other 24421
state funds but specified in federal law, including but not 24422
limited to, audiology and school psychological services; 24423

(d) Any service included in units funded under former 24424
division (O)(1) of section 3317.023 of the Revised Code; 24425

(e) Any other related service needed by handicapped children 24426
in accordance with their individualized education plans. 24427

(4) The "total vocational education weight" for a district means the sum of the following amounts:	24428
	24429
(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;	24430
	24431
	24432
(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.	24433
	24434
	24435
(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:	24436
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	24438
	24439
The district's state share percentage	24440
X the formula amount for the year	24441
for which the aid is calculated	24442
X the district's total special education weight	24443
(2) The attributed local share of special education and related services additional weighted costs equals:	24444
	24445
(1 - the district's state share percentage) X	24446
the district's total special education weight X	24447
the formula amount	24448
(3)(a) The department shall compute and pay in accordance with this division additional state aid to school districts for students in categories two through six special education ADM. If a district's costs for the fiscal year for a student in its categories two through six special education ADM exceed the threshold catastrophic cost for serving the student, the district may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department	24449
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shall pay to the district an amount equal to the sum of the 24459
following: 24460

(i) One-half of the district's costs for the student in 24461
excess of the threshold catastrophic cost; 24462

(ii) The product of one-half of the district's costs for the 24463
student in excess of the threshold catastrophic cost multiplied by 24464
the district's state share percentage. 24465

(b) For purposes of division (C)(3)(a) of this section, the 24466
threshold catastrophic cost for serving a student equals: 24467

(i) For a student in the school district's category two, 24468
three, four, or five special education ADM, twenty-five thousand 24469
dollars in fiscal year 2002 and twenty-five thousand seven hundred 24470
dollars in fiscal ~~year~~ years 2003, 2004, and 2005; 24471

(ii) For a student in the district's category six special 24472
education ADM, thirty thousand dollars in fiscal year 2002 and 24473
thirty thousand eight hundred forty dollars in fiscal ~~year~~ years 24474
2003, 2004, and 2005. 24475

~~The threshold catastrophic costs for fiscal year 2003 24476
represent a two and eight tenths per cent inflationary increase 24477
over fiscal year 2002. 24478~~

(c) The district shall only report under division (C)(3)(a) 24479
of this section, and the department shall only pay for, the costs 24480
of educational expenses and the related services provided to the 24481
student in accordance with the student's individualized education 24482
program. Any legal fees, court costs, or other costs associated 24483
with any cause of action relating to the student may not be 24484
included in the amount. 24485

~~(5)(4)~~(4)(a) As used in this division, the "personnel allowance" 24486
means thirty thousand dollars in fiscal years 2002 ~~and~~ 2003, 24487
2004, and 2005. 24488

(b) For the provision of speech services to students, 24489
including students who do not have individualized education 24490
programs prepared for them under Chapter 3323. of the Revised 24491
Code, and for no other purpose, the department of education shall 24492
pay each school district an amount calculated under the following 24493
formula: 24494

(formula ADM divided by 2000) X 24495

the personnel allowance X the state share percentage 24496

(5) In any fiscal year, a school district shall spend for 24497
purposes that the department designates as approved for special 24498
education and related services expenses at least the amount 24499
calculated as follows: 24500

(cost-of-doing-business factor X 24501

formula amount X the sum of categories 24502

one through six special education ADM) + 24503

(total special education weight X formula amount) 24504

The purposes approved by the department for special education 24505
expenses shall include, but shall not be limited to, 24506
identification of handicapped children, compliance with state 24507
rules governing the education of handicapped children and 24508
prescribing the continuum of program options for handicapped 24509
children, and the portion of the school district's overall 24510
administrative and overhead costs that are attributable to the 24511
district's special education student population. 24512

The department shall require school districts to report data 24513
annually to allow for monitoring compliance with division (C)(5) 24514
of this section. The department shall annually report to the 24515
governor and the general assembly the amount of money spent by 24516
each school district for special education and related services. 24517

(D)(1) As used in this division: 24518

(a) "Daily bus miles per student" equals the number of bus 24519

miles traveled per day, divided by transportation base. 24520

(b) "Transportation base" equals total student count as 24521
defined in section 3301.011 of the Revised Code, minus the number 24522
of students enrolled in preschool handicapped units, plus the 24523
number of nonpublic school students included in transportation 24524
ADM. 24525

(c) "Transported student percentage" equals transportation 24526
ADM divided by transportation base. 24527

(d) "Transportation cost per student" equals total operating 24528
costs for board-owned or contractor-operated school buses divided 24529
by transportation base. 24530

(2) Analysis of student transportation cost data has resulted 24531
in a finding that an average efficient transportation use cost per 24532
student can be calculated by means of a regression formula that 24533
has as its two independent variables the number of daily bus miles 24534
per student and the transported student percentage. For fiscal 24535
year 1998 transportation cost data, the average efficient 24536
transportation use cost per student is expressed as follows: 24537

51.79027 + (139.62626 X daily bus miles per student) + 24538
(116.25573 X transported student percentage) 24539

The department of education shall annually determine the 24540
average efficient transportation use cost per student in 24541
accordance with the principles stated in division (D)(2) of this 24542
section, updating the intercept and regression coefficients of the 24543
regression formula modeled in this division, based on an annual 24544
statewide analysis of each school district's daily bus miles per 24545
student, transported student percentage, and transportation cost 24546
per student data. The department shall conduct the annual update 24547
using data, including daily bus miles per student, transported 24548
student percentage, and transportation cost per student data, from 24549
the prior fiscal year. The department shall notify the office of 24550

budget and management of such update by the fifteenth day of 24551
February of each year. 24552

(3) In addition to funds paid under divisions (A), (C), and 24553
(E) of this section, each district with a transported student 24554
percentage greater than zero shall receive a payment equal to a 24555
percentage of the product of the district's transportation base 24556
from the prior fiscal year times the annually updated average 24557
efficient transportation use cost per student, times an inflation 24558
factor of two and eight tenths per cent to account for the 24559
one-year difference between the data used in updating the formula 24560
and calculating the payment and the year in which the payment is 24561
made. The percentage shall be the following percentage of that 24562
product specified for the corresponding fiscal year: 24563

FISCAL YEAR	PERCENTAGE	24564
2000	52.5%	24565
2001	55%	24566
2002	57.5%	24567
2003 and thereafter	The greater of 60% or the district's state share percentage	24568

The payments made under division (D)(3) of this section each 24569
year shall be calculated based on all of the same prior year's 24570
data used to update the formula. 24571

(4) In addition to funds paid under divisions (D)(2) and (3) 24572
of this section, a school district shall receive a rough road 24573
subsidy if both of the following apply: 24574

(a) Its county rough road percentage is higher than the 24575
statewide rough road percentage, as those terms are defined in 24576
division (D)(5) of this section; 24577

(b) Its district student density is lower than the statewide 24578
student density, as those terms are defined in that division. 24579

(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:

(per rough mile subsidy X total rough road miles) X
density multiplier

where:

(a) "Per rough mile subsidy" equals the amount calculated in accordance with the following formula:

$$0.75 - \{0.75 \times [(\text{maximum rough road percentage} - \text{county rough road percentage}) / (\text{maximum rough road percentage} - \text{statewide rough road percentage})]\}$$

(i) "Maximum rough road percentage" means the highest county rough road percentage in the state.

(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 cost-of-doing-business factor.

(iii) "Statewide rough road percentage" means the percentage of the statewide total mileage of state, municipal, county, and township roads that is rated as type A, B, C, E2, or F by the department of transportation.

(b) "Total rough road miles" means a school district's total bus miles traveled in one year times its county rough road percentage.

(c) "Density multiplier" means a figure calculated in accordance with the following formula:

1 - [(minimum student density - district student density)/(minimum student density - statewide student density)]

(i) "Minimum student density" means the lowest district student density in the state.

(ii) "District student density" means a school district's transportation base divided by the number of square miles in the district.

(iii) "Statewide student density" means the sum of the transportation bases for all school districts divided by the sum of the square miles in all school districts.

(6) In addition to funds paid under divisions (D)(2) to (5) of this section, each district shall receive in accordance with rules adopted by the state board of education a payment for students transported by means other than board-owned or contractor-operated buses and whose transportation is not funded under division (J) of section 3317.024 of the Revised Code. The rules shall include provisions for school district reporting of such students.

(E)(1) The department shall compute and distribute state vocational education additional weighted costs funds to each school district in accordance with the following formula:

state share percentage X
the formula amount X
total vocational education weight

In any fiscal year, a school district receiving funds under division (E)(1) of this section shall spend those funds only for the purposes that the department designates as approved for vocational education expenses. Vocational educational expenses approved by the department shall include only expenses connected to the delivery of career-technical programming to

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career-technical students. The department shall require the school 24641
district to report data annually so that the department may 24642
monitor the district's compliance with the requirements regarding 24643
the manner in which funding received under division (E)(1) of this 24644
section may be spent. 24645

(2) The department shall compute for each school district 24646
state funds for vocational education associated services in 24647
accordance with the following formula: 24648

state share percentage X .05 X 24649

the formula amount X the sum of categories one and two 24650

vocational education ADM 24651

In any fiscal year, a school district receiving funds under 24652
division (E)(2) of this section, or through a transfer of funds 24653
pursuant to division (L) of section 3317.023 of the Revised Code, 24654
shall spend those funds only for the purposes that the department 24655
designates as approved for vocational education associated 24656
services expenses, which may include such purposes as 24657
apprenticeship coordinators, coordinators for other vocational 24658
education services, vocational evaluation, and other purposes 24659
designated by the department. The department may deny payment 24660
under division (E)(2) of this section to any district that the 24661
department determines is not operating those services or is using 24662
funds paid under division (E)(2) of this section, or through a 24663
transfer of funds pursuant to division (L) of section 3317.023 of 24664
the Revised Code, for other purposes. 24665

(F) Beginning in fiscal year 2003, the actual local share in 24666
any fiscal year for the combination of special education and 24667
related services additional weighted costs funding calculated 24668
under division (C)(1) of this section, transportation funding 24669
calculated under divisions (D)(2) and (3) of this section, and 24670
vocational education and associated services additional weighted 24671
costs funding calculated under divisions (E)(1) and (2) of this 24672

section shall not exceed for any school district the product of 24673
three mills times the district's recognized valuation. Beginning 24674
in fiscal year 2003, the department annually shall pay each school 24675
district as an excess cost supplement any amount by which the sum 24676
of the district's attributed local shares for that funding exceeds 24677
that product. For purposes of calculating the excess cost 24678
supplement: 24679

(1) The attributed local share for special education and 24680
related services additional weighted costs funding is the amount 24681
specified in division (C)(2) of this section. 24682

(2) The attributed local share of transportation funding 24683
equals the difference of the total amount calculated for the 24684
district using the formula developed under division (D)(2) of this 24685
section minus the actual amount paid to the district after 24686
applying the percentage specified in division (D)(3) of this 24687
section. 24688

(3) The attributed local share of vocational education and 24689
associated services additional weighted costs funding is the 24690
amount determined as follows: 24691

(1 - state share percentage) X 24692
[(total vocational education weight X the formula amount) + 24693
the payment under division (E)(2) of this section] 24694

Sec. 3317.023. (A) Notwithstanding section 3317.022 of the 24695
Revised Code, the amounts required to be paid to a district under 24696
this chapter shall be adjusted by the amount of the computations 24697
made under divisions (B) to ~~(L)~~(M) of this section. 24698

As used in this section: 24699

(1) "Classroom teacher" means a licensed employee who 24700
provides direct instruction to pupils, excluding teachers funded 24701
from money paid to the district from federal sources; educational 24702

service personnel; and vocational and special education teachers. 24703

(2) "Educational service personnel" shall not include such 24704
specialists funded from money paid to the district from federal 24705
sources or assigned full-time to vocational or special education 24706
students and classes and may only include those persons employed 24707
in the eight specialist areas in a pattern approved by the 24708
department of education under guidelines established by the state 24709
board of education. 24710

(3) "Annual salary" means the annual base salary stated in 24711
the state minimum salary schedule for the performance of the 24712
teacher's regular teaching duties that the teacher earns for 24713
services rendered for the first full week of October of the fiscal 24714
year for which the adjustment is made under division (C) of this 24715
section. It shall not include any salary payments for supplemental 24716
teachers contracts. 24717

(4) "Regular student population" means the formula ADM plus 24718
the number of students reported as enrolled in the district 24719
pursuant to division (A)(1) of section 3313.981 of the Revised 24720
Code; minus the number of students reported under division (A)(2) 24721
of section 3317.03 of the Revised Code; minus the FTE of students 24722
reported under division (B)~~(5)~~, (6), (7), (8), (9), (10), (11), or 24723
(12) of that section who are enrolled in a vocational education 24724
class or receiving special education; and minus ~~one-fourth~~ ten per
cent of the students enrolled concurrently in a joint vocational 24725
school district. 24726
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(5) "State share percentage" has the same meaning as in 24728
section 3317.022 of the Revised Code. 24729

(6) "VEPD" means a school district or group of school 24730
districts designated by the department of education as being 24731
responsible for the planning for and provision of vocational 24732
education services to students within the district or group. 24733

(7) "Lead district" means a school district, including a joint vocational school district, designated by the department as a VEPD, or designated to provide primary vocational education leadership within a VEPD composed of a group of districts.

(B) If the district employs less than one full-time equivalent classroom teacher for each twenty-five pupils in the regular student population in any school district, deduct the sum of the amounts obtained from the following computations:

(1) Divide the number of the district's full-time equivalent classroom teachers employed by one twenty-fifth;

(2) Subtract the quotient in (1) from the district's regular student population;

(3) Multiply the difference in (2) by seven hundred fifty-two dollars.

(C) If a positive amount, add one-half of the amount obtained by multiplying the number of full-time equivalent classroom teachers by:

(1) The mean annual salary of all full-time equivalent classroom teachers employed by the district at their respective training and experience levels minus;

(2) The mean annual salary of all such teachers at their respective levels in all school districts receiving payments under this section.

The number of full-time equivalent classroom teachers used in this computation shall not exceed one twenty-fifth of the district's regular student population. In calculating the district's mean salary under this division, those full-time equivalent classroom teachers with the highest training level shall be counted first, those with the next highest training level second, and so on, in descending order. Within the respective

training levels, teachers with the highest years of service shall 24764
be counted first, the next highest years of service second, and so 24765
on, in descending order. 24766

(D) This division does not apply to a school district that 24767
has entered into an agreement under division (A) of section 24768
3313.42 of the Revised Code. Deduct the amount obtained from the 24769
following computations if the district employs fewer than five 24770
full-time equivalent educational service personnel, including 24771
elementary school art, music, and physical education teachers, 24772
counselors, librarians, visiting teachers, school social workers, 24773
and school nurses for each one thousand pupils in the regular 24774
student population: 24775

(1) Divide the number of full-time equivalent educational 24776
service personnel employed by the district by five 24777
one-thousandths; 24778

(2) Subtract the quotient in (1) from the district's regular 24779
student population; 24780

(3) Multiply the difference in (2) by ninety-four dollars. 24781

(E) If a local school district, or a city or exempted village 24782
school district to which a governing board of an educational 24783
service center provides services pursuant to section 3313.843 of 24784
the Revised Code, deduct the amount of the payment required for 24785
the reimbursement of the governing board under section 3317.11 of 24786
the Revised Code. 24787

(F)(1) If the district is required to pay to or entitled to 24788
receive tuition from another school district under division (C)(2) 24789
or (3) of section 3313.64 or section 3313.65 of the Revised Code, 24790
or if the superintendent of public instruction is required to 24791
determine the correct amount of tuition and make a deduction or 24792
credit under section 3317.08 of the Revised Code, deduct and 24793
credit such amounts as provided in division (I) of section 3313.64 24794

or section 3317.08 of the Revised Code. 24795

(2) For each child for whom the district is responsible for 24796
tuition or payment under division (A)(1) of section 3317.082 or 24797
section 3323.091 of the Revised Code, deduct the amount of tuition 24798
or payment for which the district is responsible. 24799

(G) If the district has been certified by the superintendent 24800
of public instruction under section 3313.90 of the Revised Code as 24801
not in compliance with the requirements of that section, deduct an 24802
amount equal to ten per cent of the amount computed for the 24803
district under section 3317.022 of the Revised Code. 24804

(H) If the district has received a loan from a commercial 24805
lending institution for which payments are made by the 24806
superintendent of public instruction pursuant to division (E)(3) 24807
of section 3313.483 of the Revised Code, deduct an amount equal to 24808
such payments. 24809

(I)(1) If the district is a party to an agreement entered 24810
into under division (D), (E), or (F) of section 3311.06 or 24811
division (B) of section 3311.24 of the Revised Code and is 24812
obligated to make payments to another district under such an 24813
agreement, deduct an amount equal to such payments if the district 24814
school board notifies the department in writing that it wishes to 24815
have such payments deducted. 24816

(2) If the district is entitled to receive payments from 24817
another district that has notified the department to deduct such 24818
payments under division (I)(1) of this section, add the amount of 24819
such payments. 24820

(J) If the district is required to pay an amount of funds to 24821
a cooperative education district pursuant to a provision described 24822
by division (B)(4) of section 3311.52 or division (B)(8) of 24823
section 3311.521 of the Revised Code, deduct such amounts as 24824
provided under that provision and credit those amounts to the 24825

cooperative education district for payment to the district under 24826
division (B)(1) of section 3317.19 of the Revised Code. 24827

(K)(1) If a district is educating a student entitled to 24828
attend school in another district pursuant to a shared education 24829
contract, compact, or cooperative education agreement other than 24830
an agreement entered into pursuant to section 3313.842 of the 24831
Revised Code, credit to that educating district on an FTE basis 24832
both of the following: 24833

(a) An amount equal to the formula amount times the cost of 24834
doing business factor of the school district where the student is 24835
entitled to attend school pursuant to section 3313.64 or 3313.65 24836
of the Revised Code; 24837

(b) An amount equal to the formula amount times the state 24838
share percentage times any multiple applicable to the student 24839
pursuant to section 3317.013 or 3317.014 of the Revised Code. 24840

(2) Deduct any amount credited pursuant to division (K)(1) of 24841
this section from amounts paid to the school district in which the 24842
student is entitled to attend school pursuant to section 3313.64 24843
or 3313.65 of the Revised Code. 24844

(3) If the district is required by a shared education 24845
contract, compact, or cooperative education agreement to make 24846
payments to an educational service center, deduct the amounts from 24847
payments to the district and add them to the amounts paid to the 24848
service center pursuant to section 3317.11 of the Revised Code. 24849

(L)(1) If a district, including a joint vocational school 24850
district, is a lead district of a VEPD, credit to that district 24851
the amounts calculated for all the school districts within that 24852
VEPD pursuant to division (E)(2) of section 3317.022 of the 24853
Revised Code. 24854

(2) Deduct from each appropriate district that is not a lead 24855
district, the amount attributable to that district that is 24856

credited to a lead district under division (L)(1) of this section. 24857

(M) If the department pays a joint vocational school district 24858
under division (G)(4) of section 3317.16 of the Revised Code for 24859
excess costs of providing special education and related services 24860
to a handicapped student, as calculated under division (G)(2) of 24861
that section, the department shall deduct the amount of that 24862
payment from the city, local, or exempted village school district 24863
that is responsible as specified in that section for the excess 24864
costs. 24865

Sec. 3317.024. In addition to the moneys paid to eligible 24866
school districts pursuant to section 3317.022 of the Revised Code, 24867
moneys appropriated for the education programs in divisions (A) to 24868
(H), (J) to (L), (O), (P), and (R) of this section shall be 24869
distributed to school districts meeting the requirements of 24870
section 3317.01 of the Revised Code; in the case of divisions (J) 24871
and (P) of this section, to educational service centers as 24872
provided in section 3317.11 of the Revised Code; in the case of 24873
divisions (E), (M), and (N) of this section, to county MR/DD 24874
boards; in the case of division (R) of this section, to joint 24875
vocational school districts; in the case of division (K) of this 24876
section, to cooperative education school districts; and in the 24877
case of division (Q) of this section, to the institutions defined 24878
under section 3317.082 of the Revised Code providing elementary or 24879
secondary education programs to children other than children 24880
receiving special education under section 3323.091 of the Revised 24881
Code. The following shall be distributed monthly, quarterly, or 24882
annually as may be determined by the state board of education: 24883

(A) A per pupil amount to each school district that 24884
establishes a summer school remediation program that complies with 24885
rules of the state board of education. 24886

(B) An amount for each island school district and each joint 24887

state school district for the operation of each high school and 24888
each elementary school maintained within such district and for 24889
capital improvements for such schools. Such amounts shall be 24890
determined on the basis of standards adopted by the state board of 24891
education. 24892

(C) An amount for each school district operating classes for 24893
children of migrant workers who are unable to be in attendance in 24894
an Ohio school during the entire regular school year. The amounts 24895
shall be determined on the basis of standards adopted by the state 24896
board of education, except that payment shall be made only for 24897
subjects regularly offered by the school district providing the 24898
classes. 24899

(D) An amount for each school district with guidance, 24900
testing, and counseling programs approved by the state board of 24901
education. The amount shall be determined on the basis of 24902
standards adopted by the state board of education. 24903

(E) An amount for the emergency purchase of school buses as 24904
provided for in section 3317.07 of the Revised Code; 24905

(F) An amount for each school district required to pay 24906
tuition for a child in an institution maintained by the department 24907
of youth services pursuant to section 3317.082 of the Revised 24908
Code, provided the child was not included in the calculation of 24909
the district's average daily membership for the preceding school 24910
year. 24911

(G) In fiscal year 2000 only, an amount to each school 24912
district for supplemental salary allowances for each licensed 24913
employee except those licensees serving as superintendents, 24914
assistant superintendents, principals, or assistant principals, 24915
whose term of service in any year is extended beyond the term of 24916
service of regular classroom teachers, as described in section 24917
3301.0725 of the Revised Code; 24918

(H) An amount for adult basic literacy education for each 24919
district participating in programs approved by the state board of 24920
education. The amount shall be determined on the basis of 24921
standards adopted by the state board of education. 24922

(I) Notwithstanding section 3317.01 of the Revised Code, but 24923
only until June 30, 1999, to each city, local, and exempted 24924
village school district, an amount for conducting driver education 24925
courses at high schools for which the state board of education 24926
prescribes minimum standards and to joint vocational and 24927
cooperative education school districts and educational service 24928
centers, an amount for conducting driver education courses to 24929
pupils enrolled in a high school for which the state board 24930
prescribes minimum standards. No payments shall be made under this 24931
division after June 30, 1999. 24932

(J) An amount for the approved cost of transporting 24933
developmentally handicapped pupils whom it is impossible or 24934
impractical to transport by regular school bus in the course of 24935
regular route transportation provided by the district or service 24936
center. No district or service center is eligible to receive a 24937
payment under this division for the cost of transporting any pupil 24938
whom it transports by regular school bus and who is included in 24939
the district's transportation ADM. The state board of education 24940
shall establish standards and guidelines for use by the department 24941
of education in determining the approved cost of such 24942
transportation for each district or service center. 24943

(K) An amount to each school district, including each 24944
cooperative education school district, pursuant to section 3313.81 24945
of the Revised Code to assist in providing free lunches to needy 24946
children and an amount to assist needy school districts in 24947
purchasing necessary equipment for food preparation. The amounts 24948
shall be determined on the basis of rules adopted by the state 24949
board of education. 24950

(L) An amount to each school district, for each pupil 24951
attending a chartered nonpublic elementary or high school within 24952
the district. The amount shall equal the amount appropriated for 24953
the implementation of section 3317.06 of the Revised Code divided 24954
by the average daily membership in grades kindergarten through 24955
twelve in nonpublic elementary and high schools within the state 24956
as determined during the first full week in October of each school 24957
year. 24958

(M) An amount for each county MR/DD board, distributed on the 24959
basis of standards adopted by the state board of education, for 24960
the approved cost of transportation required for children 24961
attending special education programs operated by the county MR/DD 24962
board under section 3323.09 of the Revised Code; 24963

(N) An amount for each county MR/DD board, distributed on the 24964
basis of standards adopted by the state board of education, for 24965
supportive home services for preschool children; 24966

(O) An amount for each school district that establishes a 24967
mentor teacher program that complies with rules of the state board 24968
of education. No school district shall be required to establish or 24969
maintain such a program in any year unless sufficient funds are 24970
appropriated to cover the district's total costs for the program. 24971

(P) An amount to each school district or educational service 24972
center for the total number of gifted units approved pursuant to 24973
section 3317.05 of the Revised Code. The amount for each such unit 24974
shall be the sum of the minimum salary for the teacher of the 24975
unit, calculated on the basis of the teacher's training level and 24976
years of experience pursuant to the salary schedule prescribed in 24977
the version of section 3317.13 of the Revised Code in effect prior 24978
to ~~the effective date of this amendment~~ July 1, 2001, plus fifteen 24979
per cent of that minimum salary amount, plus two thousand six 24980
hundred seventy-eight dollars. 24981

(Q) An amount to each institution defined under section 24982
3317.082 of the Revised Code providing elementary or secondary 24983
education to children other than children receiving special 24984
education under section 3323.091 of the Revised Code. This amount 24985
for any institution in any fiscal year shall equal the total of 24986
all tuition amounts required to be paid to the institution under 24987
division (A)(1) of section 3317.082 of the Revised Code. 24988

(R) A grant to each school district and joint vocational 24989
school district that operates a "graduation, reality, and 24990
dual-role skills" (GRADS) program for pregnant and parenting 24991
students that is approved by the department. The amount of the 24992
payment shall be the district's state share percentage, as defined 24993
in section 3317.022 or 3317.16 of the Revised Code, times the 24994
GRADS personnel allowance times the full-time-equivalent number of 24995
GRADS teachers approved by the department. The GRADS personnel 24996
allowance is ~~\$46,260~~ \$47,555 in fiscal years ~~2002~~ 2004 and ~~2003~~ 24997
2005. 24998

The state board of education or any other board of education 24999
or governing board may provide for any resident of a district or 25000
educational service center territory any educational service for 25001
which funds are made available to the board by the United States 25002
under the authority of public law, whether such funds come 25003
directly or indirectly from the United States or any agency or 25004
department thereof or through the state or any agency, department, 25005
or political subdivision thereof. 25006

Sec. 3317.029. (A) As used in this section: 25007

(1) "DPIA percentage" means: 25008

(a) In fiscal years prior to fiscal year 2004, the quotient 25009
obtained by dividing the five-year average number of children ages 25010
five to seventeen residing in the school district and living in a 25011

family receiving assistance under the Ohio works first program or 25012
an antecedent program known as TANF or ADC, as certified or 25013
adjusted under section 3317.10 of the Revised Code, by the 25014
district's three-year average formula ADM. 25015

(b) Beginning in fiscal year 2004, the unduplicated number of 25016
children ages five to seventeen residing in the school district 25017
and living in a family that has family income not exceeding the 25018
federal poverty guidelines and that receives family assistance, as 25019
certified or adjusted under section 3317.10 of the Revised Code, 25020
divided by the district's three-year average formula ADM. 25021

(2) "Family assistance" means assistance received under one 25022
of the following: 25023

(a) The Ohio works first program; 25024

(b) The food stamp program; 25025

(c) The medical assistance program, including the healthy 25026
start program, established under Chapter 5111. of the Revised 25027
Code; 25028

(d) The children's health insurance program part I 25029
established under section 5101.50 of the Revised Code or, prior to 25030
fiscal year 2000, an executive order issued under section 107.17 25031
of the Revised Code; 25032

(e) The disability financial assistance program established 25033
under Chapter 5115. of the Revised Code; 25034

(f) The disability medical assistance program established 25035
under Chapter 5115. of the Revised Code. 25036

(3) "Statewide DPIA percentage" means: 25037

(a) In fiscal years prior to fiscal year 2004, the five-year 25038
average of the total number of children ages five to seventeen 25039
years residing in the state and receiving assistance under the 25040
Ohio works first program or an antecedent program known as TANF or 25041

ADC, divided by the sum of the three-year average formula ADMs for all school districts in the state. 25042
25043

(b) Beginning in fiscal year 2004, the total unduplicated number of children ages five to seventeen residing in the state and living in a family that has family income not exceeding the federal poverty guidelines and that receives family assistance, divided by the sum of the three-year average formula ADMs for all school districts in the state. 25044
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(4) "DPIA index" means the quotient obtained by dividing the school district's DPIA percentage by the statewide DPIA percentage. 25050
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(5) "Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code. 25053
25054

(6) "DPIA student count" means: 25055

(a) In fiscal years prior to fiscal year 2004, the five-year average number of children ages five to seventeen residing in the school district and living in a family receiving assistance under the Ohio works first program or an antecedent program known as TANF or ADC, as certified under section 3317.10 of the Revised Code; 25056
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(b) Beginning in fiscal year 2004, the unduplicated number of children ages five to seventeen residing in the school district and living in a family that has family income not exceeding the federal poverty guidelines and that receives family assistance, as certified or adjusted under section 3317.10 of the Revised Code. 25062
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(7) "Kindergarten ADM" means the number of students reported under section 3317.03 of the Revised Code as enrolled in kindergarten. 25067
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(8) "Kindergarten through third grade ADM" means the amount calculated as follows: 25070
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(a) Multiply the kindergarten ADM by the sum of one plus the all-day kindergarten percentage;	25072 25073
(b) Add the number of students in grades one through three;	25074
(c) Subtract from the sum calculated under division (A)(6)(b) of this section the number of special education students in grades kindergarten through three.	25075 25076 25077
(9) "Statewide average teacher salary" means forty-two thousand four hundred sixty-nine dollars in fiscal year 2002, and forty-three thousand six hundred fifty-eight dollars in fiscal year 2003, which includes an amount for the value of fringe benefits.	25078 25079 25080 25081 25082
(10) "All-day kindergarten" means a kindergarten class that is in session five days per week for not less than the same number of clock hours each day as for pupils in grades one through six.	25083 25084 25085
(11) "All-day kindergarten percentage" means the percentage of a district's actual total number of students enrolled in kindergarten who are enrolled in all-day kindergarten.	25086 25087 25088
(12) "Buildings with the highest concentration of need" means:	25089 25090
(a) In fiscal years prior to fiscal year 2004, the school buildings in a district with percentages of students in grades kindergarten through three receiving assistance under Ohio works first at least as high as the district-wide percentage of students receiving such assistance.	25091 25092 25093 25094 25095
(b) Beginning in fiscal year 2004, the school buildings in a district with percentages of students in grades kindergarten through three receiving family assistance at least as high as the district-wide percentage of students receiving family assistance.	25096 25097 25098 25099
(c) If, in any fiscal year, the information provided by the department of job and family services under section 3317.10 of the	25100 25101

Revised Code is insufficient to determine the Ohio works first or 25102
family assistance percentage in each building, "buildings with the 25103
highest concentration of need" has the meaning given in rules that 25104
the department of education shall adopt. The rules shall base the 25105
definition of "buildings with the highest concentration of need" 25106
on family income of students in grades kindergarten through three 25107
in a manner that, to the extent possible with available data, 25108
approximates the intent of this division and division (G) of this 25109
section to designate buildings where the Ohio works first or 25110
family assistance percentage in those grades equals or exceeds the 25111
district-wide Ohio works first or family assistance percentage. 25112

(B) In addition to the amounts required to be paid to a 25113
school district under section 3317.022 of the Revised Code, a 25114
school district shall receive the greater of the amount the 25115
district received in fiscal year 1998 pursuant to division (B) of 25116
section 3317.023 of the Revised Code as it existed at that time or 25117
the sum of the computations made under divisions (C) to (E) of 25118
this section. 25119

(C) A supplemental payment that may be utilized for measures 25120
related to safety and security and for remediation or similar 25121
programs, calculated as follows: 25122

(1) If the DPIA index of the school district is greater than 25123
or equal to thirty-five-hundredths, but less than one, an amount 25124
obtained by multiplying the district's DPIA student count by two 25125
hundred thirty dollars; 25126

(2) If the DPIA index of the school district is greater than 25127
or equal to one, an amount obtained by multiplying the DPIA index 25128
by two hundred thirty dollars and multiplying that product by the 25129
district's DPIA student count. 25130

Except as otherwise provided in division (F) of this section, 25131
beginning with the school year that starts July 1, 2002, each 25132

school district annually shall use at least twenty per cent of the 25133
funds calculated for the district under this division for 25134
intervention services required by section 3313.608 of the Revised 25135
Code. 25136

(D) A payment for all-day kindergarten if the DPIA index of 25137
the school district is greater than or equal to one or if the 25138
district's three-year average formula ADM exceeded seventeen 25139
thousand five hundred, calculated by multiplying the all-day 25140
kindergarten percentage by the kindergarten ADM and multiplying 25141
that product by the formula amount. 25142

(E) A class-size reduction payment based on calculating the 25143
number of new teachers necessary to achieve a lower 25144
student-teacher ratio, as follows: 25145

(1) Determine or calculate a formula number of teachers per 25146
one thousand students based on the DPIA index of the school 25147
district as follows: 25148

(a) If the DPIA index of the school district is less than 25149
six-tenths, the formula number of teachers is 43.478, which is the 25150
number of teachers per one thousand students at a student-teacher 25151
ratio of twenty-three to one; 25152

(b) If the DPIA index of the school district is greater than 25153
or equal to six-tenths, but less than two and one-half, the 25154
formula number of teachers is calculated as follows: 25155

$$43.478 + \{[(\text{DPIA index} - 0.6) / 1.9] \times 23.188\} \quad 25156$$

Where 43.478 is the number of teachers per one thousand 25157
students at a student-teacher ratio of twenty-three to one; 1.9 is 25158
the interval from a DPIA index of six-tenths to a DPIA index of 25159
two and one-half; and 23.188 is the difference in the number of 25160
teachers per one thousand students at a student-teacher ratio of 25161
fifteen to one and the number of teachers per one thousand 25162
students at a student-teacher ratio of twenty-three to one. 25163

(c) If the DPIA index of the school district is greater than 25164
or equal to two and one-half, the formula number of teachers is 25165
66.667, which is the number of teachers per one thousand students 25166
at a student-teacher ratio of fifteen to one. 25167

(2) Multiply the formula number of teachers determined or 25168
calculated in division (E)(1) of this section by the kindergarten 25169
through third grade ADM for the district and divide that product 25170
by one thousand; 25171

(3) Calculate the number of new teachers as follows: 25172

(a) Multiply the kindergarten through third grade ADM by 25173
43.478, which is the number of teachers per one thousand students 25174
at a student-teacher ratio of twenty-three to one, and divide that 25175
product by one thousand; 25176

(b) Subtract the quotient obtained in division (E)(3)(a) of 25177
this section from the product in division (E)(2) of this section. 25178

(4) Multiply the greater of the difference obtained under 25179
division (E)(3) of this section or zero by the statewide average 25180
teachers salary. 25181

(F) This division applies only to school districts whose DPIA 25182
index is one or greater. 25183

(1) Each school district subject to this division shall first 25184
utilize funds received under this section so that, when combined 25185
with other funds of the district, sufficient funds exist to 25186
provide all-day kindergarten to at least the number of children in 25187
the district's all-day kindergarten percentage. 25188

(2) Up to an amount equal to the district's DPIA index 25189
multiplied by its DPIA student count multiplied by two hundred 25190
thirty dollars of the money distributed under this section may be 25191
utilized for one or both of the following: 25192

(a) Programs designed to ensure that schools are free of 25193

drugs and violence and have a disciplined environment conducive to learning; 25194
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(b) Remediation for students who have failed or are in danger of failing any of the tests administered pursuant to section 3301.0710 of the Revised Code. 25196
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Beginning with the school year that starts on July 1, 2002, each school district shall use at least twenty per cent of the funds set aside for the purposes of divisions (F)(2)(a) and (b) of this section to provide intervention services required by section 3313.608 of the Revised Code. 25199
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(3) Except as otherwise required by division (G) or permitted under division (K) of this section, all other funds distributed under this section to districts subject to this division shall be utilized for the purpose of the third grade guarantee. The third grade guarantee consists of increasing the amount of instructional attention received per pupil in kindergarten through third grade, either by reducing the ratio of students to instructional personnel or by increasing the amount of instruction and curriculum-related activities by extending the length of the school day or the school year. 25204
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School districts may implement a reduction of the ratio of students to instructional personnel through any or all of the following methods: 25214
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(a) Reducing the number of students in a classroom taught by a single teacher; 25217
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(b) Employing full-time educational aides or educational paraprofessionals issued a permit or license under section 3319.088 of the Revised Code; 25219
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(c) Instituting a team-teaching method that will result in a lower student-teacher ratio in a classroom. 25222
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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.

Districts may extend the school year either through adding regular days of instruction to the school calendar or by providing summer programs.

(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 in each kindergarten and first grade class in all buildings with the highest concentration of need. This division does not require that the funds used in buildings with the highest concentration of need be spent solely to reduce the ratio of instructional personnel to students in kindergarten and first grade. A school district may spend the funds in those buildings in any manner permitted by division (F)(3) of this section, but may not spend the money in other buildings unless the fifteen-to-one ratio required by this division is attained.

(H)(1) By the first day of August of each fiscal year, each 25256
school district wishing to receive any funds under division (D) of 25257
this section shall submit to the department of education an 25258
estimate of its all-day kindergarten percentage. Each district 25259
shall update its estimate throughout the fiscal year in the form 25260
and manner required by the department, and the department shall 25261
adjust payments under this section to reflect the updates. 25262

(2) Annually by the end of December, the department of 25263
education, utilizing data from the information system established 25264
under section 3301.0714 of the Revised Code and after consultation 25265
with the legislative office of education oversight, shall 25266
determine for each school district subject to division (F) of this 25267
section whether in the preceding fiscal year the district's ratio 25268
of instructional personnel to students and its number of 25269
kindergarten students receiving all-day kindergarten appear 25270
reasonable, given the amounts of money the district received for 25271
that fiscal year pursuant to divisions (D) and (E) of this 25272
section. If the department is unable to verify from the data 25273
available that students are receiving reasonable amounts of 25274
instructional attention and all-day kindergarten, given the funds 25275
the district has received under this section and that class-size 25276
reduction funds are being used in school buildings with the 25277
highest concentration of needs as required by division (G) of this 25278
section, the department shall conduct a more intensive 25279
investigation to ensure that funds have been expended as required 25280
by this section. The department shall file an annual report of its 25281
findings under this division with the chairpersons of the 25282
committees in each house of the general assembly dealing with 25283
finance and education. 25284

(I) Any school district with a DPIA index less than one and a 25285
three-year average formula ADM exceeding seventeen thousand five 25286
hundred shall first utilize funds received under this section so 25287

that, when combined with other funds of the district, sufficient 25288
funds exist to provide all-day kindergarten to at least the number 25289
of children in the district's all-day kindergarten percentage. 25290
Such a district shall expend at least seventy per cent of the 25291
remaining funds received under this section, and any other 25292
district with a DPIA index less than one shall expend at least 25293
seventy per cent of all funds received under this section, for any 25294
of the following purposes: 25295

- (1) The purchase of technology for instructional purposes; 25296
- (2) All-day kindergarten; 25297
- (3) Reduction of class sizes; 25298
- (4) Summer school remediation; 25299
- (5) Dropout prevention programs; 25300
- (6) Guaranteeing that all third graders are ready to progress 25301
to more advanced work; 25302
- (7) Summer education and work programs; 25303
- (8) Adolescent pregnancy programs; 25304
- (9) Head start or preschool programs; 25305
- (10) Reading improvement programs described by the department 25306
of education; 25307
- (11) Programs designed to ensure that schools are free of 25308
drugs and violence and have a disciplined environment conducive to 25309
learning; 25310
- (12) Furnishing, free of charge, materials used in courses of 25311
instruction, except for the necessary textbooks or electronic 25312
textbooks required to be furnished without charge pursuant to 25313
section 3329.06 of the Revised Code, to pupils living in families 25314
participating in Ohio works first in accordance with section 25315
3313.642 of the Revised Code; 25316

(13) School breakfasts provided pursuant to section 3313.813 of the Revised Code. 25317
25318

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. 25319
25320
25321

(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. 25322
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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. 25330
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25332

(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: 25333
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(a) The district certifies to the department, in a manner acceptable to the department, that it has a shortage of space for providing all-day kindergarten. 25337
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(b) The district provides all-day kindergarten to the number of children in the all-day kindergarten percentage it certified under this section. 25340
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(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 25343
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fifteen students per licensed teacher. To do so, the district must 25347
certify its need for additional space to the department, in a 25348
manner satisfactory to the department. 25349

Sec. 3317.0217. The department of education shall annually 25350
compute and pay state parity aid to school districts, as follows: 25351

(A) Calculate the local wealth per pupil of each school 25352
district, which equals the following sum: 25353

(1) Two-thirds times the quotient of (a) the district's 25354
recognized valuation divided by (b) its formula ADM; plus 25355

(2) One-third times the quotient of (a) the average of the 25356
total federal adjusted gross income of the school district's 25357
residents for the three years most recently reported under section 25358
3317.021 of the Revised Code divided by (b) its formula ADM. 25359

(B) Rank all school districts in order of local wealth per 25360
pupil, from the district with the lowest local wealth per pupil to 25361
the district with the highest local wealth per pupil. 25362

(C) Compute the per pupil state parity aid funding for each 25363
school district in accordance with the following formula: 25364

Payment percentage X (threshold local wealth 25365
per pupil - the district's local 25366
wealth per pupil) X 0.0095 25367

Where: 25368

(1) "Payment percentage," for purposes of division (C) of 25369
this section, equals 20% in fiscal year 2002, 40% in fiscal year 25370
2003, 60% in fiscal year 2004, 80% in fiscal year 2005, and 100% 25371
after fiscal year 2005. 25372

(2) Nine and one-half mills (0.0095) is the general 25373
assembly's determination of the average number of effective 25374
operating mills that districts in the seventieth to ninetieth 25375
percentiles of valuations per pupil collected in fiscal year 2001 25376

above the revenues required to finance their attributed local 25377
shares of the calculated cost of an adequate education. This was 25378
determined by (a) adding the district revenues from operating 25379
property tax levies and income tax levies, (b) subtracting from 25380
that total the sum of (i) twenty-three mills times adjusted 25381
recognized valuation plus (ii) the attributed local shares of 25382
special education, transportation, and vocational education 25383
funding as described in divisions (F)(1) to (3) of section 25384
3317.022 of the Revised Code, and (c) converting the result to an 25385
effective operating property tax rate. 25386

(3) The "threshold local wealth per pupil" is the local 25387
wealth per pupil of the school district with the 25388
four-hundred-ninetieth lowest local wealth per pupil. 25389

If the result of the calculation for a school district under 25390
division (C) of this section is less than zero, the district's per 25391
pupil parity aid shall be zero. 25392

(D) Compute the per pupil alternative parity aid for each 25393
school district that has a combination of an income factor of 1.0 25394
or less, a DPIA index of 1.0 or greater, and a 25395
cost-of-doing-business factor of 1.0375 or greater, in accordance 25396
with the following formula: 25397

$$\begin{aligned} & \text{Payment percentage X } \$60,000 \text{ X} & 25398 \\ & (1 - \text{income factor}) \text{ X } 4/15 \text{ X } 0.023 & 25399 \end{aligned}$$

Where: 25400

(1) "DPIA index" has the same meaning as in section 3317.029 25401
of the Revised Code. 25402

(2) "Payment percentage," for purposes of division (D) of 25403
this section, equals 50% in fiscal year 2002 and 100% after fiscal 25404
year 2002. 25405

(E) Pay each district that has a combination of an income 25406
factor 1.0 or less, a DPIA index of 1.0 or greater, and a 25407

cost-of-doing-business factor of 1.0375 or greater, the greater of 25408
the following: 25409

(1) The product of the district's per pupil parity aid 25410
calculated under division (C) of this section times its formula 25411
ADM; 25412

(2) The product of its per pupil alternative parity aid 25413
calculated under division (D) of this section times its formula 25414
ADM. 25415

(F) Pay every other district the product of its per pupil 25416
parity aid calculated under division (C) of this section times its 25417
formula ADM. 25418

~~Every six years, the general assembly shall redetermine, 25419
after considering the report of the committee appointed under 25420
section 3317.012 of the Revised Code, the average number of 25421
effective operating mills that districts in the seventieth to 25422
ninetieth percentiles of valuations per pupil collect above the 25423
revenues required to finance their attributed local shares of the 25424
cost of an adequate education. 25425~~

Sec. 3317.03. Notwithstanding divisions (A)(1), (B)(1), and 25426
(C) of this section, any student enrolled in kindergarten more 25427
than half time shall be reported as one-half student under this 25428
section. 25429

(A) The superintendent of each city and exempted village 25430
school district and of each educational service center shall, for 25431
the schools under the superintendent's supervision, certify to the 25432
state board of education on or before the fifteenth day of October 25433
in each year for the first full school week in October the formula 25434
ADM, which shall consist of the average daily membership during 25435
such week of the sum of the following: 25436

(1) On an FTE basis, the number of students in grades 25437

kindergarten through twelve receiving any educational services	25438
from the district, except that the following categories of	25439
students shall not be included in the determination:	25440
(a) Students enrolled in adult education classes;	25441
(b) Adjacent or other district students enrolled in the	25442
district under an open enrollment policy pursuant to section	25443
3313.98 of the Revised Code;	25444
(c) Students receiving services in the district pursuant to a	25445
compact, cooperative education agreement, or a contract, but who	25446
are entitled to attend school in another district pursuant to	25447
section 3313.64 or 3313.65 of the Revised Code;	25448
(d) Students for whom tuition is payable pursuant to sections	25449
3317.081 and 3323.141 of the Revised Code.	25450
(2) On an FTE basis, the number of students entitled to	25451
attend school in the district pursuant to section 3313.64 or	25452
3313.65 of the Revised Code, but receiving educational services in	25453
grades kindergarten through twelve from one or more of the	25454
following entities:	25455
(a) A community school pursuant to Chapter 3314. of the	25456
Revised Code, including any participation in a college pursuant to	25457
Chapter 3365. of the Revised Code while enrolled in such community	25458
school;	25459
(b) An alternative school pursuant to sections 3313.974 to	25460
3313.979 of the Revised Code as described in division (I)(2)(a) or	25461
(b) of this section;	25462
(c) A college pursuant to Chapter 3365. of the Revised Code,	25463
except when the student is enrolled in the college while also	25464
enrolled in a community school pursuant to Chapter 3314. of the	25465
Revised Code;	25466
(d) An adjacent or other school district under an open	25467

enrollment policy adopted pursuant to section 3313.98 of the Revised Code;	25468 25469
(e) An educational service center or cooperative education district;	25470 25471
(f) Another school district under a cooperative education agreement, compact, or contract.	25472 25473
(3) One-fourth <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;	25474 25475 25476 25477 25478 25479 25480 25481
(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.	25482 25483 25484 25485 25486 25487 25488
(B) To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter, in addition to the formula ADM, each superintendent shall report separately the following student counts:	25489 25490 25491 25492
(1) The total average daily membership in regular day classes included in the report under division (A)(1) or (2) of this section for kindergarten, and each of grades one through twelve in schools under the superintendent's supervision;	25493 25494 25495 25496
(2) The number of all handicapped preschool children enrolled as of the first day of December in classes in the district that	25497 25498

are eligible for approval ~~by the state board of education~~ under 25499
division (B) of section 3317.05 of the Revised Code and the number 25500
of those classes, which shall be reported not later than the 25501
fifteenth day of December, in accordance with rules adopted under 25502
that section; 25503

(3) The number of children entitled to attend school in the 25504
district pursuant to section 3313.64 or 3313.65 of the Revised 25505
Code who are participating in a pilot project scholarship program 25506
established under sections 3313.974 to 3313.979 of the Revised 25507
Code as described in division (I)(2)(a) or (b) of this section, 25508
are enrolled in a college under Chapter 3365. of the Revised Code, 25509
except when the student is enrolled in the college while also 25510
enrolled in a community school pursuant to Chapter 3314. of the 25511
Revised Code, are enrolled in an adjacent or other school district 25512
under section 3313.98 of the Revised Code, are enrolled in a 25513
community school established under Chapter 3314. of the Revised 25514
Code, including any participation in a college pursuant to Chapter 25515
3365. of the Revised Code while enrolled in such community school, 25516
or are participating in a program operated by a county MR/DD board 25517
or a state institution; 25518

(4) The number of pupils enrolled in joint vocational 25519
schools; 25520

(5) The average daily membership of handicapped children 25521
reported under division (A)(1) or (2) of this section receiving 25522
special education services for the category one handicap described 25523
in division (A) of section 3317.013 of the Revised Code; 25524

(6) The average daily membership of handicapped children 25525
reported under division (A)(1) or (2) of this section receiving 25526
special education services for category two handicaps described in 25527
division (B) of section 3317.013 of the Revised Code; 25528

(7) The average daily membership of handicapped children 25529

reported under division (A)(1) or (2) of this section receiving 25530
special education services for category three handicaps described 25531
in division (C) of section 3317.013 of the Revised Code; 25532

(8) The average daily membership of handicapped children 25533
reported under division (A)(1) or (2) of this section receiving 25534
special education services for category four handicaps described 25535
in division (D) of section 3317.013 of the Revised Code; 25536

(9) The average daily membership of handicapped children 25537
reported under division (A)(1) or (2) of this section receiving 25538
special education services for the category five handicap 25539
described in division (E) of section 3317.013 of the Revised Code; 25540

(10) The average daily membership of handicapped children 25541
reported under division (A)(1) or (2) of this section receiving 25542
special education services for category six handicaps described in 25543
division (F) of section 3317.013 of the Revised Code; 25544

(11) The average daily membership of pupils reported under 25545
division (A)(1) or (2) of this section enrolled in category one 25546
vocational education programs or classes, described in division 25547
(A) of section 3317.014 of the Revised Code, operated by the 25548
school district or by another district, other than a joint 25549
vocational school district, or by an educational service center; 25550

(12) The average daily membership of pupils reported under 25551
division (A)(1) or (2) of this section enrolled in category two 25552
vocational education programs or services, described in division 25553
(B) of section 3317.014 of the Revised Code, operated by the 25554
school district or another school district, other than a joint 25555
vocational school district, or by an educational service center; 25556

(13) The average number of children transported by the school 25557
district on board-owned or contractor-owned and -operated buses, 25558
reported in accordance with rules adopted by the department of 25559
education; 25560

(14)(a) The number of children, other than handicapped preschool children, the district placed with a county MR/DD board in fiscal year 1998;	25561 25562 25563
(b) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for the category one handicap described in division (A) of section 3317.013 of the Revised Code;	25564 25565 25566 25567 25568
(c) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category two handicaps described in division (B) of section 3317.013 of the Revised Code;	25569 25570 25571 25572 25573
(d) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category three handicaps described in division (C) of section 3317.013 of the Revised Code;	25574 25575 25576 25577 25578
(e) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category four handicaps described in division (D) of section 3317.013 of the Revised Code;	25579 25580 25581 25582 25583
(f) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for the category five handicap described in division (E) of section 3317.013 of the Revised Code;	25584 25585 25586 25587 25588
(g) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services	25589 25590 25591

for category six handicaps described in division (F) of section 25592
3317.013 of the Revised Code. 25593

(C)(1) Except as otherwise provided in this section for 25594
kindergarten students, the average daily membership in divisions 25595
(B)(1) to (12) of this section shall be based upon the number of 25596
full-time equivalent students. The state board of education shall 25597
adopt rules defining full-time equivalent students and for 25598
determining the average daily membership therefrom for the 25599
purposes of divisions (A), (B), and (D) of this section. 25600

(2) A student enrolled in a community school established 25601
under Chapter 3314. of the Revised Code shall be counted in the 25602
formula ADM and, if applicable, the category one, two, three, 25603
four, five, or six special education ADM of the school district in 25604
which the student is entitled to attend school under section 25605
3313.64 or 3313.65 of the Revised Code for the same proportion of 25606
the school year that the student is counted in the enrollment of 25607
the community school for purposes of section 3314.08 of the 25608
Revised Code. 25609

(3) No child shall be counted as more than a total of one 25610
child in the sum of the average daily memberships of a school 25611
district under division (A), divisions (B)(1) to (12), or division 25612
(D) of this section, except as follows: 25613

(a) A child with a handicap described in section 3317.013 of 25614
the Revised Code may be counted both in formula ADM and in 25615
category one, two, three, four, five, or six special education ADM 25616
and, if applicable, in category one or two vocational education 25617
ADM. As provided in division (C) of section 3317.02 of the Revised 25618
Code, such a child shall be counted in category one, two, three, 25619
four, five, or six special education ADM in the same proportion 25620
that the child is counted in formula ADM. 25621

(b) A child enrolled in vocational education programs or 25622

classes described in section 3317.014 of the Revised Code may be 25623
counted both in formula ADM and category one or two vocational 25624
education ADM and, if applicable, in category one, two, three, 25625
four, five, or six special education ADM. Such a child shall be 25626
counted in category one or two vocational education ADM in the 25627
same proportion as the percentage of time that the child spends in 25628
the vocational education programs or classes. 25629

(4) Based on the information reported under this section, the 25630
department of education shall determine the total student count, 25631
as defined in section 3301.011 of the Revised Code, for each 25632
school district. 25633

(D)(1) The superintendent of each joint vocational school 25634
district shall certify to the superintendent of public instruction 25635
on or before the fifteenth day of October in each year for the 25636
first full school week in October the formula ADM, which, except 25637
as otherwise provided in this division, shall consist of the 25638
average daily membership during such week, on an FTE basis, of the 25639
number of students receiving any educational services from the 25640
district, including students enrolled in a community school 25641
established under Chapter 3314. of the Revised Code who are 25642
attending the joint vocational district under an agreement between 25643
the district board of education and the governing authority of the 25644
community school and are entitled to attend school in a city, 25645
local, or exempted village school district whose territory is part 25646
of the territory of the joint vocational district. 25647

The following categories of students shall not be included in 25648
the determination made under division (D)(1) of this section: 25649

(a) Students enrolled in adult education classes; 25650

(b) Adjacent or other district joint vocational students 25651
enrolled in the district under an open enrollment policy pursuant 25652
to section 3313.98 of the Revised Code; 25653

(c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in a city, local, or exempted village school district whose territory is not part of the territory of the joint vocational district;

(d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.

(2) To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter, in addition to the formula ADM, each superintendent shall report separately the average daily membership included in the report under division (D)(1) of this section for each of the following categories of students:

(a) Students enrolled in each grade included in the joint vocational district schools;

(b) Handicapped children receiving special education services for the category one handicap described in division (A) of section 3317.013 of the Revised Code;

(c) Handicapped children receiving special education services for the category two handicaps described in division (B) of section 3317.013 of the Revised Code;

(d) Handicapped children receiving special education services for category three handicaps described in division (C) of section 3317.013 of the Revised Code;

(e) Handicapped children receiving special education services for category four handicaps described in division (D) of section 3317.013 of the Revised Code;

(f) Handicapped children receiving special education services for the category five handicap described in division (E) of section 3317.013 of the Revised Code;

(g) Handicapped children receiving special education services	25684
for category six handicaps described in division (F) of section	25685
3317.013 of the Revised Code;	25686
(h) Students receiving category one vocational education	25687
services, described in division (A) of section 3317.014 of the	25688
Revised Code;	25689
(i) Students receiving category two vocational education	25690
services, described in division (B) of section 3317.014 of the	25691
Revised Code.	25692
The superintendent of each joint vocational school district	25693
shall also indicate the city, local, or exempted village school	25694
district in which each joint vocational district pupil is entitled	25695
to attend school pursuant to section 3313.64 or 3313.65 of the	25696
Revised Code.	25697
(E) In each school of each city, local, exempted village,	25698
joint vocational, and cooperative education school district there	25699
shall be maintained a record of school membership, which record	25700
shall accurately show, for each day the school is in session, the	25701
actual membership enrolled in regular day classes. For the purpose	25702
of determining average daily membership, the membership figure of	25703
any school shall not include any pupils except those pupils	25704
described by division (A) of this section. The record of	25705
membership for each school shall be maintained in such manner that	25706
no pupil shall be counted as in membership prior to the actual	25707
date of entry in the school and also in such manner that where for	25708
any cause a pupil permanently withdraws from the school that pupil	25709
shall not be counted as in membership from and after the date of	25710
such withdrawal. There shall not be included in the membership of	25711
any school any of the following:	25712
(1) Any pupil who has graduated from the twelfth grade of a	25713
public high school;	25714

(2) Any pupil who is not a resident of the state;	25715
(3) Any pupil who was enrolled in the schools of the district during the previous school year when tests were administered under section 3301.0711 of the Revised Code but did not take one or more of the tests required by that section and was not excused pursuant to division (C)(1) of that section;	25716 25717 25718 25719 25720
(4) Any pupil who has attained the age of twenty-two years, except for veterans of the armed services whose attendance was interrupted before completing the recognized twelve-year course of the public schools by reason of induction or enlistment in the armed forces and who apply for reenrollment in the public school system of their residence not later than four years after termination of war or their honorable discharge.	25721 25722 25723 25724 25725 25726 25727
If, however, any veteran described by division (E)(4) of this section elects to enroll in special courses organized for veterans for whom tuition is paid under the provisions of federal laws, or otherwise, that veteran shall not be included in average daily membership.	25728 25729 25730 25731 25732
Notwithstanding division (E)(3) of this section, the membership of any school may include a pupil who did not take a test required by section 3301.0711 of the Revised Code if the superintendent of public instruction grants a waiver from the requirement to take the test to the specific pupil. The superintendent may grant such a waiver only for good cause in accordance with rules adopted by the state board of education.	25733 25734 25735 25736 25737 25738 25739
Except as provided in divisions (B)(2) and (F) of this section, the average daily membership figure of any local, city, exempted village, or joint vocational school district shall be determined by dividing the figure representing the sum of the number of pupils enrolled during each day the school of attendance is actually open for instruction during the first full school week	25740 25741 25742 25743 25744 25745

in October by the total number of days the school was actually 25746
open for instruction during that week. For purposes of state 25747
funding, "enrolled" persons are only those pupils who are 25748
attending school, those who have attended school during the 25749
current school year and are absent for authorized reasons, and 25750
those handicapped children currently receiving home instruction. 25751

The average daily membership figure of any cooperative 25752
education school district shall be determined in accordance with 25753
rules adopted by the state board of education. 25754

(F)(1) If the formula ADM for the first full school week in 25755
February is at least three per cent greater than that certified 25756
for the first full school week in the preceding October, the 25757
superintendent of schools of any city, exempted village, or joint 25758
vocational school district or educational service center shall 25759
certify such increase to the superintendent of public instruction. 25760
Such certification shall be submitted no later than the fifteenth 25761
day of February. For the balance of the fiscal year, beginning 25762
with the February payments, the superintendent of public 25763
instruction shall use the increased formula ADM in calculating or 25764
recalculating the amounts to be allocated in accordance with 25765
section 3317.022 or 3317.16 of the Revised Code. In no event shall 25766
the superintendent use an increased membership certified to the 25767
superintendent after the fifteenth day of February. 25768

(2) If on the first school day of April the total number of 25769
classes or units for handicapped preschool children that are 25770
eligible for approval under division (B) of section 3317.05 of the 25771
Revised Code exceeds the number of units that have been approved 25772
for the year under that division, the superintendent of schools of 25773
any city, exempted village, or cooperative education school 25774
district or educational service center shall make the 25775
certifications required by this section for that day. If the ~~state~~ 25776
~~board of education~~ department determines additional units can be 25777

approved for the fiscal year within any limitations set forth in 25778
the acts appropriating moneys for the funding of such units, the 25779
~~board~~ department shall approve additional units for the fiscal 25780
year on the basis of such average daily membership. For each unit 25781
so approved, the department ~~of education~~ shall pay an amount 25782
computed in the manner prescribed in section 3317.052 or 3317.19 25783
and section 3317.053 of the Revised Code. 25784

(3) If a student attending a community school under Chapter 25785
3314. of the Revised Code is not included in the formula ADM 25786
certified for the first full school week of October for the school 25787
district in which the student is entitled to attend school under 25788
section 3313.64 or 3313.65 of the Revised Code, the department of 25789
education shall adjust the formula ADM of that school district to 25790
include the community school student in accordance with division 25791
(C)(2) of this section, and shall recalculate the school 25792
district's payments under this chapter for the entire fiscal year 25793
on the basis of that adjusted formula ADM. This requirement 25794
applies regardless of whether the student was enrolled, as defined 25795
in division (E) of this section, in the community school during 25796
the first full school week in October. 25797

(G)(1)(a) The superintendent of an institution operating a 25798
special education program pursuant to section 3323.091 of the 25799
Revised Code shall, for the programs under such superintendent's 25800
supervision, certify to the state board of education the average 25801
daily membership of all handicapped children in classes or 25802
programs approved annually by the ~~state board~~ department of 25803
education, in the manner prescribed by the superintendent of 25804
public instruction. 25805

(b) The superintendent of an institution with vocational 25806
education units approved under division (A) of section 3317.05 of 25807
the Revised Code shall, for the units under the superintendent's 25808
supervision, certify to the state board of education the average 25809

daily membership in those units, in the manner prescribed by the 25810
superintendent of public instruction. 25811

(2) The superintendent of each county MR/DD board that 25812
maintains special education classes under section 3317.20 of the 25813
Revised Code or units approved ~~by the state board of education~~ 25814
pursuant to section 3317.05 of the Revised Code shall do both of 25815
the following: 25816

(a) Certify to the state board, in the manner prescribed by 25817
the board, the average daily membership in classes under section 25818
3317.20 of the Revised Code for each school district that has 25819
placed children in the classes; 25820

(b) Certify to the state board, in the manner prescribed by 25821
the board, the number of all handicapped preschool children 25822
enrolled as of the first day of December in classes eligible for 25823
approval under division (B) of section 3317.05 of the Revised 25824
Code, and the number of those classes. 25825

(3)(a) If on the first school day of April the number of 25826
classes or units maintained for handicapped preschool children by 25827
the county MR/DD board that are eligible for approval under 25828
division (B) of section 3317.05 of the Revised Code is greater 25829
than the number of units approved for the year under that 25830
division, the superintendent shall make the certification required 25831
by this section for that day. 25832

(b) If the ~~state board~~ department determines that additional 25833
classes or units can be approved for the fiscal year within any 25834
limitations set forth in the acts appropriating moneys for the 25835
funding of the classes and units described in division (G)(3)(a) 25836
of this section, the ~~board~~ department shall approve and fund 25837
additional units for the fiscal year on the basis of such average 25838
daily membership. For each unit so approved, the department ~~of~~ 25839
~~education~~ shall pay an amount computed in the manner prescribed in 25840

sections 3317.052 and 3317.053 of the Revised Code. 25841

(H) Except as provided in division (I) of this section, when 25842
any city, local, or exempted village school district provides 25843
instruction for a nonresident pupil whose attendance is 25844
unauthorized attendance as defined in section 3327.06 of the 25845
Revised Code, that pupil's membership shall not be included in 25846
that district's membership figure used in the calculation of that 25847
district's formula ADM or included in the determination of any 25848
unit approved for the district under section 3317.05 of the 25849
Revised Code. The reporting official shall report separately the 25850
average daily membership of all pupils whose attendance in the 25851
district is unauthorized attendance, and the membership of each 25852
such pupil shall be credited to the school district in which the 25853
pupil is entitled to attend school under division (B) of section 25854
3313.64 or section 3313.65 of the Revised Code as determined by 25855
the department of education. 25856

(I)(1) A city, local, exempted village, or joint vocational 25857
school district admitting a scholarship student of a pilot project 25858
district pursuant to division (C) of section 3313.976 of the 25859
Revised Code may count such student in its average daily 25860
membership. 25861

(2) In any year for which funds are appropriated for pilot 25862
project scholarship programs, a school district implementing a 25863
state-sponsored pilot project scholarship program that year 25864
pursuant to sections 3313.974 to 3313.979 of the Revised Code may 25865
count in average daily membership: 25866

(a) All children residing in the district and utilizing a 25867
scholarship to attend kindergarten in any alternative school, as 25868
defined in section 3313.974 of the Revised Code; 25869

(b) All children who were enrolled in the district in the 25870
preceding year who are utilizing a scholarship to attend any such 25871

alternative school. 25872

(J) The superintendent of each cooperative education school 25873
district shall certify to the superintendent of public 25874
instruction, in a manner prescribed by the state board of 25875
education, the applicable average daily memberships for all 25876
students in the cooperative education district, also indicating 25877
the city, local, or exempted village district where each pupil is 25878
entitled to attend school under section 3313.64 or 3313.65 of the 25879
Revised Code. 25880

Sec. 3317.032. (A) Each city, local, exempted village, and 25881
cooperative education school district, each educational service 25882
center, each county MR/DD board, and each institution operating a 25883
special education program pursuant to section 3323.091 of the 25884
Revised Code shall, in accordance with procedures adopted by the 25885
state board of education, maintain a record of district membership 25886
of both of the following: 25887

(1) All handicapped preschool children in units approved 25888
under division (B) of section 3317.05 of the Revised Code; 25889

(2) All handicapped preschool children who are not in units 25890
approved ~~by the state board~~ under division (B) of section 3317.05 25891
of the Revised Code but who are otherwise served by a special 25892
education program. 25893

(B) The superintendent of each district, board, or 25894
institution subject to division (A) of this section shall certify 25895
to the state board of education, in accordance with procedures 25896
adopted by that board, membership figures of all handicapped 25897
preschool children whose membership is maintained under division 25898
(A)(2) of this section. The figures certified under this division 25899
shall be used in the determination of the ADM used to compute 25900
funds for educational service center governing boards under 25901
~~division (B) of~~ section 3317.11 of the Revised Code. 25902

Sec. 3317.05. (A) For the purpose of calculating payments 25903
under sections 3317.052 and 3317.053 of the Revised Code, the 25904
~~state board~~ department of education shall determine for each 25905
institution, by the last day of January of each year and based on 25906
information certified under section 3317.03 of the Revised Code, 25907
the number of vocational education units or fractions of units 25908
approved by the ~~state board~~ department on the basis of standards 25909
and rules adopted by the state board of education. As used in this 25910
division, "institution" means an institution operated by a 25911
department specified in section 3323.091 of the Revised Code and 25912
that provides vocational education programs under the supervision 25913
of the division of vocational education of the department ~~of~~ 25914
~~education~~ that meet the standards and rules for these programs, 25915
including licensure of professional staff involved in the 25916
programs, as established by the state board ~~of education~~. 25917

(B) For the purpose of calculating payments under sections 25918
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 25919
~~state board~~ department shall determine, based on information 25920
certified under section 3317.03 of the Revised Code, the following 25921
by the last day of January of each year for each educational 25922
service center, for each school district, including each 25923
cooperative education school district, for each institution 25924
eligible for payment under section 3323.091 of the Revised Code, 25925
and for each county MR/DD board: the number of classes operated by 25926
the school district, service center, institution, or county MR/DD 25927
board for handicapped preschool children, or fraction thereof, 25928
including in the case of a district or service center that is a 25929
funding agent, classes taught by a licensed teacher employed by 25930
that district or service center under section 3313.841 of the 25931
Revised Code, approved annually by the ~~state board~~ department on 25932
the basis of standards and rules adopted by the state board. 25933

(C) For the purpose of calculating payments under sections 25934
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 25935
~~state board~~ department shall determine, based on information 25936
certified under section 3317.03 of the Revised Code, the following 25937
by the last day of January of each year for each school district, 25938
including each cooperative education school district, for each 25939
institution eligible for payment under section 3323.091 of the 25940
Revised Code, and for each county MR/DD board: the number of 25941
preschool handicapped related services units for child study, 25942
occupational, physical, or speech and hearing therapy, special 25943
education supervisors, and special education coordinators approved 25944
annually by the ~~state board~~ department on the basis of standards 25945
and rules adopted by the state board. 25946

(D) For the purpose of calculating payments under sections 25947
3317.052 and 3317.053 of the Revised Code, the ~~state board~~ 25948
department shall determine, based on information certified under 25949
section 3317.03 of the Revised Code, the following by the last day 25950
of January of each year for each institution eligible for payment 25951
under section 3323.091 of the Revised Code: 25952

(1) The number of classes operated by an institution for 25953
handicapped children other than handicapped preschool children, or 25954
fraction thereof, approved annually by the ~~state board~~ department 25955
on the basis of standards and rules adopted by the state board; 25956

(2) The number of related services units for children other 25957
than handicapped preschool children for child study, occupational, 25958
physical, or speech and hearing therapy, special education 25959
supervisors, and special education coordinators approved annually 25960
by the ~~state board~~ department on the basis of standards and rules 25961
adopted by the state board. 25962

(E) All of the arithmetical calculations made under this 25963
section shall be carried to the second decimal place. The total 25964

number of units for school districts, service centers, and 25965
institutions approved annually ~~by the state board~~ under this 25966
section shall not exceed the number of units included in the ~~state~~ 25967
~~board's~~ estimate of cost for these units and appropriations made 25968
for them by the general assembly. 25969

In the case of units described in division (D)(1) of this 25970
section operated by institutions eligible for payment under 25971
section 3323.091 of the Revised Code, the ~~state board~~ department 25972
shall approve only units for persons who are under age twenty-two 25973
on the first day of the academic year, but not less than six years 25974
of age on the thirtieth day of September of that year, except that 25975
such a unit may include one or more children who are under six 25976
years of age on the thirtieth day of September if such children 25977
have been admitted to the unit pursuant to rules of the state 25978
board. In the case of handicapped preschool units described in 25979
division (B) of this section ~~operated by county MR/DD boards and~~ 25980
~~institutions eligible for payment under section 3323.091 of the~~ 25981
~~Revised Code, the state board~~ department shall approve only 25982
preschool units for children who are under age six but not less 25983
than age three on the ~~thirtieth~~ first day of ~~September~~ December 25984
of the academic year, except that such a unit may include one or more 25985
children who are under age three or are age six or over on the 25986
~~thirtieth~~ first day of ~~September~~ December, as reported under 25987
division (B)(2) or (G)(2)(b) of section 3317.03 of the Revised 25988
Code, if such children have been admitted to the unit pursuant to 25989
rules of the state board ~~of education~~. The number of units for 25990
county MR/DD boards and institutions eligible for payment under 25991
section 3323.091 of the Revised Code approved ~~by the state board~~ 25992
under this section shall not exceed the number that can be funded 25993
with appropriations made for such purposes by the general 25994
assembly. 25995

No unit shall be approved under divisions (B) to (D) of this 25996

section unless a plan has been submitted and approved under 25997
Chapter 3323. of the Revised Code. 25998

(F) The department shall approve units or fractions thereof 25999
for gifted children on the basis of standards and rules adopted by 26000
the state board. 26001

Sec. 3317.064. (A) There is hereby established in the state 26002
treasury the auxiliary services ~~mobile unit replacement and repair~~ 26003
reimbursement fund. By the thirtieth day of January of each 26004
odd-numbered year, the director of job and family services and the 26005
superintendent of public instruction shall determine the amount of 26006
any excess moneys in the auxiliary services personnel unemployment 26007
compensation fund not reasonably necessary for the purposes of 26008
section 4141.47 of the Revised Code, and shall certify such amount 26009
to the director of budget and management for transfer to the 26010
auxiliary services ~~mobile unit replacement and repair~~ 26011
reimbursement fund. If the director of job and family services and 26012
the superintendent disagree on such amount, the director of budget 26013
and management shall determine the amount to be transferred. 26014

(B) Moneys in the auxiliary services ~~mobile unit replacement~~ 26015
~~and repair~~ reimbursement fund shall be used for the relocation or 26016
for the replacement and repair of mobile units used to provide the 26017
services specified in division (E), (F), (G), or (I) of section 26018
3317.06 of the Revised Code. The state board of education shall 26019
adopt guidelines and procedures for replacement, repair, and 26020
relocation of mobile units and the procedures under which a school 26021
district may apply to receive moneys with which to repair or 26022
replace or relocate such units. 26023

(C) School districts may apply to the department for moneys 26024
from the auxiliary services ~~mobile unit replacement and repair~~ 26025
reimbursement fund for payment of incentives for early retirement 26026
and severance for school district personnel assigned to provide 26027

services authorized by section 3317.06 of the Revised Code at 26028
chartered nonpublic schools. The portion of the cost of any early 26029
retirement or severance incentive for any employee that is paid 26030
using money from the auxiliary services ~~mobile unit replacement~~ 26031
~~and repair reimbursement~~ fund shall not exceed the percentage of 26032
such employee's total service credit that the employee spent 26033
providing services to chartered nonpublic school students under 26034
section 3317.06 of the Revised Code. 26035

Sec. 3317.07. The state board of education shall establish 26036
rules for the purpose of distributing subsidies for the purchase 26037
of school buses under division (E) of section 3317.024 of the 26038
Revised Code. 26039

No school bus subsidy payments shall be paid to any district 26040
unless such district can demonstrate that pupils residing more 26041
than one mile from the school could not be transported without 26042
such additional aid. 26043

The amount paid to a county MR/DD board for buses purchased 26044
for transportation of children in special education programs 26045
operated by the board shall be one hundred per cent of the board's 26046
net cost. 26047

The amount paid to a school district for buses purchased for 26048
transportation of handicapped and nonpublic school pupils shall be 26049
one hundred per cent of the school district's net cost. 26050

The state board of education shall adopt a formula to 26051
determine the amount of payments that shall be distributed to 26052
school districts to purchase school buses for pupils other than 26053
handicapped or nonpublic school pupils. 26054

If any district or MR/DD board obtains bus services for pupil 26055
transportation pursuant to a contract, such district or board may 26056
use payments received under this section to defray the costs of 26057

contracting for bus services in lieu of for purchasing buses. 26058

If the department of education determines that a county MR/DD board no longer needs a school bus because the board no longer transports children to a special education program operated by the board, or if the department determines that a school district no longer needs a school bus to transport pupils to a nonpublic school or special education program, the department may reassign a bus that was funded with payments provided pursuant to this section for the purpose of transporting such pupils. The department may reassign a bus to a county MR/DD board or school district that transports children to a special education program designated in the children's individualized education plans, or to a school district that transports pupils to a nonpublic school, and needs an additional school bus. 26059
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Sec. 3317.09. All moneys distributed to a school district, including any cooperative education or joint vocational school district and all moneys distributed to any educational service center, by the state whether from a state or federal source, shall be accounted for by the division of school finance of the department of education. All moneys distributed shall be coded as to county, school district or educational service center, source, and other pertinent information, and at the end of each month, a report of such distribution shall be made by such division of school finance to the clerk of the senate and the chief administrative officer of the house of representatives, to the Ohio legislative service commission to be available for examination by any member of either house, to each school district and educational service center, and to the governor. 26072
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On or before the first day of September in each year, a copy of the annual statistical report required in ~~sections~~ section 3319.33 ~~and 3319.34~~ of the Revised Code shall be filed by the 26086
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state board of education with the clerk of the senate and the 26089
chief administrative officer of the house of representatives, the 26090
Ohio legislative service commission, the governor, and the auditor 26091
of state. The report shall contain an analysis for the prior 26092
fiscal year on an accrual basis of revenue receipts from all 26093
sources and expenditures for all purposes for each school district 26094
~~and each educational service center~~, including each joint 26095
vocational and cooperative education school district, in the 26096
state. If any board of education ~~or any educational service center~~ 26097
~~governing board~~ fails to make the report required in ~~sections~~ 26098
section 3319.33 ~~and 3319.34~~ of the Revised Code, the 26099
superintendent of public instruction shall be without authority to 26100
distribute funds to that school district or educational service 26101
center pursuant to sections 3317.022 to 3317.0212, 3317.11, 26102
3317.16, 3317.17, or 3317.19 of the Revised Code until such time 26103
as the required reports are filed with all specified officers, 26104
boards, or agencies. 26105

Sec. 3317.10. (A) On or before the first day of March of each 26106
year, the department of job and family services shall certify to 26107
the state board of education the unduplicated number of children 26108
ages five through seventeen residing in each school district and 26109
living in a family that, during the preceding October, had family 26110
income not exceeding the federal poverty guidelines as defined in 26111
section 5101.46 of the Revised Code and participated in one of the 26112
following: 26113

(1) Ohio works first; 26114

(2) The food stamp program; 26115

(3) The medical assistance program, including the healthy 26116
start program, established under Chapter 5111. of the Revised 26117
Code; 26118

(4) The children's health insurance program part I 26119

established under section 5101.50 of the Revised Code;	26120
(5) The disability <u>financial</u> assistance program established	26121
under Chapter 5115. of the Revised Code;	26122
<u>(6) The disability medical assistance program established</u>	26123
<u>under Chapter 5115. of the Revised Code.</u>	26124
The department of job and family services shall certify this	26125
information according to the school district of residence for each	26126
child. Except as provided under division (B) of this section, the	26127
number of children so certified in any year shall be used by the	26128
department of education in calculating the distribution of moneys	26129
for the ensuing fiscal year as provided in section 3317.029 of the	26130
Revised Code.	26131
(B) Upon the transfer of part of the territory of one school	26132
district to the territory of one or more other school districts,	26133
the department of education may adjust the number of children	26134
certified under division (A) of this section for any district	26135
gaining or losing territory in such a transfer in order to take	26136
into account the effect of the transfer on the number of such	26137
children who reside in the district. Within sixty days of receipt	26138
of a request for information from the department of education, the	26139
department of job and family services shall provide any	26140
information the department of education determines is necessary to	26141
make such adjustments. The department of education may use the	26142
adjusted number for any district for the applicable fiscal year,	26143
in lieu of the number certified for the district for that fiscal	26144
year under division (A) of this section, in the calculation of the	26145
distribution of moneys provided in section 3317.029 of the Revised	26146
Code.	26147
<u>Sec. 3317.11. (A) As used in this section:</u>	26148
<u>(1) "Client school district" means a city or exempted village</u>	26149

school district that has entered into an agreement under section 3313.843 of the Revised Code to receive any services from an educational service center. 26150
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(2) "Service center ADM" means the sum of the total student counts of all local school districts within an educational service center's territory and all of the service center's client school districts. 26153
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(3) "Total student count" has the same meaning as in section 3301.011 of the Revised Code. 26157
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(B)(1) The governing board of each educational service center shall provide supervisory services to each local school district within the service center's territory. Each city or exempted village school district that enters into an agreement under section 3313.843 of the Revised Code for a governing board to provide any services also is considered to be provided supervisory services by the governing board. Except as provided in division (B)(2) of this section, the supervisory services shall not exceed one supervisory teacher for the first fifty classroom teachers required to be employed in the districts, as calculated under section 3317.023 of the Revised Code, and one for each additional one hundred required classroom teachers, as so calculated. 26159
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The supervisory services shall be financed annually through supervisory units. Except as provided in division (B)(2) of this section, the number of supervisory units assigned to each district shall not exceed one unit for the first fifty classroom teachers required to be employed in the district, as calculated under section 3317.023 of the Revised Code, and one for each additional one hundred required classroom teachers, as so calculated. The cost of each supervisory unit shall be the sum of: 26171
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(a) The minimum salary prescribed by section 3317.13 of the Revised Code for the licensed supervisory employee of the 26179
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<u>governing board;</u>	26181
<u>(b) An amount equal to fifteen per cent of the salary</u>	26182
<u>prescribed by section 3317.13 of the Revised Code;</u>	26183
<u>(c) An allowance for necessary travel expenses, limited to</u>	26184
<u>the lesser of two hundred twenty-three dollars and sixteen cents</u>	26185
<u>per month or two thousand six hundred seventy-eight dollars per</u>	26186
<u>year.</u>	26187
<u>(2) If a majority of the boards of education, or</u>	26188
<u>superintendents acting on behalf of the boards, of the local and</u>	26189
<u>client school districts receiving services from the educational</u>	26190
<u>service center agree to receive additional supervisory services</u>	26191
<u>and to pay the cost of a corresponding number of supervisory units</u>	26192
<u>in excess of the services and units specified in division (B)(1)</u>	26193
<u>of this section, the service center shall provide the additional</u>	26194
<u>services as agreed to by the majority of districts to, and the</u>	26195
<u>department of education shall apportion the cost of the</u>	26196
<u>corresponding number of additional supervisory units pursuant to</u>	26197
<u>division (B)(3) of this section among, all of the service center's</u>	26198
<u>local and client school districts.</u>	26199
<u>(3) The department shall apportion the total cost for all</u>	26200
<u>supervisory units among the service center's local and client</u>	26201
<u>school districts based on each district's total student count. The</u>	26202
<u>department shall deduct each district's apportioned share pursuant</u>	26203
<u>to division (E) of section 3317.023 of the Revised Code and pay</u>	26204
<u>the apportioned share to the service center.</u>	26205
<u>(C) The department annually shall deduct from each local and</u>	26206
<u>client school district of each educational service center,</u>	26207
<u>pursuant to division (E) of section 3317.023 of the Revised Code,</u>	26208
<u>and pay to the service center an amount equal to six dollars and</u>	26209
<u>fifty cents times the school district's total student count. The</u>	26210
<u>board of education, or the superintendent acting on behalf of the</u>	26211

board, of any local or client school district may agree to pay an 26212
amount in excess of six dollars and fifty cents per student in 26213
total student count. If a majority of the boards of education, or 26214
superintendents acting on behalf of the boards, of the local 26215
school districts within a service center's territory approve an 26216
amount in excess of six dollars and fifty cents per student in 26217
total student count, the department shall deduct the approved 26218
excess per student amount from all of the local school districts 26219
within the service center's territory and pay the excess amount to 26220
the service center. 26221

(D) The department shall pay each educational service center 26222
the amounts due to it from school districts pursuant to contracts, 26223
compacts, or agreements under which the service center furnishes 26224
services to the districts or their students. In order to receive 26225
payment under this division, an educational service center shall 26226
furnish either a copy of the contract, compact, or agreement 26227
clearly indicating the amounts of the payments, or a written 26228
statement that clearly indicates the payments owed and is signed 26229
by the superintendent or treasurer of the responsible school 26230
district. The amounts paid to service centers under this division 26231
shall be deducted from payments to school districts pursuant to 26232
division (K)(3) of section 3317.023 of the Revised Code. 26233

(E) Each school district's deduction under this section and 26234
divisions (E) and (K)(3) of section 3317.023 of the Revised Code 26235
shall be made from the total payment computed for the district 26236
under this chapter, after making any other adjustments in that 26237
payment required by law. 26238

(F)(1) Except as provided in division (F)(2) of this section, 26239
the department annually shall pay the governing board of each 26240
educational service center state funds equal to thirty-seven 26241
dollars times its service center ADM. 26242

(2) The department annually shall pay state funds equal to 26243

forty dollars and fifty-two cents times the service center ADM to 26244
each educational service center comprising territory that was 26245
included in the territory of at least three former service centers 26246
or county school districts, which former centers or districts 26247
engaged in one or more mergers under section 3311.053 of the 26248
Revised Code to form the present center. 26249

(G) Each city, exempted village, local, joint vocational, or 26250
cooperative education school district shall pay to the governing 26251
board of an educational service center any amounts agreed to for 26252
each child enrolled in the district who receives special education 26253
and related services or career-technical education from the 26254
educational service center, unless these educational services are 26255
provided pursuant to a contract, compact, or agreement for which 26256
the department deducts and transfers payments under division (D) 26257
of this section and division (K)(3) of section 3317.023 of the 26258
Revised Code. 26259

(H) An educational service center: 26260

(1) May provide special education and career-technical 26261
education to students in its local or client school districts; 26262

(2) Is eligible for transportation funding under division (J) 26263
of section 3317.024 of the Revised Code and for state subsidies 26264
for the purchase of school buses under section 3317.07 of the 26265
Revised Code; 26266

(3) May apply for and receive gifted education units and 26267
provide gifted education services to students in its local or 26268
client school districts; 26269

(4) May conduct driver education for high school students in 26270
accordance with Chapter 4508. of the Revised Code. 26271

Sec. 3317.15. (A) As used in this section, "handicapped" 26272
child" has the same meaning as in section 3323.01 of the Revised 26273

Code.	26274
(B) Each city, exempted village, local, and joint vocational school district shall continue to comply with all requirements of federal statutes and regulations, the Revised Code, and rules adopted by the state board of education governing education of handicapped children, including, but not limited to, requirements that handicapped children be served by appropriately licensed or certificated education personnel.	26275 26276 26277 26278 26279 26280 26281
(C) Each city, exempted village, local, and joint vocational school district shall consult with the educational service center serving the county in which the school district is located and, if it elects to participate pursuant to section 5126.04 of the Revised Code, the county MR/DD board of that county, in providing services that serve the best interests of handicapped children.	26282 26283 26284 26285 26286 26287
(D) Each school district shall annually provide documentation to the department of education that it employs the appropriate number of licensed or certificated personnel to serve the district's handicapped students.	26288 26289 26290 26291
(E) The department annually shall audit a sample of school districts to ensure that handicapped children are being appropriately reported.	26292 26293 26294
(F) Each school district shall provide speech-language pathology services at a ratio of one speech-language pathologist per two thousand students receiving any educational services from the district other than adult education. <u>A speech-language pathologist employed on a full-time equivalent basis shall provide services to no more than fifty-five school-age handicapped children at any one time.</u> Each district shall provide school psychological services at a ratio of one school psychologist per two thousand five hundred students receiving any educational services from the district other than adult education. A district	26295 26296 26297 26298 26299 26300 26301 26302 26303 26304

may obtain the services of speech-language pathologists and school 26305
psychologists by any means permitted by law, including contracting 26306
with an educational service center. If, however, a district is 26307
unable to obtain the services of the required number of 26308
speech-language pathologists or school psychologists, the district 26309
may request from the superintendent of public instruction, and the 26310
superintendent may grant, a waiver of this provision for a period 26311
of time established by the superintendent. 26312

Sec. 3317.16. (A) As used in this section: 26313

(1) "State share percentage" means the percentage calculated 26314
for a joint vocational school district as follows: 26315

(a) Calculate the state base cost funding amount for the 26316
district under division (B) of this section. If the district would 26317
not receive any base cost funding for that year under that 26318
division, the district's state share percentage is zero. 26319

(b) If the district would receive base cost funding under 26320
that division, divide that base cost amount by an amount equal to 26321
the following: 26322

cost-of-doing-business factor X 26323

the formula amount X 26324

~~the greater of formula ADM or~~ 26325

~~three-year average~~ formula ADM 26326

The resultant number is the district's state share 26327
percentage. 26328

(2) The "total special education weight" for a joint 26329
vocational school district shall be calculated in the same manner 26330
as prescribed in division (B)(1) of section 3317.022 of the 26331
Revised Code. 26332

(3) The "total vocational education weight" for a joint 26333
vocational school district shall be calculated in the same manner 26334

as prescribed in division (B)(4) of section 3317.022 of the Revised Code. 26335
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(4) The "total recognized valuation" of a joint vocational school district shall be determined by adding the recognized valuations of all its constituent school districts for the applicable fiscal year. 26337
26338
26339
26340

(5) "Resident district" means the city, local, or exempted village school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. 26341
26342
26343

(6) "Community school" means a community school established under Chapter 3314. of the Revised Code. 26344
26345

(B) The department of education shall compute and distribute state base cost funding to each joint vocational school district for the fiscal year in accordance with the following formula: 26346
26347
26348

(cost-of-doing-business factor X
formula amount X ~~the greater of formula
ADM or three-year average~~ formula ADM) -
(.0005 X total recognized valuation) 26349
26350
26351
26352

If the difference obtained under this division is a negative number, the district's computation shall be zero. 26353
26354

(C)(1) The department shall compute and distribute state vocational education additional weighted costs funds to each joint vocational school district in accordance with the following formula: 26355
26356
26357
26358

state share percentage X formula amount X
total vocational education weight 26359
26360

In each fiscal year, a joint vocational school district receiving funds under division (C)(1) of this section shall spend those funds only for the purposes the department designates as approved for vocational education expenses. Vocational educational expenses approved by the department shall include only expenses 26361
26362
26363
26364
26365

connected to the delivery of career-technical programming to 26366
career-technical students. The department shall require the joint 26367
vocational school district to report data annually so that the 26368
department may monitor the district's compliance with the 26369
requirements regarding the manner in which funding received under 26370
division (C)(1) of this section may be spent. 26371

(2) The department shall compute for each joint vocational 26372
school district state funds for vocational education associated 26373
services costs in accordance with the following formula: 26374

state share percentage X .05 X 26375
the formula amount X the sum of 26376
categories one and two vocational 26377
education ADM 26378

In any fiscal year, a joint vocational school district 26379
receiving funds under division (C)(2) of this section, or through 26380
a transfer of funds pursuant to division (L) of section 3317.023 26381
of the Revised Code, shall spend those funds only for the purposes 26382
that the department designates as approved for vocational 26383
education associated services expenses, which may include such 26384
purposes as apprenticeship coordinators, coordinators for other 26385
vocational education services, vocational evaluation, and other 26386
purposes designated by the department. The department may deny 26387
payment under division (C)(2) of this section to any district that 26388
the department determines is not operating those services or is 26389
using funds paid under division (C)(2) of this section, or through 26390
a transfer of funds pursuant to division (L) of section 3317.023 26391
of the Revised Code, for other purposes. 26392

(D)(1) The department shall compute and distribute state 26393
special education and related services additional weighted costs 26394
funds to each joint vocational school district in accordance with 26395
the following formula: 26396

state share percentage X formula amount X 26397

total special education weight 26398

(2)(a) As used in this division, the "personnel allowance" 26399
means thirty thousand dollars in fiscal years 2002 ~~and~~, 2003, 26400
2004, and 2005. 26401

(b) For the provision of speech services to students, 26402
including students who do not have individualized education 26403
programs prepared for them under Chapter 3323. of the Revised 26404
Code, and for no other purpose, the department shall pay each 26405
joint vocational school district an amount calculated under the 26406
following formula: 26407

(formula ADM divided by 2000) X the personnel 26408
allowance X state share percentage 26409

(3) In any fiscal year, a joint vocational school district 26410
shall spend for purposes that the department designates as 26411
approved for special education and related services expenses at 26412
least the amount calculated as follows: 26413

(cost-of-doing-business factor X formula amount 26414
X the sum of categories one through 26415
six special education ADM) + 26416
(total special education weight X 26417
formula amount) 26418

The purposes approved by the department for special education 26419
expenses shall include, but shall not be limited to, compliance 26420
with state rules governing the education of handicapped children, 26421
providing services identified in a student's individualized 26422
education program as defined in section 3323.01 of the Revised 26423
Code, and the portion of the district's overall administrative and 26424
overhead costs that are attributable to the district's special 26425
education student population. 26426

The department shall require joint vocational school 26427
districts to report data annually to allow for monitoring 26428

compliance with division (D)(3) of this section. The department 26429
shall annually report to the governor and the general assembly the 26430
amount of money spent by each joint vocational school district for 26431
special education and related services. 26432

(E)~~(2)~~(1) If a joint vocational school district's costs for a 26433
fiscal year for a student in its categories ~~one~~ two through six 26434
special education ADM exceed the threshold catastrophic cost for 26435
serving the student, as specified in division (C)(3)(b) of section 26436
3317.022 of the Revised Code, the district may submit to the 26437
superintendent of public instruction documentation, as prescribed 26438
by the superintendent, of all of its costs for that student. Upon 26439
submission of documentation for a student of the type and in the 26440
manner prescribed, the department shall pay to the district an 26441
amount equal to the sum of the following: 26442

(a) One-half of the district's costs for the student in 26443
excess of the threshold catastrophic cost; 26444

(b) The product of one-half of the district's costs for the 26445
student in excess of the threshold catastrophic cost multiplied by 26446
the district's state share percentage. 26447

(2) The district shall only report under division (E)(1) of 26448
this section, and the department shall only pay for, the costs of 26449
educational expenses and the related services provided to the 26450
student in accordance with the student's individualized education 26451
program. Any legal fees, court costs, or other costs associated 26452
with any cause of action relating to the student may not be 26453
included in the amount. 26454

(F) Each fiscal year, the department shall pay each joint 26455
vocational school district an amount for adult technical and 26456
vocational education and specialized consultants. 26457

(G)(1) A joint vocational school district's local share of 26458
special education and related services additional weighted costs 26459

equals: 26460

(1 - state share percentage) X 26461

Total special education weight X 26462

the formula amount 26463

(2) For each handicapped student receiving special education and related services under an individualized education program, as defined in section 3323.01 of the Revised Code, at a joint vocational district, the resident district or, if the student is enrolled in a community school, the community school shall be responsible for the amount of any costs of providing those special education and related services to that student that exceed the sum of the amount calculated for those services attributable to that student under divisions (B), (D), (E), and (G)(1) of this section. 26464
26465
26466
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26472

Those excess costs shall be calculated by subtracting the sum of the following from the actual cost to provide special education and related services to the student: 26473
26474
26475

(a) The product of the formula amount times the cost-of-doing-business factor; 26476
26477

(b) The product of the formula amount times the applicable multiple specified in section 3317.013 of the Revised Code; 26478
26479

(c) Any funds paid under division (E) of this section for the student; 26480
26481

(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. 26482
26483
26484
26485

(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. 26486
26487
26488

(4) The department shall pay the amount of excess cost 26489

calculated under division (G)(2) of this section to the joint 26490
vocational school district and shall deduct that amount as 26491
provided in division (G)(4)(a) or (b) of this section, as 26492
applicable: 26493

(a) If the student is not enrolled in a community school, the 26494
department shall deduct the amount from the account of the 26495
student's resident district pursuant to division (M) of section 26496
3317.023 of the Revised Code. 26497

(b) If the student is enrolled in a community school, the 26498
department shall deduct the amount from the account of the 26499
community school pursuant to section 3314.083 of the Revised Code. 26500

(H) In any fiscal year, if the total of all payments made to 26501
a joint vocational school district under divisions (B) to (D) of 26502
this section and division (R) of section 3317.024 of the Revised 26503
Code is less than the amount that district received in fiscal year 26504
1999 under the version of this section in effect that year, plus 26505
the amount that district received under the version of section 26506
3317.162 of the Revised Code in effect that year and minus the 26507
amounts received that year for driver education and adult 26508
education, the department shall pay the district an additional 26509
amount equal to the difference between those two amounts. 26510

Sec. 3318.01. As used in sections 3318.01 to 3318.20 of the 26511
Revised Code: 26512

(A) "Ohio school facilities commission" means the commission 26513
created pursuant to section 3318.30 of the Revised Code. 26514

(B) "Classroom facilities" means rooms in which pupils 26515
regularly assemble in public school buildings to receive 26516
instruction and education and such facilities and building 26517
improvements for the operation and use of such rooms as may be 26518
needed in order to provide a complete educational program, and may 26519

include space within which a child day-care facility or a 26520
community resource center is housed. "Classroom facilities" 26521
includes any space necessary for the operation of a vocational 26522
education program for secondary students in any school district 26523
that operates such a program. 26524

(C) "Project" means a project to construct or acquire 26525
classroom facilities, or to reconstruct or make additions to 26526
existing classroom facilities, to be used for housing the 26527
applicable school district and its functions. 26528

(D) "School district" means a local, exempted village, or 26529
city school district as such districts are defined in Chapter 26530
3311. of the Revised Code, acting as an agency of state 26531
government, performing essential governmental functions of state 26532
government pursuant to sections 3318.01 and 3318.20 of the Revised 26533
Code. 26534

For purposes of assistance provided under sections 3318.40 to 26535
3318.45 of the Revised Code, the term "school district" as used in 26536
this section and in divisions (A), (C), and (D) of section 3318.03 26537
and in sections 3318.031, ~~3318.033~~, 3318.042, 3318.07, 3318.08, 26538
3318.083, 3318.084, 3318.085, 3318.086, 3318.10, 3318.11, 3318.12, 26539
3318.13, 3318.14, 3318.15, 3318.16, 3318.19, and 3318.20 of the 26540
Revised Code means a joint vocational school district established 26541
pursuant to section 3311.18 of the Revised Code. 26542

(E) "School district board" means the board of education of a 26543
school district. 26544

(F) "Net bonded indebtedness" means the difference between 26545
the sum of the par value of all outstanding and unpaid bonds and 26546
notes which a school district board is obligated to pay, any 26547
amounts the school district is obligated to pay under 26548
lease-purchase agreements entered into under section 3313.375 of 26549
the Revised Code, and the par value of bonds authorized by the 26550

electors but not yet issued, the proceeds of which can lawfully be 26551
used for the project, and the amount held in the sinking fund and 26552
other indebtedness retirement funds for their redemption. Notes 26553
issued for school buses in accordance with section 3327.08 of the 26554
Revised Code, notes issued in anticipation of the collection of 26555
current revenues, and bonds issued to pay final judgments shall 26556
not be considered in calculating the net bonded indebtedness. 26557

"Net bonded indebtedness" does not include indebtedness 26558
arising from the acquisition of land to provide a site for 26559
classroom facilities constructed, acquired, or added to pursuant 26560
to sections 3318.01 to 3318.20 of the Revised Code. 26561

(G) "Board of elections" means the board of elections of the 26562
county containing the most populous portion of the school 26563
district. 26564

(H) "County auditor" means the auditor of the county in which 26565
the greatest value of taxable property of such school district is 26566
located. 26567

(I) "Tax duplicates" means the general tax lists and 26568
duplicates prescribed by sections 319.28 and 319.29 of the Revised 26569
Code. 26570

(J) "Required level of indebtedness" means: 26571

(1) In the case of districts in the first percentile, five 26572
per cent of the district's valuation for the year preceding the 26573
year in which the controlling board approved the project under 26574
section 3318.04 of the Revised Code. 26575

(2) In the case of districts ranked in a subsequent 26576
percentile, five per cent of the district's valuation for the year 26577
preceding the year in which the controlling board approved the 26578
project under section 3318.04 of the Revised Code, plus [two 26579
one-hundredths of one per cent multiplied by (the percentile in 26580
which the district ranks for the fiscal year preceding the fiscal 26581

year in which the controlling board approved the district's 26582
project minus one)l. 26583

(K) "Required percentage of the basic project costs" means 26584
one per cent of the basic project costs times the percentile in 26585
which the district ranks for the fiscal year preceding the fiscal 26586
year in which the controlling board approved the district's 26587
project. 26588

(L) "Basic project cost" means a cost amount determined in 26589
accordance with rules adopted under section 111.15 of the Revised 26590
Code by the Ohio school facilities commission. The basic project 26591
cost calculation shall take into consideration the square footage 26592
and cost per square foot necessary for the grade levels to be 26593
housed in the classroom facilities, the variation across the state 26594
in construction and related costs, the cost of the installation of 26595
site utilities and site preparation, the cost of demolition of all 26596
or part of any existing classroom facilities that are abandoned 26597
under the project, the cost of insuring the project until it is 26598
completed, any contingency reserve amount prescribed by the 26599
commission under section 3318.086 of the Revised Code, and the 26600
professional planning, administration, and design fees that a 26601
district may have to pay to undertake a classroom facilities 26602
project. 26603

For a joint vocational school district that receives 26604
assistance under sections 3318.40 to 3318.45 of the Revised Code, 26605
the basic project cost calculation for a project under those 26606
sections shall also take into account the types of laboratory 26607
spaces and program square footages needed for the vocational 26608
education programs for high school students offered by the school 26609
district. 26610

~~"Basic project cost" also includes the value of classroom 26611
facilities authorized in a pre-existing bond issue as described in 26612
section 3318.033 of the Revised Code. 26613~~

(M)(1) Except for a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, a "school district's portion of the basic project cost" means the amount determined under section 3318.032 of the Revised Code.

(2) For a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, a "school district's portion of the basic project cost" means the amount determined under division (C) of section 3318.42 of the Revised Code.

(N) "Child day-care facility" means space within a classroom facility in which the needs of infants, toddlers, preschool children, and school children are provided for by persons other than the parent or guardian of such children for any part of the day, including persons not employed by the school district operating such classroom facility.

(O) "Community resource center" means space within a classroom facility in which comprehensive services that support the needs of families and children are provided by community-based social service providers.

(P) "Valuation" means the total value of all property in the district as listed and assessed for taxation on the tax duplicates.

(Q) "Percentile" means the percentile in which the district is ranked pursuant to division (D) of section 3318.011 of the Revised Code.

(R) "Installation of site utilities" means the installation of a site domestic water system, site fire protection system, site gas distribution system, site sanitary system, site storm drainage system, and site telephone and data system.

(S) "Site preparation" means the earthwork necessary for 26644
preparation of the building foundation system, the paved 26645
pedestrian and vehicular circulation system, playgrounds on the 26646
project site, and lawn and planting on the project site. 26647

Sec. 3318.024. In the first year of a capital biennium, any 26648
funds appropriated to the Ohio school facilities commission for 26649
classroom facilities projects under this chapter in the previous 26650
capital biennium that were not spent or encumbered, or for which 26651
an encumbrance has been canceled under section 3318.05 of the 26652
Revised Code, shall be used by the commission only for projects 26653
under sections 3318.01 to 3318.20 of the Revised Code, subject to 26654
appropriation by the general assembly. 26655

In the second year of a capital biennium, any funds 26656
appropriated to the Ohio school facilities commission for 26657
classroom facilities projects under this chapter that were not 26658
spent or encumbered in the first year of the biennium and which 26659
are in excess of an amount equal to half of the appropriations for 26660
the capital biennium, or for which an encumbrance has been 26661
canceled under section 3318.05 of the Revised Code, shall be used 26662
by the commission only for projects under sections 3318.01 to 26663
3318.20 of the Revised Code, subject to appropriation by the 26664
general assembly. 26665

Sec. 3318.03. (A) Before conducting an on-site evaluation of 26666
a school district under section 3318.02 of the Revised Code, at 26667
the request of the district board of education, the Ohio school 26668
facilities commission shall examine any classroom facilities needs 26669
assessment that has been conducted by the district and any master 26670
plan developed for meeting the facility needs of the district. 26671

(B) Upon conducting the on-site evaluation under section 26672
3318.02 of the Revised Code, the Ohio school facilities commission 26673

shall make a determination of all of the following: 26674

(1) The needs of the school district for additional classroom 26675
facilities; 26676

(2) The number of classroom facilities to be included in a 26677
project, ~~including classroom facilities authorized by a bond issue~~ 26678
~~described in section 3318.033 of the Revised Code,~~ and the basic 26679
project cost of constructing, acquiring, reconstructing, or making 26680
additions to each such facility; 26681

(3) The amount of such cost that the school district can 26682
supply from available funds, by the issuance of bonds previously 26683
authorized by the electors of the school district the proceeds of 26684
which can lawfully be used for the project, ~~including bonds~~ 26685
~~authorized by the district's electors as described in section~~ 26686
~~3318.033 of the Revised Code,~~ and by the issuance of bonds under 26687
section 3318.05 of the Revised Code; 26688

(4) The remaining amount of such cost that shall be supplied 26689
by the state; 26690

(5) The amount of the state's portion to be encumbered in 26691
accordance with section 3318.11 of the Revised Code in the current 26692
and subsequent fiscal bienniums from funds appropriated for 26693
purposes of sections 3318.01 to 3318.20 of the Revised Code. 26694

(C) The commission shall make a determination in favor of 26695
constructing, acquiring, reconstructing, or making additions to a 26696
classroom facility only upon evidence that the proposed project 26697
conforms to sound educational practice, that it is in keeping with 26698
the orderly process of school district reorganization and 26699
consolidation, and that the actual or projected enrollment in each 26700
classroom facility proposed to be included in the project is at 26701
least three hundred fifty pupils. Exceptions shall be authorized 26702
only in those districts where topography, sparsity of population, 26703
and other factors make larger schools impracticable. 26704

If the school district board determines that an existing facility has historical value or for other good cause determines that an existing facility should be renovated in lieu of acquiring a comparable facility by new construction, the commission may approve the expenditure of project funds for the renovation of that facility up to but not exceeding one hundred per cent of the estimated cost of acquiring a comparable facility by new construction, as long as the commission determines that the facility when renovated can be operationally efficient, will be adequate for the future needs of the district, and will comply with the other provisions of this division.

(D) Sections 125.81 and 153.04 of the Revised Code shall not apply to classroom facilities constructed under either sections 3318.01 to 3318.20 or sections 3318.40 to 3318.45 of the Revised Code.

Sec. 3318.042. (A) The board of education of any school district that is receiving assistance under sections 3318.01 to 3318.20 of the Revised Code after May 20, 1997, or under sections 3318.40 to 3318.45 of the Revised Code, and whose project is still under construction, may request that the Ohio school facilities commission examine whether the circumstances prescribed in either division (B)(1) or (2) of this section exist in the school district. If the commission so finds, the commission shall review the school district's original assessment and approved project and consider providing additional assistance to the school district to correct the prescribed conditions found to exist in the district. Additional assistance under this section shall be limited to additions to one or more buildings, remodeling of one or more buildings, or changes to the infrastructure of one or more buildings.

(B) Consideration of additional assistance to a school

district under this section is warranted in either of the 26736
following circumstances: 26737

(1) Additional work is needed to correct an oversight or 26738
deficiency not identified or included in the district's initial 26739
assessment. 26740

(2) Other conditions exist that, in the opinion of the 26741
commission, warrant additions or remodeling of the project 26742
facilities or changes to infrastructure associated with the 26743
district's project that were not identified in the initial 26744
assessment and plan. 26745

(C) If the commission decides in favor of providing 26746
additional assistance to any school district under this section, 26747
the school district shall be responsible for paying for its 26748
portion of the cost of the additions, remodeling, or 26749
infrastructure changes pursuant to section 3318.083 of the Revised 26750
Code. If, after making a financial evaluation of the school 26751
district, the commission determines that the school district is 26752
unable without undue hardship, according to the guidelines adopted 26753
by the commission, to fund the school district portion of the 26754
increase, then the state and the school district shall enter into 26755
an agreement whereby the state shall pay the portion of the cost 26756
increase attributable to the school district which is determined 26757
to be in excess of any local resources available to the district 26758
and the district shall thereafter reimburse the state. The 26759
commission shall establish the district's schedule for reimbursing 26760
the state, which shall not extend beyond five ten years. The 26761
commission may lengthen the reimbursement schedule of a school 26762
district that has entered into an agreement under this section 26763
prior to the effective date of this amendment as long as the total 26764
term of that schedule does not extend beyond ten years. Debt 26765
incurred under this section shall not be included in the 26766
calculation of the net indebtedness of the school district under 26767

section 133.06 of the Revised Code. 26768

Sec. 3318.05. The conditional approval of the Ohio school 26769
facilities commission for a project shall lapse and the amount 26770
reserved and encumbered for such project shall be released unless 26771
the school district board accepts such conditional approval within 26772
one hundred twenty days following the date of certification of the 26773
conditional approval to the school district board and the electors 26774
of the school district vote favorably on both of the propositions 26775
described in divisions (A) and (B) of this section within one year 26776
of the date of such certification, except that a school district 26777
described in division (C) of this section does not need to submit 26778
the proposition described in division (B) of this section. The 26779
propositions described in divisions (A) and (B) of this section 26780
shall be combined in a single proposal. If the district board or 26781
the district's electors fail to meet such requirements and the 26782
amount reserved and encumbered for the district's project is 26783
released, the district shall be given first priority for project 26784
funding as such funds become available. 26785

(A) On the question of issuing bonds of the school district 26786
board, for the school district's portion of the basic project 26787
cost, in an amount equal to the school district's portion of the 26788
basic project cost ~~less any deduction made under section 3318.033~~ 26789
~~of the Revised Code and~~ less the amount of the proceeds of any 26790
securities authorized or to be authorized under division (J) of 26791
section 133.06 of the Revised Code and dedicated by the school 26792
district board to payment of the district's portion of the basic 26793
project cost; and 26794

(B) On the question of levying a tax the proceeds of which 26795
shall be used to pay the cost of maintaining the classroom 26796
facilities included in the project. Such tax shall be at the rate 26797
of not less than one-half mill for each dollar of valuation for a 26798

period of twenty-three years, subject to any extension approved 26799
under section 3318.061 of the Revised Code. 26800

(C) If a school district has in place a tax levied under 26801
section 5705.21 of the Revised Code for general ongoing permanent 26802
improvements ~~of at least two mills for each dollar of valuation~~ 26803
and the proceeds of such tax can be used for maintenance, the 26804
school district need not levy the additional tax required under 26805
division (B) of this section, provided the school district board 26806
includes in the agreement entered into under section 3318.08 of 26807
the Revised Code provisions earmarking an amount from the proceeds 26808
of that permanent improvement tax for maintenance of classroom 26809
facilities equivalent to the amount of the additional tax and for 26810
the equivalent number of years otherwise required under this 26811
section. 26812

(D) Proceeds of the tax to be used for maintenance of the 26813
classroom facilities under either division (B) or (C) of this 26814
section shall be deposited into a separate fund established by the 26815
school district for such purpose. 26816

Sec. 3318.052. At any time after the electors of a school 26817
district have approved either or both a property tax levied under 26818
section 5705.21 or 5705.218 of the Revised Code for the purpose of 26819
general ongoing permanent improvements or a school district income 26820
tax levied under Chapter 5748. of the Revised Code, the proceeds 26821
of which, pursuant to the ballot measures approved by the 26822
electors, are not so restricted that they cannot be used to pay 26823
the costs of a project or maintaining classroom facilities, the 26824
school district board may: 26825

(A) Within one year following the date of the certification 26826
of the conditional approval of the school district's classroom 26827
facilities project by the Ohio school facilities commission, enter 26828
into a written agreement with the commission, which may be part of 26829

an agreement entered into under section 3318.08 of the Revised Code, and in which the school district board covenants and agrees to do one or both of the following: 26830
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26832

(1) Apply a specified amount of available proceeds of that property tax levy, of that school district income tax, or of securities issued under this section, or of proceeds from any two or more of those sources, to pay all or part of the district's portion of the basic project cost of its classroom facilities project; 26833
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(2) Apply available proceeds of either or both a property tax levied under section 5705.21 or 5705.218 of the Revised Code in effect for a continuing period of time, or of a school district income tax levied under Chapter 5748. of the Revised Code in effect for a continuing period of time to the payment of costs of maintaining the classroom facilities. 26839
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(B) Receive, as a credit against the amount of bonds required under sections 3318.05 and 3318.06 of the Revised Code, to be approved by the electors of the district and issued by the district board for the district's portion of the basic project cost of its classroom facilities project in order for the district to receive state assistance for the project, an amount equal to the specified amount that the district board covenants and agrees with the commission to apply as set forth in division (A)(1) of this section; 26845
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26853

(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; 26854
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26861

(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;

(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 issuance and sale includes covenants to appropriate annually from lawfully available proceeds of a property tax levied under section 5705.21 or 5705.218 of the Revised Code and no school district income tax levied under Chapter 5748. of the Revised Code and to continue to levy and collect the tax in amounts necessary to pay the debt charges on and financing costs related to the securities as they become due. No property tax levied under section 5705.21 or 5705.218 of the Revised Code or of a school district income tax

levied under Chapter 5748. of the Revised Code that is pledged, or 26894
that the school district board has covenanted to levy, collect, 26895
and appropriate annually, to pay the debt charges on and financing 26896
costs related to securities issued under this section shall be 26897
repealed while those securities are outstanding. If such a tax is 26898
reduced by the electors of the district or by the district board 26899
while those securities are outstanding, the school district board 26900
shall continue to levy and collect the tax under the authority of 26901
the original election authorizing the tax at a rate in each year 26902
that the board reasonably estimates will produce an amount in that 26903
year equal to the debt charges on the securities in that year. 26904

No state moneys shall be released for a project to which this 26905
section applies until the proceeds of the tax securities issued 26906
under this section that are dedicated for the payment of the 26907
district portion of the basic project cost of its classroom 26908
facilities project are first deposited into the district's project 26909
construction fund. 26910

Sec. 3318.06. (A) After receipt of the conditional approval 26911
of the Ohio school facilities commission, the school district 26912
board by a majority of all of its members shall, if it desires to 26913
proceed with the project, declare all of the following by 26914
resolution: 26915

(1) That by issuing bonds in an amount equal to the school 26916
district's portion of the basic project cost, ~~including bonds~~ 26917
~~previously authorized by the district's electors as described in~~ 26918
~~section 3318.033 of the Revised Code,~~ the district is unable to 26919
provide adequate classroom facilities without assistance from the 26920
state; 26921

(2) Unless the school district board has resolved to apply 26922
the proceeds of a property tax or the proceeds of an income tax, 26923
or a combination of proceeds from such taxes, as authorized under 26924

section 3318.052 of the Revised Code, that to qualify for such 26925
state assistance it is necessary to do either of the following: 26926

(a) Levy a tax outside the ten-mill limitation the proceeds 26927
of which shall be used to pay the cost of maintaining the 26928
classroom facilities included in the project; 26929

(b) Earmark for maintenance of classroom facilities from the 26930
proceeds of an existing permanent improvement tax levied under 26931
section 5705.21 of the Revised Code, if such tax ~~is of at least~~ 26932
~~two mills for each dollar of valuation and~~ can be used for 26933
maintenance, an amount equivalent to the amount of the additional 26934
tax otherwise required under this section and sections 3318.05 and 26935
3318.08 of the Revised Code. 26936

(3) That the question of any tax levy specified in a 26937
resolution described in division (A)(2)(a) of this section, if 26938
required, shall be submitted to the electors of the school 26939
district at the next general or primary election, if there be a 26940
general or primary election not less than seventy-five and not 26941
more than ninety-five days after the day of the adoption of such 26942
resolution or, if not, at a special election to be held at a time 26943
specified in the resolution which shall be not less than 26944
seventy-five days after the day of the adoption of the resolution 26945
and which shall be in accordance with the requirements of section 26946
3501.01 of the Revised Code. 26947

Such resolution shall also state that the question of issuing 26948
bonds of the board shall be combined in a single proposal with the 26949
question of such tax levy. More than one election under this 26950
section may be held in any one calendar year. Such resolution 26951
shall specify both of the following: 26952

(a) That the rate which it is necessary to levy shall be at 26953
the rate of not less than one-half mill for each one dollar of 26954
valuation, and that such tax shall be levied for a period of 26955

twenty-three years; 26956

(b) That the proceeds of the tax shall be used to pay the 26957
cost of maintaining the classroom facilities included in the 26958
project. 26959

(B) A copy of a resolution adopted under division (A) of this 26960
section shall after its passage and not less than seventy-five 26961
days prior to the date set therein for the election be certified 26962
to the county board of elections. 26963

The resolution of the school district board, in addition to 26964
meeting other applicable requirements of section 133.18 of the 26965
Revised Code, shall state that the amount of bonds to be issued 26966
will be an amount equal to the school district's portion of the 26967
basic project cost, and state the maximum maturity of the bonds 26968
which may be any number of years not exceeding the term calculated 26969
under section 133.20 of the Revised Code as determined by the 26970
board. In estimating the amount of bonds to be issued, the board 26971
shall take into consideration the amount of moneys then in the 26972
bond retirement fund and the amount of moneys to be collected for 26973
and disbursed from the bond retirement fund during the remainder 26974
of the year in which the resolution of necessity is adopted. 26975

If the bonds are to be issued in more than one series, the 26976
resolution may state, in addition to the information required to 26977
be stated under division (B)(3) of section 133.18 of the Revised 26978
Code, the number of series, which shall not exceed five, the 26979
principal amount of each series, and the approximate date each 26980
series will be issued, and may provide that no series, or any 26981
portion thereof, may be issued before such date. Upon such a 26982
resolution being certified to the county auditor as required by 26983
division (C) of section 133.18 of the Revised Code, the county 26984
auditor, in calculating, advising, and confirming the estimated 26985
average annual property tax levy under that division, shall also 26986
calculate, advise, and confirm by certification the estimated 26987

average property tax levy for each series of bonds to be issued. 26988

Notice of the election shall include the fact that the tax 26989
levy shall be at the rate of not less than one-half mill for each 26990
one dollar of valuation for a period of twenty-three years, and 26991
that the proceeds of the tax shall be used to pay the cost of 26992
maintaining the classroom facilities included in the project. 26993

If the bonds are to be issued in more than one series, the 26994
board of education, when filing copies of the resolution with the 26995
board of elections as required by division (D) of section 133.18 26996
of the Revised Code, may direct the board of elections to include 26997
in the notice of election the principal amount and approximate 26998
date of each series, the maximum number of years over which the 26999
principal of each series may be paid, the estimated additional 27000
average property tax levy for each series, and the first calendar 27001
year in which the tax is expected to be due for each series, in 27002
addition to the information required to be stated in the notice 27003
under division (E)(3)(a) to (e) of section 133.18 of the Revised 27004
Code. 27005

(C)(1) Except as otherwise provided in division (C)(2) of 27006
this section, the form of the ballot to be used at such election 27007
shall be: 27008

"A majority affirmative vote is necessary for passage. 27009

Shall bonds be issued by the (here insert name 27010
of school district) school district to pay the local share of 27011
school construction under the State of Ohio Classroom Facilities 27012
Assistance Program in the principal amount of (here 27013
insert principal amount of the bond issue), to be repaid annually 27014
over a maximum period of (here insert the maximum 27015
number of years over which the principal of the bonds may be paid) 27016
years, and an annual levy of property taxes be made outside the 27017
ten-mill limitation, estimated by the county auditor to average 27018

over the repayment period of the bond issue (here 27019
insert the number of mills estimated) mills for each one dollar of 27020
tax valuation, which amounts to (rate expressed in 27021
cents or dollars and cents, such as "thirty-six cents" or "\$0.36") 27022
for each one hundred dollars of tax valuation to pay the annual 27023
debt charges on the bonds and to pay debt charges on any notes 27024
issued in anticipation of the bonds?" 27025

and, unless the additional levy 27026
of taxes is not required pursuant 27027
to division (C) of section 27028
3318.05 of the Revised Code, 27029

"Shall an additional levy of taxes be made for a period of 27030
twenty-three years to benefit the (here insert name 27031
of school district) school district, the proceeds of which shall 27032
be used to pay the cost of maintaining the classroom facilities 27033
included in the project at the rate of (here insert the 27034
number of mills, which shall not be less than one-half mill) mills 27035
for each one dollar of valuation? 27036

	FOR THE BOND ISSUE AND TAX LEVY
	AGAINST THE BOND ISSUE AND TAX LEVY

"

(2) If authority is sought to issue bonds in more than one 27041
series and the board of education so elects, the form of the 27042
ballot shall be as prescribed in section 3318.062 of the Revised 27043
Code. If the board of education elects the form of the ballot 27044
prescribed in that section, it shall so state in the resolution 27045
adopted under this section. 27046

(D) If it is necessary for the school district to acquire a 27047
site for the classroom facilities to be acquired pursuant to 27048
sections 3318.01 to 3318.20 of the Revised Code, the district 27049

board may propose either to issue bonds of the board or to levy a 27050
tax to pay for the acquisition of such site, and may combine the 27051
question of doing so with the questions specified in division (B) 27052
of this section. Bonds issued under this division for the purpose 27053
of acquiring a site are a general obligation of the school 27054
district and are Chapter 133. securities. 27055

The form of that portion of the ballot to include the 27056
question of either issuing bonds or levying a tax for site 27057
acquisition purposes shall be one of the following: 27058

(1) "Shall bonds be issued by the (here insert 27059
name of the school district) school district to pay costs of 27060
acquiring a site for classroom facilities under the State of Ohio 27061
Classroom Facilities Assistance Program in the principal amount of 27062
..... (here insert principal amount of the bond issue), to be 27063
repaid annually over a maximum period of (here insert 27064
maximum number of years over which the principal of the bonds may 27065
be paid) years, and an annual levy of property taxes be made 27066
outside the ten-mill limitation, estimated by the county auditor 27067
to average over the repayment period of the bond issue 27068
(here insert number of mills) mills for each one dollar of tax 27069
valuation, which amount to (here insert rate expressed 27070
in cents or dollars and cents, such as "thirty-six cents" or 27071
"\$0.36") for each one hundred dollars of valuation to pay the 27072
annual debt charges on the bonds and to pay debt charges on any 27073
notes issued in anticipation of the bonds?" 27074

(2) "Shall an additional levy of taxes outside the ten-mill 27075
limitation be made for the benefit of the (here insert 27076
name of the school district) school district for the 27077
purpose of acquiring a site for classroom facilities in the sum of 27078
..... (here insert annual amount the levy is to produce) 27079
estimated by the county auditor to average (here insert 27080
number of mills) mills for each one hundred dollars of valuation, 27081

for a period of (here insert number of years the millage 27082
is to be imposed) years?" 27083

Where it is necessary to combine the question of issuing 27084
bonds of the school district and levying a tax as described in 27085
division (B) of this section with the question of issuing bonds of 27086
the school district for acquisition of a site, the question 27087
specified in that division to be voted on shall be "For the Bond 27088
Issues and the Tax Levy" and "Against the Bond Issues and the Tax 27089
Levy." 27090

Where it is necessary to combine the question of issuing 27091
bonds of the school district and levying a tax as described in 27092
division (B) of this section with the question of levying a tax 27093
for the acquisition of a site, the question specified in that 27094
division to be voted on shall be "For the Bond Issue and the Tax 27095
Levies" and "Against the Bond Issue and the Tax Levies." 27096

Where the school district board chooses to combine the 27097
question in division (B) of this section with any of the 27098
additional questions described in divisions (A) to (D) of section 27099
3318.056 of the Revised Code, the question specified in division 27100
(B) of this section to be voted on shall be "For the Bond Issues 27101
and the Tax Levies" and "Against the Bond Issues and the Tax 27102
Levies." 27103

If a majority of those voting upon a proposition hereunder 27104
which includes the question of issuing bonds vote in favor 27105
thereof, and if the agreement provided for by section 3318.08 of 27106
the Revised Code has been entered into, the school district board 27107
may proceed under Chapter 133. of the Revised Code, with the 27108
issuance of bonds or bond anticipation notes in accordance with 27109
the terms of the agreement. 27110

Sec. 3318.08. Except in the case of a joint vocational school 27111
district that receives assistance under sections 3318.40 to 27112

3318.45 of the Revised Code, if the requisite favorable vote on 27113
the election is obtained, or if the school district board has 27114
resolved to apply the proceeds of a property tax levy or the 27115
proceeds of an income tax, or a combination of proceeds from such 27116
taxes, as authorized in section 3318.052 of the Revised Code, the 27117
Ohio school facilities commission, upon certification to it of 27118
either the results of the election or the resolution under section 27119
3318.052 of the Revised Code, shall enter into a written agreement 27120
with the school district board for the construction and sale of 27121
the project. In the case of a joint vocational school district 27122
that receives assistance under sections 3318.40 to 3318.45 of the 27123
Revised Code, if the school district board of education and the 27124
school district electors have satisfied the conditions prescribed 27125
in division (D)(1) of section 3318.41 of the Revised Code, the 27126
commission shall enter into an agreement with the school district 27127
board for the construction and sale of the project. In either 27128
case, the agreement shall include, but need not be limited to, the 27129
following provisions: 27130

(A) The sale and issuance of bonds or notes in anticipation 27131
thereof, as soon as practicable after the execution of the 27132
agreement, in an amount equal to the school district's portion of 27133
the basic project cost, including ~~any bonds previously authorized~~ 27134
~~by the district's electors as described in section 3318.033 of the~~ 27135
~~Revised Code and~~ any securities authorized under division (J) of 27136
section 133.06 of the Revised Code and dedicated by the school 27137
district board to payment of the district's portion of the basic 27138
project cost of the project; provided, that if at that time the 27139
county treasurer of each county in which the school district is 27140
located has not commenced the collection of taxes on the general 27141
duplicate of real and public utility property for the year in 27142
which the controlling board approved the project, the school 27143
district board shall authorize the issuance of a first installment 27144
of bond anticipation notes in an amount specified by the 27145

agreement, which amount shall not exceed an amount necessary to 27146
raise the net bonded indebtedness of the school district as of the 27147
date of the controlling board's approval to within five thousand 27148
dollars of the required level of indebtedness for the preceding 27149
year. In the event that a first installment of bond anticipation 27150
notes is issued, the school district board shall, as soon as 27151
practicable after the county treasurer of each county in which the 27152
school district is located has commenced the collection of taxes 27153
on the general duplicate of real and public utility property for 27154
the year in which the controlling board approved the project, 27155
authorize the issuance of a second and final installment of bond 27156
anticipation notes or a first and final issue of bonds. 27157

The combined value of the first and second installment of 27158
bond anticipation notes or the value of the first and final issue 27159
of bonds shall be equal to the school district's portion of the 27160
basic project cost. The proceeds of any such bonds shall be used 27161
first to retire any bond anticipation notes. Otherwise, the 27162
proceeds of such bonds and of any bond anticipation notes, except 27163
the premium and accrued interest thereon, shall be deposited in 27164
the school district's project construction fund. In determining 27165
the amount of net bonded indebtedness for the purpose of fixing 27166
the amount of an issue of either bonds or bond anticipation notes, 27167
gross indebtedness shall be reduced by moneys in the bond 27168
retirement fund only to the extent of the moneys therein on the 27169
first day of the year preceding the year in which the controlling 27170
board approved the project. Should there be a decrease in the tax 27171
valuation of the school district so that the amount of 27172
indebtedness that can be incurred on the tax duplicates for the 27173
year in which the controlling board approved the project is less 27174
than the amount of the first installment of bond anticipation 27175
notes, there shall be paid from the school district's project 27176
construction fund to the school district's bond retirement fund to 27177
be applied against such notes an amount sufficient to cause the 27178

net bonded indebtedness of the school district, as of the first 27179
day of the year following the year in which the controlling board 27180
approved the project, to be within five thousand dollars of the 27181
required level of indebtedness for the year in which the 27182
controlling board approved the project. The maximum amount of 27183
indebtedness to be incurred by any school district board as its 27184
share of the cost of the project is either an amount that will 27185
cause its net bonded indebtedness, as of the first day of the year 27186
following the year in which the controlling board approved the 27187
project, to be within five thousand dollars of the required level 27188
of indebtedness, or an amount equal to the required percentage of 27189
the basic project costs, whichever is greater. All bonds and bond 27190
anticipation notes shall be issued in accordance with Chapter 133. 27191
of the Revised Code, and notes may be renewed as provided in 27192
section 133.22 of the Revised Code. 27193

(B) The transfer of such funds of the school district board 27194
available for the project, together with the proceeds of the sale 27195
of the bonds or notes, except premium, accrued interest, and 27196
interest included in the amount of the issue, to the school 27197
district's project construction fund; 27198

(C) For all school districts except joint vocational school 27199
districts that receive assistance under sections 3318.40 to 27200
3318.45 of the Revised Code, the following provisions as 27201
applicable: 27202

(1) If section 3318.052 of the Revised Code applies, the 27203
earmarking of the proceeds of a tax levied under section 5705.21 27204
of the Revised Code for general ongoing permanent or under section 27205
5705.218 of the Revised Code for the purpose of permanent 27206
improvements, or the proceeds of a school district income tax 27207
levied under Chapter 5748. of the Revised Code, or the proceeds 27208
from a combination of those two taxes, in an amount to pay all or 27209
part of the service charges on bonds issued to pay the school 27210

district portion of the project and an amount equivalent to all or 27211
part of the tax required under division (B) of section 3318.05 of 27212
the Revised Code; 27213

(2) If section 3318.052 of the Revised Code does not apply, 27214
either of the following: 27215

(a) The levy of the tax authorized at the election for the 27216
payment of maintenance costs, as specified in division (B) of 27217
section 3318.05 of the Revised Code; 27218

(b) If the school district electors have approved a 27219
~~continuing tax of at least two mills for each dollar of valuation~~ 27220
for general ongoing permanent improvements under section 5705.21 27221
of the Revised Code and that tax can be used for maintenance, the 27222
earmarking of an amount of the proceeds from such tax for 27223
maintenance of classroom facilities as specified in division (B) 27224
of section 3318.05 of the Revised Code. 27225

(D) For joint vocational school districts that receive 27226
assistance under sections 3318.40 to 3318.45 of the Revised Code, 27227
provision for deposit of school district moneys dedicated to 27228
maintenance of the classroom facilities acquired under those 27229
sections as prescribed in section 3318.43 of the Revised Code; 27230

(E) Dedication of any local donated contribution as provided 27231
for under section 3318.084 of the Revised Code, including a 27232
schedule for depositing such moneys applied as an offset of the 27233
district's obligation to levy the tax described in division (B) of 27234
section 3318.05 of the Revised Code as required under division 27235
(D)(2) of section 3318.084 of the Revised Code; 27236

(F) Ownership of or interest in the project during the period 27237
of construction, which shall be divided between the commission and 27238
the school district board in proportion to their respective 27239
contributions to the school district's project construction fund; 27240

(G) Maintenance of the state's interest in the project until 27241

any obligations issued for the project under section 3318.26 of 27242
the Revised Code are no longer outstanding; 27243

(H) The insurance of the project by the school district from 27244
the time there is an insurable interest therein and so long as the 27245
state retains any ownership or interest in the project pursuant to 27246
division (F) of this section, in such amounts and against such 27247
risks as the commission shall require; provided, that the cost of 27248
any required insurance until the project is completed shall be a 27249
part of the basic project cost; 27250

(I) The certification by the director of budget and 27251
management that funds are available and have been set aside to 27252
meet the state's share of the basic project cost as approved by 27253
the controlling board pursuant to either section 3318.04 or 27254
division (B)(1) of section 3318.41 of the Revised Code; 27255

(J) Authorization of the school district board to advertise 27256
for and receive construction bids for the project, for and on 27257
behalf of the commission, and to award contracts in the name of 27258
the state subject to approval by the commission; 27259

(K) Provisions for the disbursement of moneys from the school 27260
district's project account upon issuance by the commission or the 27261
commission's designated representative of vouchers for work done 27262
to be certified to the commission by the treasurer of the school 27263
district board; 27264

(L) Disposal of any balance left in the school district's 27265
project construction fund upon completion of the project; 27266

(M) Limitations upon use of the project or any part of it so 27267
long as any obligations issued to finance the project under 27268
section 3318.26 of the Revised Code are outstanding; 27269

(N) Provision for vesting the state's interest in the project 27270
to the school district board when the obligations issued to 27271
finance the project under section 3318.26 of the Revised Code are 27272

outstanding;	27273
(O) Provision for deposit of an executed copy of the agreement in the office of the commission;	27274 27275
(P) Provision for termination of the contract and release of the funds encumbered at the time of the conditional approval, if the proceeds of the sale of the bonds of the school district board are not paid into the school district's project construction fund and if bids for the construction of the project have not been taken within such period after the execution of the agreement as may be fixed by the commission;	27276 27277 27278 27279 27280 27281 27282
(Q) Provision for the school district to maintain the project in accordance with a plan approved by the commission;	27283 27284
(R)(1) For all school districts except a district undertaking a project under section 3318.38 of the Revised Code or a joint vocational school district undertaking a project under sections 3318.40 to 3318.45 of the Revised Code, provision that all state funds reserved and encumbered to pay the state share of the cost of the project pursuant to section 3318.03 of the Revised Code be spent on the construction or acquisition of the project prior to the expenditure of any funds provided by the school district to pay for its share of the project cost, unless the school district certifies to the commission that expenditure by the school district is necessary to maintain the tax-exempt status of notes or bonds issued by the school district to pay for its share of the project cost or to comply with applicable temporary investment periods or spending exceptions to rebate as provided for under federal law in regard to those notes or bonds, in which cases, the school district may commit to spend, or spend, a portion of the funds it provides;	27285 27286 27287 27288 27289 27290 27291 27292 27293 27294 27295 27296 27297 27298 27299 27300 27301
(2) For a school district undertaking a project under section 3318.38 of the Revised Code or a joint vocational school district	27302 27303

undertaking a project under sections 3318.40 to 3318.45 of the Revised Code, provision that the state funds reserved and encumbered and the funds provided by the school district to pay the basic project cost of any segment of the project, or of the entire project if it is not divided into segments, be spent on the construction and acquisition of the project simultaneously in proportion to the state's and the school district's respective shares of that basic project cost as determined under section 3318.032 of the Revised Code or, if the district is a joint vocational school district, under section 3318.42 of the Revised Code.

(S) A provision stipulating that the commission may prohibit the district from proceeding with any project if the commission determines that the site is not suitable for construction purposes. The commission may perform soil tests in its determination of whether a site is appropriate for construction purposes.

(T) A provision stipulating that, unless otherwise authorized by the commission, any contingency reserve portion of the construction budget prescribed by the commission shall be used only to pay costs resulting from unforeseen job conditions, to comply with rulings regarding building and other codes, to pay costs related to design clarifications or corrections to contract documents, and to pay the costs of settlements or judgments related to the project as provided under section 3318.086 of the Revised Code;

(U) Provision stipulating that for continued release of project funds the school district board shall comply with section 3313.41 of the Revised Code throughout the project;

(V) Provision that the commission shall not approve a contract for demolition of a facility until the school district board has complied with section 3313.41 of the Revised Code

relative to that facility, unless demolition of that facility is 27336
to clear a site for construction of a replacement facility 27337
included in the district's project. 27338

Sec. 3318.30. (A) There is hereby created the Ohio school 27339
facilities commission. The commission shall administer the 27340
provision of financial assistance to school districts for the 27341
acquisition or construction of classroom facilities in accordance 27342
with sections 3318.01 to 3318.33 of the Revised Code. 27343

The commission is a body corporate and politic, an agency of 27344
state government and an instrumentality of the state, performing 27345
essential governmental functions of this state. The carrying out 27346
of the purposes and the exercise by the commission of its powers 27347
conferred by sections 3318.01 to 3318.33 of the Revised Code are 27348
essential public functions and public purposes of the state. The 27349
commission may, in its own name, sue and be sued, enter into 27350
contracts, and perform all the powers and duties given to it by 27351
sections 3318.01 to 3318.33 of the Revised Code, but it does not 27352
have and shall not exercise the power of eminent domain. In its 27353
discretion and as it determines appropriate, the commission may 27354
delegate to any of its members, executive director, or other 27355
employees any of the commission's powers and duties to carry out 27356
its functions. 27357

(B) The commission shall consist of seven members, three of 27358
whom are voting members. The voting members of the commission 27359
shall be the director of the office of budget and management, the 27360
director of administrative services, and the superintendent of 27361
public instruction, or their designees. Of the nonvoting members, 27362
two shall be members of the senate appointed by the president of 27363
the senate, and two shall be members of the house of 27364
representatives appointed by the speaker of the house. Each of the 27365
appointees of the president, and each of the appointees of the 27366

speaker, shall be members of different political parties. 27367

Nonvoting members shall serve as members of the commission 27368
during the legislative biennium for which they are appointed, 27369
except that any such member who ceases to be a member of the 27370
legislative house from which the member was appointed shall cease 27371
to be a member of the commission. Each nonvoting member shall be 27372
appointed within thirty-one days of the end of the term of that 27373
member's predecessor. Such members may be reappointed. Vacancies 27374
of nonvoting members shall be filled in the manner provided for 27375
original appointments. 27376

Members of the commission shall serve without compensation. 27377

After the initial nonvoting members of the commission have 27378
been appointed, the commission shall meet and organize by electing 27379
voting members as the chairperson and vice-chairperson of the 27380
commission, who shall hold their offices until the next 27381
organizational meeting of the commission. Organizational meetings 27382
of the commission shall be held at the first meeting of each 27383
calendar year. At each organizational meeting, the commission 27384
shall elect from among its voting members a chairperson and 27385
vice-chairperson, who shall serve until the next annual 27386
organizational meeting. The commission shall adopt rules pursuant 27387
to section 111.15 of the Revised Code for the conduct of its 27388
internal business and shall keep a journal of its proceedings. 27389
Including the organizational meeting, the commission shall meet at 27390
least once each calendar quarter. 27391

Two voting members of the commission constitute a quorum, and 27392
the affirmative vote of two members is necessary for approval of 27393
any action taken by the commission. A vacancy in the membership of 27394
the commission does not impair a quorum from exercising all the 27395
rights and performing all the duties of the commission. Meetings 27396
of the commission may be held anywhere in the state and shall be 27397
held in compliance with section 121.22 of the Revised Code. 27398

(C) The commission shall file an annual report of its 27399
activities and finances with the governor, speaker of the house of 27400
representatives, president of the senate, and chairpersons of the 27401
house and senate finance committees. 27402

(D) The commission shall be exempt from the requirements of 27403
sections 101.82 to 101.87 of the Revised Code. 27404

Sec. 3318.31. (A) The Ohio school facilities commission may 27405
perform any act and ensure the performance of any function 27406
necessary or appropriate to carry out the purposes of, and 27407
exercise the powers granted under, Chapter 3318. of the Revised 27408
Code, including any of the following: 27409

(1) Adopt, amend, and rescind, pursuant to section 111.15 of 27410
the Revised Code, rules for the administration of programs 27411
authorized under Chapter 3318. of the Revised Code. 27412

(2) Contract with, retain the services of, or designate, and 27413
fix the compensation of, such agents, accountants, consultants, 27414
advisers, and other independent contractors as may be necessary or 27415
desirable to carry out the programs authorized under Chapter 3318. 27416
of the Revised Code, or authorize the executive director to 27417
perform such powers and duties. 27418

(3) Receive and accept any gifts, grants, donations, and 27419
pledges, and receipts therefrom, to be used for the programs 27420
authorized under Chapter 3318. of the Revised Code. 27421

(4) Make and enter into all contracts, commitments, and 27422
agreements, and execute all instruments, necessary or incidental 27423
to the performance of its duties and the execution of its rights 27424
and powers under Chapter 3318. of the Revised Code, or authorize 27425
the executive director to perform such powers and duties. 27426

(B) The commission shall appoint and fix the compensation of 27427
an executive director who shall serve at the pleasure of the 27428

commission. The executive director shall supervise the operations 27429
of the commission and perform such other duties as delegated by 27430
the commission. The executive director also shall employ and fix 27431
the compensation of such employees as will facilitate the 27432
activities and purposes of the commission, who shall serve at the 27433
pleasure of the executive director. The employees of the 27434
commission shall be exempt from Chapter 4117. of the Revised Code 27435
and shall not be public employees as defined in section 4117.01 of 27436
the Revised Code. 27437

(C) The attorney general shall serve as the legal 27438
representative for the commission and may appoint other counsel as 27439
necessary for that purpose in accordance with section 109.07 of 27440
the Revised Code. 27441

Sec. 3318.37. (A)(1) As used in this section: 27442

~~(1)~~(a) "Large land area school district" means a school 27443
district with a territory of greater than three hundred fifty 27444
square miles in any percentile as determined under section 27445
3318.011 of the Revised Code. 27446

(b) "Low wealth school district" means a school district in 27447
the first through fiftieth percentiles as determined under section 27448
3318.011 of the Revised Code. 27449

~~(2)~~(c) A "school district with an exceptional need for 27450
immediate classroom facilities assistance" means a low wealth or 27451
large land area school district with an exceptional need for new 27452
facilities in order to protect the health and safety of all or a 27453
portion of its students. ~~School~~ 27454

(2) School districts reasonably expected to be eligible for 27455
state assistance under sections 3318.01 to 3318.20 of the Revised 27456
Code within three fiscal years after the year of the application 27457
for assistance under this section ~~is being considered by the Ohio~~ 27458

~~school facilities commission~~, and school districts that 27459
participate in the school building assistance expedited local 27460
partnership program under section 3318.36 of the Revised Code, 27461
except for such districts described in division (A)(3) of this 27462
section, shall not be eligible for assistance under this section. 27463

(3) School districts that participate in the school building 27464
assistance expedited local partnership program under section 27465
3318.36 of the Revised Code may receive assistance under the 27466
program established under this section only if the following 27467
conditions are satisfied: 27468

(a) The district board adopted a resolution certifying its 27469
intent to participate in the school building assistance expedited 27470
local partnership program under section 3318.36 of the Revised 27471
Code prior to September 14, 2000. 27472

(b) The district was selected by the Ohio school facilities 27473
commission for participation in the school building assistance 27474
expedited local partnership program under section 3318.36 of the 27475
Revised Code in the manner prescribed by the commission under that 27476
section as it existed prior to September 14, 2000. 27477

(B)(1) There is hereby established the exceptional needs 27478
school facilities assistance program. Under the program, the Ohio 27479
school facilities commission may set aside from the moneys 27480
annually appropriated to it for classroom facilities assistance 27481
projects up to twenty-five per cent for assistance to school 27482
districts with exceptional needs for immediate classroom 27483
facilities assistance. 27484

(2)(a) After consulting with education and construction 27485
experts, the commission shall adopt guidelines for identifying 27486
school districts with an exceptional need for immediate classroom 27487
facilities assistance. 27488

(b) The guidelines shall include application forms and 27489

instructions for school districts ~~that believe they have an~~ 27490
~~exceptional need for immediate classroom facilities to use in~~ 27491
applying for assistance under this section. 27492

(3) The commission shall evaluate the classroom facilities, 27493
and the need for replacement classroom facilities from the 27494
applications received under this section. The commission, 27495
utilizing the guidelines adopted under division (B)(2)(a) of this 27496
section, shall prioritize the school districts to be assessed. 27497

Notwithstanding section 3318.02 of the Revised Code, the 27498
commission may conduct on-site evaluation of the school districts 27499
prioritized under this section and approve and award funds until 27500
such time as all funds set aside under division (B)(1) of this 27501
section have been encumbered ~~under section 3318.04 of the Revised~~ 27502
Code. However, the commission need not conduct the evaluation of 27503
facilities if the commission determines that a district's 27504
assessment conducted under section 3318.36 of the Revised Code is 27505
sufficient for purposes of this section. 27506

(4) Notwithstanding division (A) of section 3318.05 of the 27507
Revised Code, the school district's portion of the basic project 27508
cost under this section shall be the "required percentage of the 27509
basic project costs," as defined in division (K) of section 27510
3318.01 of the Revised Code. 27511

(5) Except as otherwise specified in this section, any 27512
project undertaken with assistance under this section shall comply 27513
with all provisions of sections 3318.01 to 3318.20 of the Revised 27514
Code. A school district may receive assistance under sections 27515
3318.01 to 3318.20 of the Revised Code for the remainder of the 27516
district's classroom facilities needs as assessed under this 27517
section when the district is eligible for such assistance pursuant 27518
to section 3318.02 of the Revised Code, but any classroom facility 27519
constructed with assistance under this section shall not be 27520
included in a district's project at that time unless the 27521

commission determines the district has experienced the increased 27522
enrollment specified in division (B)(1) of section 3318.04 of the 27523
Revised Code. 27524

(C) No school district shall receive assistance under this 27525
section for a classroom facility that has been included in the 27526
discrete part of the district's classroom facilities needs 27527
identified and addressed in the district's project pursuant to an 27528
agreement entered into under section 3318.36 of the Revised Code. 27529

Sec. 3318.41. (A)(1) The Ohio school facilities commission 27530
annually shall assess the classroom facilities needs of the number 27531
of joint vocational school districts that the commission 27532
reasonably expects to be able to provide assistance to in a fiscal 27533
year, based on the amount set aside for that fiscal year under 27534
division (B) of section 3318.40 of the Revised Code and the order 27535
of priority prescribed in division (B) of section 3318.42 of the 27536
Revised Code, except that in fiscal year 2004 the commission shall 27537
conduct at least the five assessments prescribed in division (E) 27538
of section 3318.40 of the Revised Code. 27539

Upon conducting an assessment of the classroom facilities 27540
needs of a school district, the commission shall make a 27541
determination of all of the following: 27542

(a) The number of classroom facilities to be included in a 27543
project, ~~including classroom facilities authorized by a bond 27544~~
~~issued described in section 3318.033 of the Revised Code,~~ and the 27545
basic project cost of acquiring the classroom facilities included 27546
in the project. The number of facilities and basic project cost 27547
shall be determined in accordance with the specifications adopted 27548
under section 3318.311 of the Revised Code except to the extent 27549
that compliance with such specifications is waived by the 27550
commission pursuant to the rule of the commission adopted under 27551
division (F) of section 3318.40 of the Revised Code. 27552

(b) The school district's portion of the basic project cost 27553
as determined under division (C) of section 3318.42 of the Revised 27554
Code; 27555

(c) The remaining portion of the basic project cost that 27556
shall be supplied by the state; 27557

(d) The amount of the state's portion of the basic project 27558
cost to be encumbered in accordance with section 3318.11 of the 27559
Revised Code in the current and subsequent fiscal bienniums from 27560
funds set aside under division (B) of section 3318.40 of the 27561
Revised Code. 27562

(2) Divisions (A), (C), and (D) of section 3318.03 of the 27563
Revised Code apply to any project under sections 3318.40 to 27564
3318.45 of the Revised Code. 27565

(B)(1) If the commission makes a determination under division 27566
(A) of this section in favor of the acquisition of classroom 27567
facilities for a project under sections 3318.40 to 3318.45 of the 27568
Revised Code, such project shall be conditionally approved. Such 27569
conditional approval shall be submitted to the controlling board 27570
for approval. The controlling board shall immediately approve or 27571
reject the commission's determination, conditional approval, the 27572
amount of the state's portion of the basic project cost, and the 27573
amount of the state's portion of the basic project cost to be 27574
encumbered in the current fiscal biennium. In the event of 27575
approval by the controlling board, the commission shall certify 27576
the conditional approval to the joint vocational school district 27577
board of education and shall encumber the approved funds for the 27578
current fiscal year. 27579

(2) No school district that receives assistance under 27580
sections 3318.40 to 3318.45 of the Revised Code shall have another 27581
such project conditionally approved until the expiration of twenty 27582
years after the school district's prior project was conditionally 27583

approved, unless the school district board demonstrates to the 27584
satisfaction of the commission that the school district has 27585
experienced since conditional approval of its prior project an 27586
exceptional increase in enrollment or program requirements 27587
significantly above the school district's design capacity under 27588
that prior project as determined by rule of the commission. Any 27589
rule adopted by the commission to implement this division shall be 27590
tailored to address the classroom facilities needs of joint 27591
vocational school districts. 27592

(C) In addition to generating the amount of the school 27593
district's portion of the basic project cost as determined under 27594
division (C) of section 3318.42 of the Revised Code, in order for 27595
a school district to receive assistance under sections 3318.40 to 27596
3318.45 of the Revised Code, the school district board shall set 27597
aside school district moneys for the maintenance of the classroom 27598
facilities included in the school district's project in the amount 27599
and manner prescribed in section 3318.43 of the Revised Code. 27600

(D)(1) The conditional approval for a project certified under 27601
division (B)(1) of this section shall lapse and the amount 27602
reserved and encumbered for such project shall be released unless 27603
both of the following conditions are satisfied: 27604

(a) Within one hundred twenty days following the date of 27605
certification of the conditional approval to the joint vocational 27606
school district board, the school district board accepts the 27607
conditional approval and certifies to the commission the school 27608
district board's plan to generate the school district's portion of 27609
the basic project cost, as determined under division (C) of 27610
section 3318.42 of the Revised Code, and to set aside moneys for 27611
maintenance of the classroom facilities acquired under the 27612
project, as prescribed in section 3318.43 of the Revised Code. 27613

(b) Within one year following the date of certification of 27614
the conditional approval to the school district board, the 27615

electors of the school district vote favorably on any ballot 27616
measures proposed by the school district board to generate the 27617
school district's portion of the basic project cost. 27618

(2) If the school district board or electors fail to satisfy 27619
the conditions prescribed in division (D)(1) of this section and 27620
the amount reserved and encumbered for the school district's 27621
project is released, the school district shall be given first 27622
priority over other joint vocational school districts for project 27623
funding under sections 3318.40 to 3318.45 of the Revised Code as 27624
such funds become available. 27625

(E) If the conditions prescribed in division (D)(1) of this 27626
section are satisfied, the commission and the school district 27627
board shall enter into an agreement as prescribed in section 27628
3318.08 of the Revised Code and shall proceed with the development 27629
of plans, cost estimates, designs, drawings, and specifications as 27630
prescribed in section 3318.091 of the Revised Code. 27631

(F) Costs in excess of those approved by the commission under 27632
section 3318.091 of the Revised Code shall be payable only as 27633
provided in sections 3318.042 and 3318.083 of the Revised Code. 27634

(G) Advertisement for bids and the award of contracts for 27635
construction of any project under sections 3318.40 to 3318.45 of 27636
the Revised Code shall be conducted in accordance with section 27637
3318.10 of the Revised Code. 27638

(H) The state funds reserved and encumbered and the funds 27639
provided by the school district to pay the basic project cost of a 27640
project under sections 3318.40 to 3318.45 of the Revised Code 27641
shall be spent simultaneously in proportion to the state's and the 27642
school district's respective portions of that basic project cost. 27643

(I) Sections 3318.13, 3318.14, and 3318.16 of the Revised 27644
Code apply to projects under sections 3318.40 to 3318.45 of the 27645
Revised Code. 27646

Sec. 3319.01. Except in an island school district, where the 27647
superintendent of an educational service center otherwise may 27648
serve as superintendent of the district and except as otherwise 27649
provided for any cooperative education school district pursuant to 27650
division (B)(2) of section 3311.52 or division (B)(3) of section 27651
3311.521 of the Revised Code, the board of education in each 27652
school district and the governing board of each service center 27653
shall, at a regular or special meeting held not later than the 27654
first day of May of the calendar year in which the term of the 27655
superintendent expires, appoint a person possessed of the 27656
qualifications provided in this section to act as superintendent, 27657
for a term not longer than five years beginning the first day of 27658
August and ending on the thirty-first day of July. Such 27659
superintendent is, at the expiration of a current term of 27660
employment, deemed reemployed for a term of one year at the same 27661
salary plus any increments that may be authorized by the board, 27662
unless such board, on or before the first day of March of the year 27663
in which the contract of employment expires, either reemploys the 27664
superintendent for a succeeding term as provided in this section 27665
or gives to the superintendent written notice of its intention not 27666
to reemploy the superintendent. A superintendent may not be 27667
transferred to any other position during the term of the 27668
superintendent's employment or reemployment except by mutual 27669
agreement by the superintendent and the board. If a vacancy occurs 27670
in the office of superintendent, the board shall appoint a 27671
superintendent for a term not to exceed five years from the next 27672
preceding first day of August. 27673

~~Except as otherwise provided in this section, the employment 27674
or reemployment of a superintendent of a local school district 27675
shall be only upon the recommendation of the service center 27676
superintendent, except that a local board of education, by a 27677
three-fourths vote of its full membership, may, after considering 27678~~

~~two nominations for the position of local superintendent made by 27679~~
~~the service center superintendent, employ or reemploy a person not 27680~~
~~so nominated for such position. 27681~~

A board may at any regular or special meeting held during the 27682
period beginning on the first day of January of the calendar year 27683
immediately preceding the year the contract of employment of a 27684
superintendent expires and ending on the first day of March of the 27685
year it expires, reemploy such superintendent for a succeeding 27686
term for not longer than five years, beginning on the first day of 27687
August immediately following the expiration of the 27688
superintendent's current term of employment and ending on the 27689
thirty-first day of July of the year in which such succeeding term 27690
expires. No person shall be appointed to the office of 27691
superintendent of a city, or exempted village school district or a 27692
service center who does not hold a license designated for being a 27693
superintendent issued under section 3319.22 of the Revised Code, 27694
unless such person had been employed as a county, city, or 27695
exempted village superintendent prior to August 1, 1939. No person 27696
shall be appointed to the office of local superintendent who does 27697
not hold a license designated for being a superintendent issued 27698
under section 3319.22 of the Revised Code, unless such person held 27699
or was qualified to hold the position of executive head of a local 27700
school district on September 16, 1957. At the time of making such 27701
appointment or designation of term, such board shall fix the 27702
compensation of the superintendent, which may be increased or 27703
decreased during such term, provided such decrease is a part of a 27704
uniform plan affecting salaries of all employees of the district, 27705
and shall execute a written contract of employment with such 27706
superintendent. 27707

Each board shall adopt procedures for the evaluation of its 27708
superintendent and shall evaluate its superintendent in accordance 27709
with those procedures. An evaluation based upon such procedures 27710

shall be considered by the board in deciding whether to renew the 27711
superintendent's contract. The establishment of an evaluation 27712
procedure shall not create an expectancy of continued employment. 27713
Nothing in this section shall prevent a board from making the 27714
final determination regarding the renewal or failure to renew of a 27715
superintendent's contract. 27716

Termination of a superintendent's contract shall be pursuant 27717
to section 3319.16 of the Revised Code. 27718

A board may establish vacation leave for its superintendent. 27719
Upon the superintendent's separation from employment a board that 27720
has such leave may provide compensation at the superintendent's 27721
current rate of pay for all lawfully accrued and unused vacation 27722
leave to the superintendent's credit at the time of separation, 27723
not to exceed the amount accrued within three years before the 27724
date of separation. In case of the death of a superintendent, such 27725
unused vacation leave as the board would have paid to this 27726
superintendent upon separation shall be paid in accordance with 27727
section 2113.04 of the Revised Code, or to the superintendent's 27728
estate. 27729

The superintendent shall be the executive officer for the 27730
board. ~~Except as otherwise provided in this section for local~~ 27731
~~school districts, the~~ The superintendent shall direct and assign 27732
teachers and other employees of the district or service center, 27733
except as provided in section 3319.04 of the Revised Code; assign 27734
the pupils to the proper schools and grades, provided that the 27735
assignment of a pupil to a school outside of the pupil's district 27736
of residence is approved by the board of the district of residence 27737
of such pupil; and perform such other duties as the board 27738
determines. ~~The service center superintendent shall exercise the~~ 27739
~~responsibilities of this section with regard to the assignment of~~ 27740
~~pupils and teachers for local school districts under the~~ 27741
~~supervision of the service center, except that the board of~~ 27742

~~education of a local school district and the governing board of 27743
the educational service center of which the local district is a 27744
part may enter into an agreement requiring the local 27745
superintendent, instead of the superintendent of the educational 27746
service center, to exercise the responsibilities of this section 27747
with regard to the assignment of pupils and teachers for the local 27748
school district. 27749~~

The board of education of any school district may contract 27750
with the governing board of the educational service center from 27751
which it otherwise receives services to conduct searches and 27752
recruitment of candidates for the superintendent position 27753
authorized under this section. 27754

Sec. 3319.02. (A)(1) As used in this section, "other 27755
administrator" means ~~either~~ any of the following: 27756

(a) Except as provided in division (A)(2) of this section, 27757
any employee in a position for which a board of education requires 27758
a license designated by rule of the department of education for 27759
being an administrator issued under section 3319.22 of the Revised 27760
Code, including a professional pupil services employee or 27761
administrative specialist or an equivalent of either one who is 27762
not employed as a school counselor and spends less than fifty per 27763
cent of the time employed teaching or working with students; 27764

(b) Any nonlicensed employee whose job duties enable such 27765
employee to be considered as either a "supervisor" or a 27766
"management level employee," as defined in section 4117.01 of the 27767
Revised Code; 27768

(c) A business manager appointed under section 3319.03 of the 27769
Revised Code. 27770

(2) As used in this section, "other administrator" does not 27771
include a superintendent, assistant superintendent, principal, or 27772

assistant principal. 27773

(B) The board of education of each school district and the 27774
governing board of an educational service center may appoint one 27775
or more assistant superintendents and such other administrators as 27776
are necessary. An assistant educational service center 27777
superintendent or service center supervisor employed on a 27778
part-time basis may also be employed by a local board as a 27779
teacher. The board of each city, exempted village, and local 27780
school district shall employ principals for all high schools and 27781
for such other schools as the board designates, and those boards 27782
may appoint assistant principals for any school that they 27783
designate. 27784

(C) In educational service centers and in city ~~and~~, exempted 27785
village, and local school districts, assistant superintendents, 27786
principals, assistant principals, and other administrators shall 27787
only be employed or reemployed in accordance with nominations of 27788
the superintendent, except that a ~~city or exempted village~~ board 27789
of education of a school district or the governing board of a 27790
service center, by a three-fourths vote of its full membership, 27791
may reemploy any assistant superintendent, principal, assistant 27792
principal, or other administrator whom the superintendent refuses 27793
to nominate. ~~In local school districts, assistant superintendents,~~ 27794
~~principals, assistant principals, and other administrators shall~~ 27795
~~only be employed or reemployed in accordance with nominations of~~ 27796
~~the superintendent of the service center of which the local~~ 27797
~~district is a part, except that a local board of education, by a~~ 27798
~~three fourths vote of its full membership, may reemploy any~~ 27799
~~assistant superintendent, principal, assistant principal, or other~~ 2800
~~administrator whom such superintendent refuses to nominate.~~ 2801

The board of education or governing board shall execute a 2802
written contract of employment with each assistant superintendent, 2803
principal, assistant principal, and other administrator it employs 2804

or reemploys. The term of such contract shall not exceed three 27805
years except that in the case of a person who has been employed as 27806
an assistant superintendent, principal, assistant principal, or 27807
other administrator in the district or center for three years or 27808
more, the term of the contract shall be for not more than five 27809
years and, unless the superintendent of the district recommends 27810
otherwise, not less than two years. If the superintendent so 27811
recommends, the term of the contract of a person who has been 27812
employed by the district or service center as an assistant 27813
superintendent, principal, assistant principal, or other 27814
administrator for three years or more may be one year, but all 27815
subsequent contracts granted such person shall be for a term of 27816
not less than two years and not more than five years. When a 27817
teacher with continuing service status becomes an assistant 27818
superintendent, principal, assistant principal, or other 27819
administrator with the district or service center with which the 27820
teacher holds continuing service status, the teacher retains such 27821
status in the teacher's nonadministrative position as provided in 27822
sections 3319.08 and 3319.09 of the Revised Code. 27823

A board of education or governing board may reemploy an 27824
assistant superintendent, principal, assistant principal, or other 27825
administrator at any regular or special meeting held during the 27826
period beginning on the first day of January of the calendar year 27827
immediately preceding the year of expiration of the employment 27828
contract and ending on the last day of March of the year the 27829
employment contract expires. 27830

Except by mutual agreement of the parties thereto, no 27831
assistant superintendent, principal, assistant principal, or other 27832
administrator shall be transferred during the life of a contract 27833
to a position of lesser responsibility. No contract may be 27834
terminated by a board except pursuant to section 3319.16 of the 27835
Revised Code. No contract may be suspended except pursuant to 27836

section 3319.17 or 3319.171 of the Revised Code. The salaries and 27837
compensation prescribed by such contracts shall not be reduced by 27838
a board unless such reduction is a part of a uniform plan 27839
affecting the entire district or center. The contract shall 27840
specify the employee's administrative position and duties as 27841
included in the job description adopted under division (D) of this 27842
section, the salary and other compensation to be paid for 27843
performance of duties, the number of days to be worked, the number 27844
of days of vacation leave, if any, and any paid holidays in the 27845
contractual year. 27846

An assistant superintendent, principal, assistant principal, 27847
or other administrator is, at the expiration of the current term 27848
of employment, deemed reemployed at the same salary plus any 27849
increments that may be authorized by the board, unless such 27850
employee notifies the board in writing to the contrary on or 27851
before the first day of June, or unless such board, on or before 27852
the last day of March of the year in which the contract of 27853
employment expires, either reemploys such employee for a 27854
succeeding term or gives written notice of its intention not to 27855
reemploy the employee. The term of reemployment of a person 27856
reemployed under this paragraph shall be one year, except that if 27857
such person has been employed by the school district or service 27858
center as an assistant superintendent, principal, assistant 27859
principal, or other administrator for three years or more, the 27860
term of reemployment shall be two years. 27861

(D)(1) Each board shall adopt procedures for the evaluation 27862
of all assistant superintendents, principals, assistant 27863
principals, and other administrators and shall evaluate such 27864
employees in accordance with those procedures. The evaluation 27865
based upon such procedures shall be considered by the board in 27866
deciding whether to renew the contract of employment of an 27867
assistant superintendent, principal, assistant principal, or other 27868

administrator. 27869

(2) The evaluation shall measure each assistant 27870
superintendent's, principal's, assistant principal's, and other 27871
administrator's effectiveness in performing the duties included in 27872
the job description and the evaluation procedures shall provide 27873
for, but not be limited to, the following: 27874

(a) Each assistant superintendent, principal, assistant 27875
principal, and other administrator shall be evaluated annually 27876
through a written evaluation process. 27877

(b) The evaluation shall be conducted by the superintendent 27878
or designee. 27879

(c) In order to provide time to show progress in correcting 27880
the deficiencies identified in the evaluation process, the 27881
evaluation process shall be completed as follows: 27882

(i) In any school year that the employee's contract of 27883
employment is not due to expire, at least one evaluation shall be 27884
completed in that year. A written copy of the evaluation shall be 27885
provided to the employee no later than the end of the employee's 27886
contract year as defined by the employee's annual salary notice. 27887

(ii) In any school year that the employee's contract of 27888
employment is due to expire, at least a preliminary evaluation and 27889
at least a final evaluation shall be completed in that year. A 27890
written copy of the preliminary evaluation shall be provided to 27891
the employee at least sixty days prior to any action by the board 27892
on the employee's contract of employment. The final evaluation 27893
shall indicate the superintendent's intended recommendation to the 27894
board regarding a contract of employment for the employee. A 27895
written copy of the evaluation shall be provided to the employee 27896
at least five days prior to the board's acting to renew or not 27897
renew the contract. 27898

(3) Termination of an assistant superintendent, principal, 27899

assistant principal, or other administrator's contract shall be 27900
pursuant to section 3319.16 of the Revised Code. Suspension of any 27901
such employee shall be pursuant to section 3319.17 or 3319.171 of 27902
the Revised Code. 27903

(4) Before taking action to renew or nonrenew the contract of 27904
an assistant superintendent, principal, assistant principal, or 27905
other administrator under this section and prior to the last day 27906
of March of the year in which such employee's contract expires, 27907
the board shall notify each such employee of the date that the 27908
contract expires and that the employee may request a meeting with 27909
the board. Upon request by such an employee, the board shall grant 27910
the employee a meeting in executive session. In that meeting, the 27911
board shall discuss its reasons for considering renewal or 27912
nonrenewal of the contract. The employee shall be permitted to 27913
have a representative, chosen by the employee, present at the 27914
meeting. 27915

(5) The establishment of an evaluation procedure shall not 27916
create an expectancy of continued employment. Nothing in division 27917
(D) of this section shall prevent a board from making the final 27918
determination regarding the renewal or nonrenewal of the contract 27919
of any assistant superintendent, principal, assistant principal, 27920
or other administrator. However, if a board fails to provide 27921
evaluations pursuant to division (D)(2)(c)(i) or (ii) of this 27922
section, or if the board fails to provide at the request of the 27923
employee a meeting as prescribed in division (D)(4) of this 27924
section, the employee automatically shall be reemployed at the 27925
same salary plus any increments that may be authorized by the 27926
board for a period of one year, except that if the employee has 27927
been employed by the district or service center as an assistant 27928
superintendent, principal, assistant principal, or other 27929
administrator for three years or more, the period of reemployment 27930
shall be for two years. 27931

(E) On nomination of the superintendent of a service center a governing board may employ supervisors who shall be employed under written contracts of employment for terms not to exceed five years each. Such contracts may be terminated by a governing board pursuant to section 3319.16 of the Revised Code. Any supervisor employed pursuant to this division may terminate the contract of employment at the end of any school year after giving the board at least thirty days' written notice prior to such termination. On the recommendation of the superintendent the contract or contracts of any supervisor employed pursuant to this division may be suspended for the remainder of the term of any such contract pursuant to section 3319.17 or 3319.171 of the Revised Code.

(F) A board may establish vacation leave for any individuals employed under this section. Upon such an individual's separation from employment, a board that has such leave may compensate such an individual at the individual's current rate of pay for all lawfully accrued and unused vacation leave credited at the time of separation, not to exceed the amount accrued within three years before the date of separation. In case of the death of an individual employed under this section, such unused vacation leave as the board would have paid to the individual upon separation under this section shall be paid in accordance with section 2113.04 of the Revised Code, or to the estate.

(G) 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 assistant superintendent, principal, assistant principal, and other administrator positions authorized under this section.

Sec. 3319.03. The board of education of each city, exempted village, and local school district may create the position of

business manager. The board shall ~~elect~~ appoint such business 27963
manager who shall serve ~~for a term not to exceed four years unless~~ 27964
~~earlier removed for cause pursuant to a contract in accordance~~ 27965
with section 3319.02 of the Revised Code. A vacancy in this office 27966
~~shall be filled only for the unexpired term thereof.~~ In the 27967
discharge of all ~~his~~ official duties, the business manager may be 27968
directly responsible to the board, or to the superintendent of 27969
schools, as the board directs at the time of ~~election~~ appointment 27970
to the position. Where such business manager is responsible to the 27971
superintendent ~~he~~ the business manager shall be appointed by the 27972
superintendent and confirmed by the board. 27973

No board of education shall ~~elect~~ appoint or confirm as 27974
business manager any person who does not hold a valid business 27975
manager's license issued under section 3301.074 of the Revised 27976
Code. If the business manager fails to maintain a valid license, 27977
~~he~~ the business manager shall be removed by the board. 27978

Sec. 3319.07. (A) The board of education of each city, 27979
exempted village, ~~and~~ local, and joint vocational school district 27980
shall employ the teachers of the public schools of their 27981
respective districts. 27982

The governing board of each educational service center may 27983
employ special instruction teachers, special education teachers, 27984
and teachers of academic courses in which there are too few 27985
students in each of the constituent local school districts or in 27986
city or exempted village school districts entering into agreements 27987
pursuant to section 3313.843 of the Revised Code to warrant each 27988
district's employing teachers for those courses. 27989

When any board makes appointments of teachers, the teachers 27990
in the employ of the board shall be considered before new teachers 27991
are chosen in their stead. In ~~city, exempted village, and joint~~ 27992
~~vocational~~ all school districts and in service centers no teacher 27993

shall be employed unless such person is nominated by the 27994
superintendent of such district or center. Such board, by a 27995
three-fourths vote of its full membership, may re-employ any 27996
teacher whom the superintendent refuses to appoint. ~~In local 27997
school districts, no teacher shall be employed, except as provided 27998
in division (B) of this section, unless nominated by the 27999
superintendent of the service center of which such local school 28000
district is a part; by a majority vote of the full membership of 28001
such board, the board of education of any local school district 28002
may, after considering two nominations for any position made by 28003
the service center superintendent, reemploy a person not so 28004
nominated for such position. 28005~~

(B) The board of education of a ~~local~~ any school district ~~and 28006
the board of education of the county school district of which the 28007
local district is a part may enter into an agreement authorizing 28008
the superintendent of the local district, in lieu of the 28009
superintendent of the county district, to make nominations under 28010
this section for the employment of teachers in the local district. 28011
While such an agreement is in effect the board of education of the 28012
local district shall not employ any teacher unless the person is 28013
nominated by the superintendent of the district except that, by a 28014
three-fourths vote of its full membership, it may re-employ any 28015
teacher whom the superintendent refuses to nominate may contract 28016
with the governing board of the educational service center from 28017
which it otherwise receives services to conduct searches and 28018
recruitment of candidates for teacher positions. 28019~~

Sec. 3319.19. (A) Except as provided in division (D) of this 28020
section or division (A)(2) of section 3313.37 of the Revised Code, 28021
upon request, the board of county commissioners shall provide and 28022
equip offices in the county for the use of the superintendent of 28023
an educational service center, and shall provide heat, light, 28024
water, and janitorial services for such offices. Such offices 28025

shall be the permanent headquarters of the superintendent and 28026
shall be used by the governing board of the service center when it 28027
is in session. Except as provided in division (B) of this section, 28028
such offices shall be located in the county seat or, upon the 28029
approval of the governing board, may be located outside of the 28030
county seat. 28031

(B) In the case of a service center formed under section 28032
3311.053 or 3311.059 of the Revised Code, the governing board 28033
shall designate the site of its offices. Except as provided in 28034
division (D) of this section or division (A)(2) of section 3313.37 28035
of the Revised Code, the board of county commissioners of the 28036
county in which the designated site is located shall provide and 28037
equip the offices as under division (A) of this section, but the 28038
costs of such offices and equipment shall be apportioned among the 28039
boards of county commissioners of all counties having any 28040
territory in the area under the control of the governing board, 28041
according to the proportion of local school district pupils under 28042
the supervision of such board residing in the respective counties. 28043
Where there is a dispute as to the amount any board of county 28044
commissioners is required to pay, the probate judge of the county 28045
in which the greatest number of pupils under the supervision of 28046
the governing board reside shall apportion such costs among the 28047
boards of county commissioners and notify each such board of its 28048
share of the costs. 28049

(C) ~~Not~~ As used in division (C) of this section, in the case 28050
of a building, facility, or office space that a board of county 28051
commissioners leases or rents, "actual cost per square foot" means 28052
all cost on a per square foot basis incurred by the board under 28053
the lease or rental agreement. In the case of a building, 28054
facility, or office space that the board owns in fee simple, 28055
"actual cost per square foot" means the fair rental value on a per 28056
square foot basis of the building, facility, or office space 28057

either as compared to a similarly situated building, facility, or 28058
office space in the general vicinity or as calculated under a 28059
formula that accounts for depreciation, amortization of 28060
improvements, and other reasonable factors, including, but not 28061
limited to, parking space and other amenities. 28062

Not later than the thirty-first day of March of 2002, 2003, 28063
2004, and 2005 a board of county commissioners required to provide 28064
or equip offices pursuant to division (A) or (B) of this section 28065
shall make a written estimate of the total cost it will incur for 28066
the ensuing fiscal year to provide and equip the offices and to 28067
provide heat, light, water, and janitorial services for such 28068
offices. The total estimate of cost shall include: 28069

(1) The total square feet of space to be utilized by the 28070
educational service center; 28071

(2) The total square feet of any common areas that should be 28072
reasonably allocated to the center and the methodology for making 28073
this allocation; 28074

(3) The actual cost per square foot for both the space 28075
utilized by and the common area allocated to the center; 28076

(4) An explanation of the methodology used to determine the 28077
actual cost per square foot ~~cost~~; 28078

(5) The estimated cost of providing heat, light, and water, 28079
including an explanation of how these costs were determined; 28080

(6) The estimated cost of providing janitorial services 28081
including an explanation of the methodology used to determine this 28082
cost; 28083

(7) Any other estimated costs that the board anticipates it 28084
will occur and a detailed explanation of the costs and the 28085
rationale used to determine such costs. 28086

A copy of the total estimate of costs under this division 28087

shall be sent to the superintendent of the educational service 28088
center not later than the fifth day of April. The superintendent 28089
shall review the total estimate and shall notify the board of 28090
county commissioners not later than twenty days after receipt of 28091
the estimate of either agreement with the estimate or any specific 28092
objections to the estimates and the reasons for the objections. If 28093
the superintendent agrees with the estimate, it shall become the 28094
final total estimate of cost. Failure of the superintendent to 28095
make objections to the estimate by the twentieth day after receipt 28096
of it shall be deemed to mean that the superintendent is in 28097
agreement with the estimate. 28098

If the superintendent provides specific objections to the 28099
board of county commissioners, the board shall review the 28100
objections and may modify the original estimate and shall send a 28101
revised total estimate to the superintendent within ten days after 28102
the receipt of the superintendent's objections. The superintendent 28103
shall respond to the revised estimate within ten days after its 28104
receipt. If the superintendent agrees with it, it shall become the 28105
final total estimated cost. If the superintendent fails to respond 28106
within the required time, the superintendent shall be deemed to 28107
have agreed with the revised estimate. If the superintendent 28108
disagrees with the revised estimate, the superintendent shall send 28109
specific objections to the county commissioners. 28110

If a superintendent has sent specific objections to the 28111
revised estimate within the required time, the probate judge of 28112
the county which has the greatest number of resident local school 28113
district pupils under the supervision of the educational service 28114
center shall determine the final estimated cost and certify this 28115
amount to the superintendent and the board of county commissioners 28116
prior to the first day of July. 28117

(D)(1) A board of county commissioners shall be responsible 28118
for the following percentages of the final total estimated cost 28119

established by division (C) of this section:	28120
(a) Eighty per cent for fiscal year 2003;	28121
(b) Sixty per cent for fiscal year 2004;	28122
(c) Forty per cent for fiscal year 2005;	28123
(d) Twenty per cent for fiscal year 2006.	28124
In fiscal years 2003, 2004, 2005, and 2006 the educational	28125
service center shall be responsible for the remainder of any costs	28126
in excess of the amounts specified in division (D)(1)(a), (b), or	28127
(c), <u>or (d)</u> of this section, as applicable, associated with the	28128
provision and equipment of offices for the educational service	28129
center and for provision of heat, light, water, and janitorial	28130
services for such offices, including any unanticipated or	28131
unexpected increases in the costs beyond the final estimated cost	28132
amount.	28133
Beginning in fiscal year 2007, no board of county	28134
commissioners shall have any obligation to provide and equip	28135
offices for an educational service center or to provide heat,	28136
light, water, or janitorial services for such offices.	28137
(2) Nothing in this section shall prohibit the board of	28138
county commissioners and the governing board of an educational	28139
service center from entering into a contract for providing and	28140
equipping offices for the use of an educational service center and	28141
for providing heat, light, water, and janitorial services for such	28142
offices. The term of any such contract shall not exceed a period	28143
of four years and may be renewed for additional periods not to	28144
exceed four years. Any such contract shall supersede the	28145
provisions of division (D)(1) of this section and no educational	28146
service center may be charged, at any time, any additional amount	28147
for the county's provision of an office and equipment, heat,	28148
light, water, and janitorial services beyond the amount specified	28149
in such contract.	28150

(3) No contract entered into under division (D)(2) of this section in any year prior to fiscal year 2007 between an educational service center formed under section 3311.053 or 3311.059 of the Revised Code and the board of county commissioners required to provide and equip its office pursuant to division (B) of this section shall take effect unless the boards of county commissioners of all other counties required to participate in the funding for such offices pursuant to division (B) of this section adopt resolutions approving the contract.

Sec. 3319.22. (A)(1) The state board of education shall adopt rules establishing the standards and requirements for obtaining temporary, associate, provisional, and professional educator licenses of any categories, types, and levels the board elects to provide. However, no educator license shall be required for teaching children two years old or younger.

(2) If the state board requires any examinations for educator licensure, the department of education shall provide the results of such examinations to the Ohio board of regents, in the form and manner requested by the board of regents.

(B) Any rules the state board of education adopts, amends, or rescinds for educator licenses under this section, division (D) of section 3301.07 of the Revised Code, or any other law shall be adopted, amended, or rescinded under Chapter 119. of the Revised Code except as follows:

(1) Notwithstanding division (D) of section 119.03 and division (A)(1) of section 119.04 of the Revised Code, the effective date of any rules, or amendment or rescission of any rules, shall not be as prescribed in division (D) of section 119.03 and division (A)(1) of section 119.04 of the Revised Code. Instead, the effective date shall be the date prescribed by section 3319.23 of the Revised Code.

(2) Notwithstanding the authority to adopt, amend, or rescind emergency rules in division (F) of section 119.03 of the Revised Code, this authority shall not apply to the state board of education with regard to rules for educator licenses.

(C)(1) The rules adopted under this section establishing standards requiring additional coursework for the renewal of any educator license shall require a school district and a chartered nonpublic school to establish local professional development committees. In a nonpublic school, the chief administrative officer shall establish the committees in any manner acceptable to such officer. The committees established under this division shall determine whether coursework that a district or chartered nonpublic school teacher proposes to complete meets the requirement of the rules. The rules shall establish a procedure by which a teacher may appeal the decision of a local professional development committee.

(2) In any school district in which there is no exclusive representative established under Chapter 4117. of the Revised Code, the professional development committees shall be established as described in division (C)(2) of this section.

Not later than the effective date of the rules adopted under this section, the board of education of each school district shall establish the structure for one or more local professional development committees to be operated by such school district. The committee structure so established by a district board shall remain in effect unless within thirty days prior to an anniversary of the date upon which the current committee structure was established, the board provides notice to all affected district employees that the committee structure is to be modified. Professional development committees may have a district-level or building-level scope of operations, and may be established with regard to particular grade or age levels for which an educator

license is designated. 28214

Each professional development committee shall consist of at 28215
least three classroom teachers employed by the district, one 28216
principal employed by the district, and one other employee of the 28217
district appointed by the district superintendent. For committees 28218
with a building-level scope, the teacher and principal members 28219
shall be assigned to that building, and the teacher members shall 28220
be elected by majority vote of the classroom teachers assigned to 28221
that building. For committees with a district-level scope, the 28222
teacher members shall be elected by majority vote of the classroom 28223
teachers of the district, and the principal member shall be 28224
elected by a majority vote of the principals of the district, 28225
unless there are two or fewer principals employed by the district, 28226
in which case the one or two principals employed shall serve on 28227
the committee. If a committee has a particular grade or age level 28228
scope, the teacher members shall be licensed to teach such grade 28229
or age levels, and shall be elected by majority vote of the 28230
classroom teachers holding such a license and the principal shall 28231
be elected by all principals serving in buildings where any such 28232
teachers serve. The district superintendent shall appoint a 28233
replacement to fill any vacancy that occurs on a professional 28234
development committee, except in the case of vacancies among the 28235
elected classroom teacher members, which shall be filled by vote 28236
of the remaining members of the committee so selected. 28237

Terms of office on professional development committees shall 28238
be prescribed by the district board establishing the committees. 28239
The conduct of elections for members of professional development 28240
committees shall be prescribed by the district board establishing 28241
the committees. A professional development committee may include 28242
additional members, except that the majority of members on each 28243
such committee shall be classroom teachers employed by the 28244
district. Any member appointed to fill a vacancy occurring prior 28245

to the expiration date of the term for which a predecessor was 28246
appointed shall hold office as a member for the remainder of that 28247
term. 28248

The initial meeting of any professional development 28249
committee, upon election and appointment of all committee members, 28250
shall be called by a member designated by the district 28251
superintendent. At this initial meeting, the committee shall 28252
select a chairperson and such other officers the committee deems 28253
necessary, and shall adopt rules for the conduct of its meetings. 28254
Thereafter, the committee shall meet at the call of the 28255
chairperson or upon the filing of a petition with the district 28256
superintendent signed by a majority of the committee members 28257
calling for the committee to meet. 28258

(3) In the case of a school district in which an exclusive 28259
representative has been established pursuant to Chapter 4117. of 28260
the Revised Code, professional development committees shall be 28261
established in accordance with any collective bargaining agreement 28262
in effect in the district that includes provisions for such 28263
committees. 28264

If the collective bargaining agreement does not specify a 28265
different method for the selection of teacher members of the 28266
committees, the exclusive representative of the district's 28267
teachers shall select the teacher members. 28268

If the collective bargaining agreement does not specify a 28269
different structure for the committees, the board of education of 28270
the school district shall establish the structure, including the 28271
number of committees and the number of teacher and administrative 28272
members on each committee; the specific administrative members to 28273
be part of each committee; whether the scope of the committees 28274
will be district levels, building levels, or by type of grade or 28275
age levels for which educator licenses are designated; the lengths 28276
of terms for members; the manner of filling vacancies on the 28277

committees; and the frequency and time and place of meetings. 28278
However, in all cases, except as provided in division (C)(4) of 28279
this section, there shall be a majority of teacher members of any 28280
professional development committee, there shall be at least five 28281
total members of any professional development committee, and the 28282
exclusive representative shall designate replacement members in 28283
the case of vacancies among teacher members, unless the collective 28284
bargaining agreement specifies a different method of selecting 28285
such replacements. 28286

(4) Whenever an administrator's coursework plan is being 28287
discussed or voted upon, the local professional development 28288
committee shall, at the request of one of its administrative 28289
members, cause a majority of the committee to consist of 28290
administrative members by reducing the number of teacher members 28291
voting on the plan. 28292

(D)(1) The department of education, educational service 28293
centers, county boards of mental retardation and developmental 28294
disabilities, regional professional development centers, special 28295
education regional resource centers, college and university 28296
departments of education, head start programs, the Ohio SchoolNet 28297
commission, and the Ohio education computer network may establish 28298
local professional development committees to determine whether the 28299
coursework proposed by their employees who are licensed or 28300
certificated under this section or section 3319.222 of the Revised 28301
Code meet the requirements of the rules adopted under this 28302
section. They may establish local professional development 28303
committees on their own or in collaboration with a school district 28304
or other agency having authority to establish them. 28305

Local professional development committees established by 28306
county boards of mental retardation and developmental disabilities 28307
shall be structured in a manner comparable to the structures 28308
prescribed for school districts in divisions (C)(2) and (3) of 28309

this section, as shall the committees established by any other 28310
entity specified in division (D)(1) of this section that provides 28311
educational services by employing or contracting for services of 28312
classroom teachers licensed or certificated under this section or 28313
section 3319.222 of the Revised Code. All other entities specified 28314
in division (D)(1) of this section shall structure their 28315
committees in accordance with guidelines which shall be issued by 28316
the state board. 28317

(2) Any public agency that is not specified in division 28318
(D)(1) of this section but provides educational services and 28319
employs or contracts for services of classroom teachers licensed 28320
or certificated under this section or section 3319.222 of the 28321
Revised Code may establish a local professional development 28322
committee, subject to the approval of the department of education. 28323
The committee shall be structured in accordance with guidelines 28324
issued by the state board. 28325

Sec. 3319.33. On or before the first day of August in each 28326
year, the board of education of each city ~~and~~, exempted village, 28327
and local school district shall report to the state board of 28328
education, ~~and the board of each local school district shall~~ 28329
~~report to the superintendent of the educational service center,~~ 28330
the school statistics of its district. Such report shall be made 28331
on forms furnished by the state board of education and shall 28332
contain such information as the state board of education requires. 28333
The report shall also set forth with respect to each civil 28334
proceeding in which the board of education is a defendant and each 28335
civil proceeding in which the board of education is a party and is 28336
not a defendant and in which one of the other parties is a board 28337
of education in this state or an officer, board, or official of 28338
this state: 28339

(A) The nature of the proceeding; 28340

(B) The capacity in which the board is a party to the proceeding;	28341 28342
(C) The total expenses incurred by the board with respect to the proceeding;	28343 28344
(D) The total expenses incurred by the board with respect to the proceeding during the reporting period.	28345 28346
Divisions (A) to (D) of this section do not apply to any proceeding for which no expenses have been incurred during the reporting period.	28347 28348 28349
The board of education of each city and , <u>exempted village,</u> <u>and local</u> school district may prepare and publish annually a report of the condition and administration of the schools under its supervision which shall include therein an exhibit of the financial affairs of the district and the information required in divisions (A) to (D) of this section. Such annual report shall be for a full year.	28350 28351 28352 28353 28354 28355 28356
Sec. 3319.36. (A) No treasurer of a board of education or educational service center shall draw a check for the payment of a teacher for services until the teacher files with the treasurer both of the following:	28357 28358 28359 28360
(1) Such reports as are required by the state board of education, the school district board of education, or the superintendent of schools;	28361 28362 28363
(2) Except for a teacher who is engaged pursuant to section 3319.301 of the Revised Code and except as provided under division (B) of this section, a written statement from the city or , <u>exempted village,</u> <u>or local school</u> district superintendent or the educational service center superintendent that the teacher has filed with the treasurer a legal educator license or internship certificate, or true copy of it, to teach the subjects or grades	28364 28365 28366 28367 28368 28369 28370

taught, with the dates of its validity. The state board of 28371
education shall prescribe the record and administration for such 28372
filing of educator licenses and internship certificates in 28373
educational service centers. 28374

~~(B) If the board of education of a local school district and 28375
the governing board of the educational service center of which the 28376
local district is a part have entered into an agreement under 28377
division (B) of section 3319.07 of the Revised Code, the agreement 28378
may also require the superintendent of the local school district, 28379
instead of the superintendent of the educational service center, 28380
to administer the filing of educator licenses and internship 28381
certificates for the local school district and to provide to the 28382
teachers of the district the written statements required in 28383
division (A)(2) of this section. While such an agreement is in 28384
effect between a local school district and an educational service 28385
center, a teacher employed by the local district shall file a 28386
legal educator license or internship certificate, or true copy of 28387
it, with the superintendent of the local district and that 28388
superintendent shall provide to the teacher the written statement 28389
required by division (A)(2) of this section. 28390~~

~~(C)~~ Notwithstanding division (A) of this section, the 28391
treasurer may pay either of the following: 28392

(1) Any teacher for services rendered during the first two 28393
months of the teacher's initial employment with the school 28394
district or educational service center, provided such teacher is 28395
the holder of a bachelor's degree or higher and has filed with the 28396
state board of education an application for the issuance of a 28397
provisional or professional educator license. 28398

(2) Any substitute teacher for services rendered while 28399
conditionally employed under section 3319.101 of the Revised Code. 28400

~~(D)~~(C) Upon notice to the treasurer given by the state board 28401

of education or any superintendent having jurisdiction that 28402
reports required of a teacher have not been made, the treasurer 28403
shall withhold the salary of the teacher until the required 28404
reports are completed and furnished. 28405

Sec. 3323.16. No unit for deaf children shall be disapproved 28406
for funding under division (B) or (D)(1) of section 3317.05 of the 28407
Revised Code on the basis of the methods of instruction used in 28408
educational programs in the school district or institution to 28409
teach deaf children to communicate, and no preference in approving 28410
units for funding shall be given ~~by the state board~~ for teaching 28411
deaf children by the oral, manual, total communication, or other 28412
method of instruction. 28413

Sec. 3327.01. Notwithstanding division (D) of section 3311.19 28414
and division (D) of section 3311.52 of the Revised Code, this 28415
section and sections 3327.011, 3327.012, and 3327.02 of the 28416
Revised Code do not apply to any joint vocational or cooperative 28417
education school district. 28418

In all city, local, and exempted village school districts 28419
where resident school pupils in grades kindergarten through eight 28420
live more than two miles from the school for which the state board 28421
of education prescribes minimum standards pursuant to division (D) 28422
of section 3301.07 of the Revised Code and to which they are 28423
assigned by the board of education of the district of residence or 28424
to and from the nonpublic or community school which they attend 28425
the board of education shall provide transportation for such 28426
pupils to and from such school except as provided in section 28427
3327.02 of the Revised Code. 28428

In all city, local, and exempted village school districts the 28429
board may provide transportation for resident school pupils in 28430
grades nine through twelve to and from the high school to which 28431

they are assigned by the board of education of the district of 28432
residence or to and from the nonpublic or community high school 28433
which they attend for which the state board of education 28434
prescribes minimum standards pursuant to division (D) of section 28435
3301.07 of the Revised Code. 28436

A board of education shall not be required to transport 28437
elementary or high school pupils to and from a nonpublic or 28438
community school where such transportation would require more than 28439
thirty minutes of direct travel time as measured by school bus 28440
from the ~~collection point~~ as public school building to which the 28441
pupils would be assigned if attending the public school designated 28442
by the ~~coordinator of school transportation, appointed under~~ 28443
~~section 3327.011 of the Revised Code, for the attendance area of~~ 28444
the district of residence. 28445

Where it is impractical to transport a pupil by school 28446
conveyance, a board of education may offer payment, in lieu of 28447
providing such transportation in accordance with section 3327.02 28448
of the Revised Code. 28449

In all city, local, and exempted village school districts the 28450
board shall provide transportation for all children who are so 28451
crippled that they are unable to walk to and from the school for 28452
which the state board of education prescribes minimum standards 28453
pursuant to division (D) of section 3301.07 of the Revised Code 28454
and which they attend. In case of dispute whether the child is 28455
able to walk to and from the school, the health commissioner shall 28456
be the judge of such ability. In all city, exempted village, and 28457
local school districts the board shall provide transportation to 28458
and from school or special education classes for educable mentally 28459
retarded children in accordance with standards adopted by the 28460
state board of education. 28461

When transportation of pupils is provided the conveyance 28462
shall be run on a time schedule that shall be adopted and put in 28463

force by the board not later than ten days after the beginning of 28464
the school term. 28465

The cost of any transportation service authorized by this 28466
section shall be paid first out of federal funds, if any, 28467
available for the purpose of pupil transportation, and secondly 28468
out of state appropriations, in accordance with regulations 28469
adopted by the state board of education. 28470

No transportation of any pupils shall be provided by any 28471
board of education to or from any school which in the selection of 28472
pupils, faculty members, or employees, practices discrimination 28473
against any person on the grounds of race, color, religion, or 28474
national origin. 28475

~~Sec. 3327.011. Coordinators of school transportation shall be 28476
appointed according to provisions of section 3301.13 of the 28477
Revised Code to assure that each pupil, as provided in section 28478
3327.01 of the Revised Code, is transported to and from the school 28479
which he attends in a safe, expedient, and economical manner using 28480
public school collection points, routes, and schedules. 28481~~

In determining how best to provide such transportation, where 28482
persons or firms on or after April 1, 1965, were providing 28483
transportation to and from schools pursuant to contracts with 28484
persons or agencies responsible for the operation of such schools, 28485
~~a coordinator or~~ the board of education responsible for 28486
transportation in accordance with section 3327.01 of the Revised 28487
Code shall give preference if economically feasible during the 28488
term of any such contract to the firm or person providing such 28489
transportation. The boards of education within the county or group 28490
of counties shall ~~recommend to the coordinator of~~ establish 28491
transportation routes, schedules, and utilization of 28492
transportation equipment. ~~The coordinator, upon receipt of such 28493
recommendations, shall establish transportation routes, schedules,~~ 28494

~~and utilization of transportation equipment, following such~~ 28495
~~recommendations to whatever extent is feasible.~~ The appeals from 28496
the determination of the ~~coordinator~~ board of education 28497
responsible for transportation shall be taken to the state board 28498
of education. 28499

Sec. 3329.06. The board of education of each city, exempted 28500
village, and local school district shall furnish, free of charge, 28501
the necessary textbooks to the pupils attending the public 28502
schools. In lieu of textbooks, district boards may furnish 28503
electronic textbooks to pupils attending the public schools, 28504
provided the electronic textbooks are furnished free of charge. A 28505
district board that chooses to furnish electronic textbooks to 28506
pupils attending school in the district shall provide reasonable 28507
access to the electronic textbooks and other necessary computer 28508
equipment to pupils in the district who are required to complete 28509
homework assignments, and teachers providing homework assignments, 28510
utilizing electronic textbooks furnished by the district board. 28511
Pupils wholly or in part supplied with necessary textbooks or 28512
electronic textbooks shall be supplied only as other or new 28513
textbooks or electronic textbooks are needed. ~~A board may limit~~ 28514
~~its purchase and ownership of textbooks or electronic textbooks~~ 28515
~~needed for its schools to six subjects per year, the cost of which~~ 28516
~~shall not exceed twenty five per cent of the entire cost of~~ 28517
~~adoption.~~ All textbooks or electronic textbooks furnished as 28518
provided in this section shall be the property of the district, 28519
and loaned to the pupils on such terms as each such board 28520
prescribes. In order to carry out sections 3329.01 to 3329.10 of 28521
the Revised Code, each board, in the preparation of its annual 28522
budget, shall include as a separate item the amount which the 28523
board finds necessary to administer such sections and such amount 28524
shall not be subject to transfer to any other fund. 28525

Sec. 3329.08. At any regular meeting, the board of education 28526
of each local school district, from lists adopted by the 28527
educational service center governing board, and the board of 28528
education of each city and exempted village school district shall 28529
determine by a majority vote of all members elected or appointed 28530
under division (B) or (F) of section 3311.71 of the Revised Code 28531
which of such textbooks or electronic textbooks so filed shall be 28532
used in the schools under its control. ~~Except for periodic and~~ 28533
~~normal updating of electronic textbooks, no textbooks or~~ 28534
~~electronic textbooks shall be changed, nor any part thereof~~ 28535
~~altered or revised, nor any other textbook or electronic textbook~~ 28536
~~substituted therefor, within four years after the date of~~ 28537
~~selection and adoption thereof, as shown by the official records~~ 28538
~~of such boards, except by the consent, at a regular meeting, of~~ 28539
~~four fifths of all members elected thereto. Textbooks or~~ 28540
~~electronic textbooks so substituted shall be adopted for the full~~ 28541
~~term of four years.~~ 28542

Sec. 3332.04. The state board of career colleges and schools 28543
may appoint an executive director and such other staff as may be 28544
required for the performance of the board's duties and provide 28545
necessary facilities. In selecting an executive director, the 28546
board shall appoint an individual with a background or experience 28547
in the regulation of commerce, business, or education. The board 28548
may also arrange for services and facilities to be provided by the 28549
state board of education and the Ohio board of regents. All 28550
receipts of the board shall be deposited in the state treasury to 28551
the credit of the ~~general revenue~~ occupational licensing and 28552
regulatory fund. 28553

Sec. 3333.12. (A) As used in this section: 28554

(1) "Eligible student" means an undergraduate student who is: 28555

(a) An Ohio resident;	28556
(b) Enrolled in either of the following:	28557
(i) An accredited institution of higher education in this state that meets the requirements of Title VI of the Civil Rights Act of 1964 and is state-assisted, is nonprofit and has a certificate of authorization from the Ohio board of regents pursuant to Chapter 1713. of the Revised Code, has a certificate of registration from the state board of career colleges and schools and program authorization to award an associate or bachelor's degree, or is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code. Students who attend an institution that holds a certificate of registration shall be enrolled in a program leading to an associate or bachelor's degree for which associate or bachelor's degree program the institution has program authorization issued under section 3332.05 of the Revised Code.	28558 28559 28560 28561 28562 28563 28564 28565 28566 28567 28568 28569 28570 28571 28572
(ii) A technical education program of at least two years duration sponsored by a private institution of higher education in this state that meets the requirements of Title VI of the Civil Rights Act of 1964.	28573 28574 28575 28576
(c) Enrolled as a full-time student or enrolled as a less than full-time student for the term expected to be the student's final term of enrollment and is enrolled for the number of credit hours necessary to complete the requirements of the program in which the student is enrolled.	28577 28578 28579 28580 28581
(2) "Gross income" includes all taxable and nontaxable income of the parents, the student, and the student's spouse, except income derived from an Ohio academic scholarship, income earned by the student between the last day of the spring term and the first day of the fall term, and other income exclusions designated by	28582 28583 28584 28585 28586

the board. Gross income may be verified to the board by the 28587
institution in which the student is enrolled using the federal 28588
financial aid eligibility verification process or by other means 28589
satisfactory to the board. 28590

(3) "Resident," "full-time student," "dependent," 28591
"financially independent," and "accredited" shall be defined by 28592
rules adopted by the board. 28593

(B) The Ohio board of regents shall establish and administer 28594
an instructional grant program and may adopt rules to carry out 28595
this section. The general assembly shall support the instructional 28596
grant program by such sums and in such manner as it may provide, 28597
but the board may also receive funds from other sources to support 28598
the program. If the amounts available for support of the program 28599
are inadequate to provide grants to all eligible students, 28600
preference in the payment of grants shall be given in terms of 28601
income, beginning with the lowest income category of gross income 28602
and proceeding upward by category to the highest gross income 28603
category. 28604

An instructional grant shall be paid to an eligible student 28605
through the institution in which the student is enrolled, except 28606
that no instructional grant shall be paid to any person serving a 28607
term of imprisonment. Applications for such grants shall be made 28608
as prescribed by the board, and such applications may be made in 28609
conjunction with and upon the basis of information provided in 28610
conjunction with student assistance programs funded by agencies of 28611
the United States government or from financial resources of the 28612
institution of higher education. The institution shall certify 28613
that the student applicant meets the requirements set forth in 28614
divisions (A)(1)(b) and (c) of this section. Instructional grants 28615
shall be provided to an eligible student only as long as the 28616
student is making appropriate progress toward a nursing diploma or 28617
an associate or bachelor's degree. No student shall be eligible to 28618

receive a grant for more than ten semesters, fifteen quarters, or 28619
the equivalent of five academic years. A grant made to an eligible 28620
student on the basis of less than full-time enrollment shall be 28621
based on the number of credit hours for which the student is 28622
enrolled and shall be computed in accordance with a formula 28623
adopted by the board. No student shall receive more than one grant 28624
on the basis of less than full-time enrollment. 28625

An instructional grant shall not exceed the total 28626
instructional and general charges of the institution. 28627

(C) The tables in this division prescribe the maximum grant 28628
amounts covering two semesters, three quarters, or a comparable 28629
portion of one academic year. Grant amounts for additional terms 28630
in the same academic year shall be determined under division (D) 28631
of this section. 28632

For a full-time student who is a dependent and enrolled in a 28633
nonprofit educational institution that is not a state-assisted 28634
institution and that has a certificate of authorization issued 28635
pursuant to Chapter 1713. of the Revised Code, the amount of the 28636
instructional grant for two semesters, three quarters, or a 28637
comparable portion of the academic year shall be determined in 28638
accordance with the following table: 28639

	Private Institution					28640
	Table of Grants					28641
	Maximum Grant \$5,466					28642
	Number of Dependents					28643
Gross Income	1	2	3	4	5 or more	28644
\$0 - \$15,000	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	28645
\$15,001 - \$16,000	4,920	5,466	5,466	5,466	5,466	28646
\$16,001 - \$17,000	4,362	4,920	5,466	5,466	5,466	28647
\$17,001 - \$18,000	3,828	4,362	4,920	5,466	5,466	28648

\$18,001 - \$19,000	3,288	3,828	4,362	4,920	5,466	28650
\$19,001 - \$22,000	2,736	3,288	3,828	4,362	4,920	28651
\$22,001 - \$25,000	2,178	2,736	3,288	3,828	4,362	28652
\$25,001 - \$28,000	1,626	2,178	2,736	3,288	3,828	28653
\$28,001 - \$31,000	1,344	1,626	2,178	2,736	3,288	28654
\$31,001 - \$32,000	1,080	1,344	1,626	2,178	2,736	28655
\$32,001 - \$33,000	984	1,080	1,344	1,626	2,178	28656
\$33,001 - \$34,000	888	984	1,080	1,344	1,626	28657
\$34,001 - \$35,000	444	888	984	1,080	1,344	28658
\$35,001 - \$36,000	--	444	888	984	1,080	28659
\$36,001 - \$37,000	--	--	444	888	984	28660
\$37,001 - \$38,000	--	--	--	444	888	28661
\$38,001 - \$39,000	--	--	--	--	444	28662

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

Private Institution							28663
Table of Grants							28664
Maximum Grant \$5,466							28665
Gross Income	Number of Dependents						28666
	0	1	2	3	4	5 or more	28667
\$0 - \$4,800	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	28668
\$4,801 - \$5,300	4,920	5,466	5,466	5,466	5,466	5,466	28669
\$5,301 - \$5,800	4,362	4,920	5,466	5,466	5,466	5,466	28670
		<u>5,196</u>					28671
\$5,801 - \$6,300	3,828	4,362	4,920	5,466	5,466	5,466	28672
		<u>4,914</u>	<u>5,196</u>				28673

\$6,301 - \$6,800	3,288	3,828	4,362	4,920	5,466	5,466	28682
		<u>4,650</u>	<u>4,914</u>	<u>5,196</u>			28683
\$6,801 - \$7,300	2,736	3,288	3,828	4,362	4,920	5,466	28684
		<u>4,380</u>	<u>4,650</u>	<u>4,914</u>			<u>5,196</u>
\$7,301 - \$8,300	2,178	2,736	3,288	3,828	4,362	4,920	28686
		<u>4,104</u>	<u>4,380</u>	<u>4,650</u>			<u>4,914</u>
\$8,301 - \$9,300	1,626	2,178	2,736	3,288	3,828	4,362	28688
		<u>3,822</u>	<u>4,104</u>	<u>4,380</u>			<u>4,650</u>
\$9,301 - \$10,300	1,344	1,626	2,178	2,736	3,288	3,828	28690
		<u>3,546</u>	<u>3,822</u>	<u>4,104</u>			<u>4,380</u>
\$10,301 - \$11,800	1,080	1,344	1,626	2,178	2,736	3,288	28692
		<u>3,408</u>	<u>3,546</u>	<u>3,822</u>			<u>4,104</u>
\$11,801 - \$13,300	984	1,080	1,344	1,626	2,178	2,736	28694
		<u>3,276</u>	<u>3,408</u>	<u>3,546</u>			<u>3,822</u>
\$13,301 - \$14,800	888	984	1,080	1,344	1,626	2,178	28696
		<u>3,228</u>	<u>3,276</u>	<u>3,408</u>			<u>3,546</u>
\$14,801 - \$16,300	444	888	984	1,080	1,344	1,626	28698
		<u>2,904</u>	<u>3,228</u>	<u>3,276</u>			<u>3,408</u>
\$16,301 - \$19,300	--	444	888	984	1,080	1,344	28700
		<u>2,136</u>	<u>2,628</u>	<u>2,952</u>			<u>3,276</u>
\$19,301 - \$22,300	--	—	444	888	984	1,080	28702
		<u>1,368</u>	<u>1,866</u>	<u>2,358</u>			<u>2,676</u>
\$22,301 - \$25,300	--	—	—	444	888	984	28704
		<u>1,092</u>	<u>1,368</u>	<u>1,866</u>			<u>2,358</u>
\$25,301 - \$30,300	--	—	—	—	444	888	28706
		<u>816</u>	<u>1,092</u>	<u>1,368</u>			<u>1,866</u>
\$30,301 - \$35,300	--	—	—	—	—	444	28708
		<u>492</u>	<u>540</u>	<u>672</u>			<u>816</u>

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

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Code, the amount of the instructional grant for two semesters, 28715
 three quarters, or a comparable portion of the academic year shall 28716
 be determined in accordance with the following table: 28717

Career Institution 28718

Table of Grants 28719

Maximum Grant \$4,632 28720

Gross Income Number of Dependents 28721

	1	2	3	4	5 or more	
\$0 - \$15,000	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	28722
\$15,001 - \$16,000	4,182	4,632	4,632	4,632	4,632	28723
\$16,001 - \$17,000	3,684	4,182	4,632	4,632	4,632	28724
\$17,001 - \$18,000	3,222	3,684	4,182	4,632	4,632	28725
\$18,001 - \$19,000	2,790	3,222	3,684	4,182	4,632	28726
\$19,001 - \$22,000	2,292	2,790	3,222	3,684	4,182	28727
\$22,001 - \$25,000	1,854	2,292	2,790	3,222	3,684	28728
\$25,001 - \$28,000	1,416	1,854	2,292	2,790	3,222	28729
\$28,001 - \$31,000	1,134	1,416	1,854	2,292	2,790	28730
\$31,001 - \$32,000	906	1,134	1,416	1,854	2,292	28731
\$32,001 - \$33,000	852	906	1,134	1,416	1,854	28732
\$33,001 - \$34,000	750	852	906	1,134	1,416	28733
\$34,001 - \$35,000	372	750	852	906	1,134	28734
\$35,001 - \$36,000	--	372	750	852	906	28735
\$36,001 - \$37,000	--	--	372	750	852	28736
\$37,001 - \$38,000	--	--	--	372	750	28737
\$38,001 - \$39,000	--	--	--	--	372	28738

For a full-time student who is financially independent and 28740
 enrolled in an educational institution that holds a certificate of 28741
 registration from the state board of career colleges and schools 28742
 or a private institution exempt from regulation under Chapter 28743
 3332. of the Revised Code as prescribed in section 3333.046 of the 28744
 Revised Code, the amount of the instructional grant for two 28745
 semesters, three quarters, or a comparable portion of the academic 28746

\$19,301 - \$22,300	--	—	372	750	852	906	28779
		<u>1,146</u>	<u>1,584</u>	<u>1,986</u>	<u>2,268</u>	<u>2,544</u>	28780
\$22,301 - \$25,300	--	—	—	372	750	852	28781
		<u>930</u>	<u>1,146</u>	<u>1,584</u>	<u>1,986</u>	<u>2,268</u>	28782
\$25,301 - \$30,300	--	—	—	—	372	750	28783
		<u>708</u>	<u>930</u>	<u>1,146</u>	<u>1,584</u>	<u>1,986</u>	28784
\$30,301 - \$35,300	--	—	—	—	—	372	28785
		<u>426</u>	<u>456</u>	<u>570</u>	<u>708</u>	<u>1,116</u>	28786

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							28792
Table of Grants							28793
Maximum Grant \$2,190							28794
Gross Income	Number of Dependents						28795
	1	2	3	4	5 or more		28796
\$0 - \$15,000	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190		28797
\$15,001 - \$16,000	1,974	2,190	2,190	2,190	2,190		28798
\$16,001 - \$17,000	1,740	1,974	2,190	2,190	2,190		28799
\$17,001 - \$18,000	1,542	1,740	1,974	2,190	2,190		28800
\$18,001 - \$19,000	1,320	1,542	1,740	1,974	2,190		28801
\$19,001 - \$22,000	1,080	1,320	1,542	1,740	1,974		28802
\$22,001 - \$25,000	864	1,080	1,320	1,542	1,740		28803
\$25,001 - \$28,000	648	864	1,080	1,320	1,542		28804
\$28,001 - \$31,000	522	648	864	1,080	1,320		28805
\$31,001 - \$32,000	420	522	648	864	1,080		28806
\$32,001 - \$33,000	384	420	522	648	864		28807
\$33,001 - \$34,000	354	384	420	522	648		28808
\$34,001 - \$35,000	174	354	384	420	522		28809
\$35,001 - \$36,000	--	174	354	384	420		28810

\$36,001 - \$37,000	--	--	174	354	384	28811
\$37,001 - \$38,000	--	--	--	174	354	28812
\$38,001 - \$39,000	--	--	--	--	174	28813

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							28819
Table of Grants							28820
Maximum Grant \$2,190							28821
Gross Income	Number of Dependents						28822
	0	1	2	3	4	5 or more	28823
\$0 - \$4,800	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	28824
\$4,801 - \$5,300	1,974	2,190	2,190	2,190	2,190	2,190	28825
\$5,301 - \$5,800	1,740	1,974	2,190	2,190	2,190	2,190	28826
		<u>2,082</u>					28827
\$5,801 - \$6,300	1,542	1,740	1,974	2,190	2,190	2,190	28828
		<u>1,968</u>	<u>2,082</u>				28829
\$6,301 - \$6,800	1,320	1,542	1,740	1,974	2,190	2,190	28830
		<u>1,866</u>	<u>1,968</u>	<u>2,082</u>			28831
\$6,801 - \$7,300	1,080	1,320	1,542	1,740	1,974	2,190	28832
		<u>1,758</u>	<u>1,866</u>	<u>1,968</u>	<u>2,082</u>		28833
\$7,301 - \$8,300	864	1,080	1,320	1,542	1,740	1,974	28834
		<u>1,638</u>	<u>1,758</u>	<u>1,866</u>	<u>1,968</u>	<u>2,082</u>	28835
\$8,301 - \$9,300	648	864	1,080	1,320	1,542	1,740	28836
		<u>1,530</u>	<u>1,638</u>	<u>1,758</u>	<u>1,866</u>	<u>1,968</u>	28837
\$9,301 - \$10,300	522	648	864	1,080	1,320	1,542	28838
		<u>1,422</u>	<u>1,530</u>	<u>1,638</u>	<u>1,758</u>	<u>1,866</u>	28839
\$10,301 - \$11,800	420	522	648	864	1,080	1,320	28840
		<u>1,356</u>	<u>1,422</u>	<u>1,530</u>	<u>1,638</u>	<u>1,758</u>	28841
\$11,801 - \$13,300	384	420	522	648	864	1,080	28842

		<u>1,308</u>	<u>1,356</u>	<u>1,422</u>	<u>1,530</u>	<u>1,638</u>	28843
\$13,301 - \$14,800	354	384	420	522	648	864	28844
		<u>1,290</u>	<u>1,308</u>	<u>1,356</u>	<u>1,422</u>	<u>1,530</u>	28845
\$14,801 - \$16,300	174	354	384	420	522	648	28846
		<u>1,164</u>	<u>1,290</u>	<u>1,308</u>	<u>1,356</u>	<u>1,422</u>	28847
\$16,301 - \$19,300	--	174	354	384	420	522	28848
		<u>858</u>	<u>1,050</u>	<u>1,182</u>	<u>1,308</u>	<u>1,356</u>	28849
\$19,301 - \$22,300	--	—	174	354	384	420	28850
		<u>540</u>	<u>750</u>	<u>948</u>	<u>1,062</u>	<u>1,200</u>	28851
\$22,301 - \$25,300	--	—	—	174	354	384	28852
		<u>432</u>	<u>540</u>	<u>750</u>	<u>948</u>	<u>1,062</u>	28853
\$25,301 - \$30,300	--	—	—	—	174	354	28854
		<u>324</u>	<u>432</u>	<u>540</u>	<u>750</u>	<u>948</u>	28855
\$30,301 - \$35,300	--	—	—	—	—	174	28856
		<u>192</u>	<u>210</u>	<u>264</u>	<u>324</u>	<u>522</u>	28857

(D) For a full-time student enrolled in an eligible institution for a semester or quarter in addition to the portion of the academic year covered by a grant determined under division (C) of this section, the maximum grant amount shall be a percentage of the maximum prescribed in the applicable table of that division. The maximum grant for a fourth quarter shall be one-third of the maximum amount prescribed under that division. The maximum grant for a third semester shall be one-half of the maximum amount prescribed under that division.

(E) No grant shall be made to any student in a course of study in theology, religion, or other field of preparation for a religious profession unless such course of study leads to an accredited bachelor of arts, bachelor of science, associate of arts, or associate of science degree.

(F)(1) Except as provided in division (F)(2) of this section, no grant shall be made to any student for enrollment during a fiscal year in an institution with a cohort default rate

determined by the United States secretary of education pursuant to 28875
the "Higher Education Amendments of 1986," 100 Stat. 1278, 1408, 28876
20 U.S.C.A. 1085, as amended, as of the fifteenth day of June 28877
preceding the fiscal year, equal to or greater than thirty per 28878
cent for each of the preceding two fiscal years. 28879

(2) Division (F)(1) of this section does not apply to the 28880
following: 28881

(a) Any student enrolled in an institution that under the 28882
federal law appeals its loss of eligibility for federal financial 28883
aid and the United States secretary of education determines its 28884
cohort default rate after recalculation is lower than the rate 28885
specified in division (F)(1) of this section or the secretary 28886
determines due to mitigating circumstances the institution may 28887
continue to participate in federal financial aid programs. The 28888
board shall adopt rules requiring institutions to provide 28889
information regarding an appeal to the board. 28890

(b) Any student who has previously received a grant under 28891
this section who meets all other requirements of this section. 28892

(3) The board shall adopt rules for the notification of all 28893
institutions whose students will be ineligible to participate in 28894
the grant program pursuant to division (F)(1) of this section. 28895

(4) A student's attendance at an institution whose students 28896
lose eligibility for grants under division (F)(1) of this section 28897
shall not affect that student's eligibility to receive a grant 28898
when enrolled in another institution. 28899

(G) Institutions of higher education that enroll students 28900
receiving instructional grants under this section shall report to 28901
the board all students who have received instructional grants but 28902
are no longer eligible for all or part of such grants and shall 28903
refund any moneys due the state within thirty days after the 28904
beginning of the quarter or term immediately following the quarter 28905

or term in which the student was no longer eligible to receive all 28906
or part of the student's grant. There shall be an interest charge 28907
of one per cent per month on all moneys due and payable after such 28908
thirty-day period. The board shall immediately notify the office 28909
of budget and management and the legislative service commission of 28910
all refunds so received. 28911

Sec. 3333.16. As used in this section "state institution of 28912
higher education" means an institution of higher education as 28913
defined in section 3345.12 of the Revised Code. 28914

(A) By April 15, 2005, the Ohio board of regents shall do all 28915
of the following: 28916

(1) Establish policies and procedures applicable to all state 28917
institutions of higher education that ensure that students can 28918
begin higher education at any state institution of higher 28919
education and transfer coursework and degrees to any other state 28920
institution of higher education without unnecessary duplication or 28921
institutional barriers. The purpose of this requirement is to 28922
allow students to attain their highest educational aspirations in 28923
the most efficient and effective manner for the students and the 28924
state. These policies and procedures shall require state 28925
institutions of higher education to make changes or modifications, 28926
as needed, to strengthen course content so as to ensure 28927
equivalency for that course at any state institution of higher 28928
education. 28929

(2) Develop and implement a universal course equivalency 28930
classification system for state institutions of higher education 28931
so that the transfer of students and the transfer and articulation 28932
of equivalent courses or specified learning modules or units 28933
completed by students are not inhibited by inconsistent judgment 28934
about the application of transfer credits. Coursework completed 28935
within such a system at one state institution of higher education 28936

and transferred to another institution shall be applied to the 28937
student's degree objective in the same manner as equivalent 28938
coursework completed at the receiving institution. 28939

(3) Develop a system of transfer policies that ensure that 28940
graduates with associate degrees which include completion of 28941
approved transfer modules shall be admitted to a state institution 28942
of higher education baccalaureate program, except specific limited 28943
access programs or majors that have admission requirements other 28944
than academic performance, and shall have priority over 28945
out-of-state associate degree graduates and transfer students. To 28946
assist a student in advising and transferring, all state 28947
institutions of higher education shall fully implement the course 28948
applicability system. 28949

(4) Examine the feasibility of developing a transfer 28950
marketing agenda that includes materials and interactive 28951
technology to inform the citizens of Ohio about the availability 28952
of transfer options at state institutions of higher education and 28953
to encourage adults to return to colleges and universities for 28954
additional education; 28955

(5) Study, in consultation with the state board of career 28956
colleges and schools, and in light of existing criteria and any 28957
other criteria developed by the articulation and transfer advisory 28958
council, the feasibility of credit recognition and transferability 28959
to state institutions of higher education for graduates who have 28960
received associate degrees from a career college or school with a 28961
certificate of registration from the state board of career 28962
colleges and schools under Chapter 3332. of the Revised Code. 28963

(B) By April 15, 2004, the board shall report to the general 28964
assembly on its progress in attaining completion of the actions 28965
prescribed in division (A) of this section. 28966

(C) All provisions of the existing articulation and transfer 28967

policy developed by the board shall remain in effect except where 28968
amended by this act. 28969

Sec. 3333.38. (A) As used in this section: 28970

(1) "Institution of higher education" includes all of the 28971
following: 28972

(a) A state institution of higher education, as defined in 28973
section 3345.011 of the Revised Code; 28974

(b) A nonprofit institution issued a certificate of 28975
authorization by the Ohio board of regents under Chapter 1713. of 28976
the Revised Code; 28977

(c) A private institution exempt from regulation under 28978
Chapter 3332. of the Revised Code, as prescribed in section 28979
3333.046 of the Revised Code; 28980

(d) An institution of higher education with a certificate of 28981
registration from the state board of career colleges and schools 28982
under Chapter 3332. of the Revised Code. 28983

(2) "Student financial assistance supported by state funds" 28984
includes assistance granted under sections 3315.33, 3333.12, 28985
3333.21, 3333.26, 3333.27, 3333.28, 3333.29, 3333.372, 5910.03, 28986
5910.032, and 5919.34 of the Revised Code and any other 28987
post-secondary student financial assistance supported by state 28988
funds. 28989

(B) An individual who is convicted of, pleads guilty to, or 28990
is adjudicated a delinquent child for one of the following 28991
offenses shall be permanently ineligible to receive any student 28992
financial assistance supported by state funds at an institution of 28993
higher education: 28994

(1) A violation of section 2917.02 or 2917.03 of the Revised 28995
Code; 28996

(2) A violation of section 2917.04 of the Revised Code that 28997
is a misdemeanor of the fourth degree and occurs within the 28998
proximate area where four or more others are acting in a course of 28999
conduct in violation of section 2917.11 of the Revised Code; 29000

(3) A violation of section 2917.13 of the Revised Code that 29001
is a misdemeanor of the fourth or first degree and occurs within 29002
the proximate area where four or more others are acting in a 29003
course of conduct in violation of section 2917.11 of the Revised 29004
Code. 29005

Sec. 3333.50. There is hereby created the board of regents 29006
awards and initiatives fund, which shall be in the custody of the 29007
treasurer of state but shall not be part of the state treasury. 29008
The chancellor of the board of regents may deposit such receipts 29009
into the fund as the board of regents determines appropriate from 29010
awards, prizes, grants, and gifts received by the board. No 29011
revenues derived from appropriations made by the state or student 29012
fees or student charges shall be deposited into the fund. The 29013
treasurer of state shall invest any portion of the fund not needed 29014
for immediate use in the same manner as state funds are invested. 29015
All investment earnings of the fund shall be deposited into the 29016
fund. The chancellor may use the fund in support of awards and 29017
other initiatives approved by the board. All disbursements from 29018
the fund shall be made by the treasurer of state pursuant to 29019
vouchers signed by the chancellor. 29020

Sec. 3353.11. There is hereby created in the state treasury 29021
the governmental television/telecommunications operating fund. The 29022
fund shall consist of money received from contract productions of 29023
the Ohio government telecommunications studio and shall be used 29024
for operations or equipment breakdowns related to the studio. Only 29025
Ohio government telecommunications may authorize the spending of 29026

money in the fund. All investment earnings of the fund shall be 29027
credited to the fund. Once the fund has a balance of zero, the 29028
fund shall cease to exist. 29029

Sec. 3361.01. (A) There is hereby created a state university 29030
to be known as the "university of Cincinnati." The government of 29031
the university of Cincinnati is vested in a board of eleven 29032
trustees who shall be appointed by the governor with the advice 29033
and consent of the senate. Two of the trustees shall be students 29034
at the university of Cincinnati, and their selection and terms 29035
shall be in accordance with division (B) of this section. The 29036
terms of the first nine members of the board of trustees shall 29037
commence upon the effective date of the transfer of assets of the 29038
state-affiliated university of Cincinnati to the university of 29039
Cincinnati hereby created. One of such trustees shall be appointed 29040
for a term ending on the first day of January occurring at least 29041
twelve months after such date of transfer, and each of the other 29042
trustees shall be appointed for respective terms ending on each 29043
succeeding first day of January, so that one term will expire on 29044
each first day of January after expiration of the shortest term. 29045
Except for the two student trustees, each successor trustee shall 29046
be appointed for a term ending on the first day of January, nine 29047
years from the expiration date of the term ~~he~~ the trustee 29048
succeeds, except that any person appointed to fill a vacancy shall 29049
be appointed to serve only for the unexpired term. 29050

Any trustee shall continue in office subsequent to the 29051
expiration date of ~~his~~ the trustee's term until ~~his~~ the trustee's 29052
successor takes office, or until a period of sixty days has 29053
elapsed, whichever occurs first. 29054

No person who has served a full nine-year term or longer or 29055
more than six years of such a term shall be eligible to 29056
reappointment. ~~No person is eligible for appointment to the board~~ 29057

~~of trustees for a full nine year term who is not at the time of~~ 29058
~~appointment a resident of the city of Cincinnati, unless at the~~ 29059
~~time of such appointment there are at least five members of the~~ 29060
~~board who are not students and who are residents of the city of~~ 29061
~~Cincinnati.~~ 29062

The trustees shall receive no compensation for their services 29063
but shall be paid their reasonable necessary expenses while 29064
engaged in the discharge of their official duties. A majority of 29065
the board constitutes a quorum. 29066

(B) The student members of the board of trustees of the 29067
university of Cincinnati have no voting power on the board. 29068
Student members shall not be considered as members of the board in 29069
determining whether a quorum is present. Student members shall not 29070
be entitled to attend executive sessions of the board. The student 29071
members of the board shall be appointed by the governor, with the 29072
advice and consent of the senate, from a group of five candidates 29073
selected pursuant to a procedure adopted by the university's 29074
student governments and approved by the university's board of 29075
trustees. The initial term of office of one of the student members 29076
shall commence on May 14, 1988 and shall expire on May 13, 1989, 29077
and the initial term of office of the other student member shall 29078
commence on May 14, 1988 and expire on May 13, 1990. Thereafter, 29079
terms of office of student members shall be for two years, each 29080
term ending on the same day of the same month of the year as the 29081
term it succeeds. In the event that a student cannot fulfill ~~his~~ a 29082
two-year term, a replacement shall be selected to fill the 29083
unexpired term in the same manner used to make the original 29084
selection. 29085

Sec. 3375.41. When a board of library trustees appointed 29086
pursuant to sections 3375.06, 3375.10, 3375.12, 3375.15, 3375.22, 29087
and 3375.30 of the Revised Code determines to construct, demolish, 29088

alter, repair, or reconstruct a library or make any improvements 29089
or repairs, the cost of which will exceed ~~fifteen~~ twenty-five 29090
thousand dollars, except in cases of urgent necessity or for the 29091
security and protection of library property, it shall proceed as 29092
follows: 29093

(A) The board shall advertise for a period of four weeks for 29094
bids in some newspaper of general circulation in the district, and 29095
if there are two such papers, the board shall advertise in both of 29096
them. If no newspaper has a general circulation in the district, 29097
the board shall advertise by posting ~~such~~ the advertisement in 29098
three public places ~~therein~~ in the district. ~~Such~~ The 29099
advertisement shall be entered in full by the clerk on the record 29100
of proceedings of the board. 29101

(B) The sealed bids shall be filed with the clerk by twelve 29102
noon of the last day stated in the advertisement. 29103

(C) The bids shall be opened at the next meeting of the 29104
board, shall be publicly read by the clerk, and shall be entered 29105
in full on the records of the board; provided, ~~that the board may,~~ 29106
by resolution, may provide for the public opening and reading of 29107
~~such~~ the bids by the clerk, immediately after the time for filing 29108
~~such~~ the bids has expired, at the usual place of meeting of the 29109
board, and for the tabulation of ~~such~~ the bids and a report of 29110
~~such~~ the tabulation to the board at its next meeting. 29111

(D) Each bid shall contain the name of every person 29112
interested ~~therein,~~ in it and shall meet the requirements of 29113
section 153.54 of the Revised Code. 29114

(E) When both labor and materials are embraced in the work 29115
bid for, the board may require that each be separately stated in 29116
the bid, with the price ~~thereof~~ of each, or may require that bids 29117
be submitted without ~~such~~ that separation. 29118

(F) None but the lowest responsible bid shall be accepted. 29119

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.

(G) The contract shall be between the board and the bidders. The board shall pay the contract price for the work in cash at the times and in the amounts as provided by sections 153.12, 153.13, and 153.14 of the Revised Code.

(H) When two or more bids are equal, in whole or in part, and are lower than any others, either may be accepted, but in no case shall the work be divided between such bidders.

(I) When there is reason to believe there is collusion or combination among the bidders, the bids of those concerned in ~~such~~ the collusion or combination shall be rejected.

Sec. 3377.01. As used in Chapter 3377. of the Revised Code:

(A) "Educational institution" or "institution" means an educational institution organized not for profit and holding an effective certificate of authorization issued under section 1713.02 of the Revised Code. It does not include any institution created by or in accordance with Title XXXIII of the Revised Code nor any institution whose principal educational activity is preparing students for or granting degrees, diplomas, and other marks of deficiency which have value only in religious and ecclesiastical fields.

(B) "Educational facility" or "facility" means any building, structure, facility, equipment, machinery, utility, or improvement, site, or other interest in real estate therefor or pertinent thereto, and equipment and furnishings to be used therein or in connection therewith, together with any appurtenances necessary or convenient to the uses thereof, to be used for or in connection with the conduct or operation of an

educational institution, including but not limited to, classrooms 29150
and other instructional facilities, laboratories, research 29151
facilities, libraries, study facilities, administrative and office 29152
facilities, museums, gymnasiums, campus walks, drives and site 29153
improvements, dormitories and other suitable living quarters or 29154
accommodations, dining halls and other food service and 29155
preparation facilities, student services or activity facilities, 29156
physical education, athletic and recreational facilities, 29157
theatres, auditoriums, assembly and exhibition halls, greenhouses, 29158
agricultural buildings and facilities, parking, storage and 29159
maintenance facilities, infirmary, hospital, medical, and health 29160
facilities, continuing education facilities, communications, fire 29161
prevention, and fire fighting facilities, and any one, or any 29162
combination of the foregoing, whether or not comprising part of 29163
one building, structure, or facility. It does not include any 29164
facility used ~~for sectarian instruction or study or~~ exclusively as 29165
a place for devotional activities ~~or religious worship~~. 29166

(C) "Bond proceedings" means the resolution or resolutions, 29167
the trust agreement, the indenture of mortgage, or combination 29168
thereof authorizing or providing for the terms and conditions 29169
applicable to bonds issued under authority of Chapter 3377. of the 29170
Revised Code. 29171

(D) "Pledged facilities" means the project or other property 29172
that is mortgaged or the rentals, revenues, and other income, 29173
charges, and moneys from which are pledged, or both, for the 29174
payment of or the security for the payment of the principal of and 29175
interest on the bonds issued under the authority of section 29176
3377.05 or 3377.06 of the Revised Code. 29177

(E) "Project" means real or personal property, or both, 29178
acquired by gift or purchase, constructed, reconstructed, 29179
enlarged, remodeled, renovated, improved, furnished, or equipped, 29180
or any combination thereof, by or financed by the Ohio higher 29181

educational facility commission, or by funds that are refinanced 29182
or reimbursed by the commission for use by an educational 29183
institution as an educational facility located within the state. 29184

(F) "Project costs" means the costs of acquiring, 29185
constructing, equipping, furnishing, reconstructing, remodeling, 29186
renovating, enlarging, and improving educational facilities 29187
comprising one or more project, including costs connected with or 29188
incidental thereto, provision of capitalized interest prior to and 29189
during construction and for a period after the completion of the 29190
construction, appropriate reserves, architectural, engineering, 29191
financial, and legal services, and all other costs of financing, 29192
and the repayment or restoration of moneys borrowed or advanced 29193
for such purposes or temporarily used therefor from other sources, 29194
and means the costs of refinancing obligations issued or loans 29195
incurred by, or reimbursement of money advanced, invested or 29196
expended by, educational institutions or others the proceeds of 29197
which obligations or loans or the amounts advanced, invested or 29198
expended were used at any time for the payment of project costs, 29199
if the Ohio higher educational facility commission determines that 29200
the refinancing or reimbursement advances the purposes of this 29201
chapter, whether or not the refinancing or reimbursement is in 29202
conjunction with the acquisition or construction of additional 29203
educational facilities. 29204

Sec. 3377.06. In anticipation of the issuance of bonds 29205
authorized by section 3377.05 of the Revised Code, the Ohio higher 29206
educational facility commission may issue bond anticipation notes 29207
of the state and may renew the same from time to time by the 29208
issuance of new notes, but the maximum maturity of such notes, 29209
including renewals thereof, shall not exceed five years from the 29210
date of the issuance of the original notes. Such notes are payable 29211
solely from the revenues and receipts that may be pledged to the 29212
payment of such bonds or from the proceeds of such bonds, or both, 29213

as the commission provides in its resolution authorizing such 29214
notes, and may be additionally secured by covenants of the 29215
commission to the effect that the commission will do such or all 29216
things necessary for the issuance of such bonds, or of renewal 29217
notes under this section in appropriate amount, and either 29218
exchange such bonds or renewal notes therefor or apply the 29219
proceeds thereof to the extent necessary to make full payment on 29220
such notes at the time or times contemplated, as provided in such 29221
resolution. Subject to the provisions of this section, all 29222
provisions for and references to bonds in Chapter 3377. of the 29223
Revised Code are applicable to notes authorized under this section 29224
and any references therein to bondholders shall include holders or 29225
owners of such notes. 29226

Prior to the sale of bonds or notes authorized under section 29227
3377.05 or 3377.06 of the Revised Code, the commission shall 29228
determine that the project to be financed thereby will contribute 29229
to the objectives stated in section 3377.02 of the Revised Code 29230
and that the educational institution to which such project is to 29231
be leased, sold, exchanged, or otherwise disposed of, admits 29232
students without discrimination by reason of race, creed, color, 29233
or national origin. Nothing in this section prohibits an 29234
educational institution from requesting that its applicants for 29235
admission demonstrate beliefs or principles consistent with the 29236
mission of the institution. 29237

Sec. 3379.11. There is hereby created in the state treasury 29238
the gifts and donations fund. The fund shall consist of gifts and 29239
donations made to the Ohio arts council and fees paid for 29240
conferences the council sponsors. The fund shall be used to pay 29241
for the council's operating expenses, including, but not limited 29242
to, payroll, personal services, maintenance, equipment, and 29243
subsidy payments. All moneys deposited into the fund shall be 29244
received and expended pursuant to the council's duty to foster and 29245

encourage the development of the arts in this state and the 29246
preservation of the state's cultural heritage. 29247

Sec. 3383.01. As used in this chapter: 29248

(A) "Arts" means any of the following: 29249

(1) Visual, musical, dramatic, graphic, design, and other 29250
arts, including, but not limited to, architecture, dance, 29251
literature, motion pictures, music, painting, photography, 29252
sculpture, and theater, and the provision of training or education 29253
in these arts; 29254

(2) The presentation or making available, in museums or other 29255
indoor or outdoor facilities, of principles of science and their 29256
development, use, or application in business, industry, or 29257
commerce or of the history, heritage, development, presentation, 29258
and uses of the arts described in division (A)(1) of this section 29259
and of transportation; 29260

(3) The preservation, presentation, or making available of 29261
features of archaeological, architectural, environmental, or 29262
historical interest or significance in a state historical facility 29263
or a local historical facility. 29264

(B) "Arts organization" means either of the following: 29265

(1) A governmental agency or Ohio nonprofit corporation that 29266
provides programs or activities in areas directly concerned with 29267
the arts; 29268

(2) A regional arts and cultural district as defined in 29269
section 3381.01 of the Revised Code. 29270

(C) "Arts project" means all or any portion of an Ohio arts 29271
facility for which the general assembly has specifically 29272
authorized the spending of money, or made an appropriation, 29273
pursuant to division (D)(3) or (E) of section 3383.07 of the 29274
Revised Code. 29275

(D) "Cooperative contract" means a contract between the Ohio arts and sports facilities commission and an arts organization providing the terms and conditions of the cooperative use of an Ohio arts facility.

(E) "Costs of operation" means amounts required to manage an Ohio arts facility that are incurred following the completion of construction of its arts project, provided that both of the following apply:

(1) Those amounts either:

(a) Have been committed to a fund dedicated to that purpose;

(b) Equal the principal of any endowment fund, the income from which is dedicated to that purpose.

(2) The commission and the arts organization have executed an agreement with respect to either of those funds.

(F) "General building services" means general building services for an Ohio arts facility or an Ohio sports facility, including, but not limited to, general custodial care, security, maintenance, repair, painting, decoration, cleaning, utilities, fire safety, grounds and site maintenance and upkeep, and plumbing.

(G) "Governmental agency" means a state agency, a state-supported or state-assisted institution of higher education, a municipal corporation, county, township, or school district, a port authority created under Chapter 4582. of the Revised Code, any other political subdivision or special district in this state established by or pursuant to law, or any combination of these entities; except where otherwise indicated, the United States or any department, division, or agency of the United States, or any agency, commission, or authority established pursuant to an interstate compact or agreement.

(H) "Local contributions" means the value of an asset 29306
provided by or on behalf of an arts organization from sources 29307
other than the state, the value and nature of which shall be 29308
approved by the Ohio arts and sports facilities commission, in its 29309
sole discretion. "Local contributions" may include the value of 29310
the site where an arts project is to be constructed. All "local 29311
contributions," except a contribution attributable to such a site, 29312
shall be for the costs of construction of an arts project or the 29313
costs of operation of an arts facility. 29314

(I) "Local historical facility" means a site or facility, 29315
other than a state historical facility, of archaeological, 29316
architectural, environmental, or historical interest or 29317
significance, or a facility, including a storage facility, 29318
appurtenant to the operations of such a site or facility, that is 29319
owned by an arts organization, provided the facility meets the 29320
requirements of division (K)(2)(b) of this section, is managed by 29321
or pursuant to a contract with the Ohio arts and sports facilities 29322
commission, and is used for or in connection with the activities 29323
of the commission, including the presentation or making available 29324
of arts to the public. 29325

(J) "Manage," "operate," or "management" means the provision 29326
of, or the exercise of control over the provision of, activities: 29327

(1) Relating to the arts for an Ohio arts facility, including 29328
as applicable, but not limited to, providing for displays, 29329
exhibitions, specimens, and models; booking of artists, 29330
performances, or presentations; scheduling; and hiring or 29331
contracting for directors, curators, technical and scientific 29332
staff, ushers, stage managers, and others directly related to the 29333
arts activities in the facility; but not including general 29334
building services; 29335

(2) Relating to sports and athletic events for an Ohio sports 29336

facility, including as applicable, but not limited to, providing 29337
for booking of athletes, teams, and events; scheduling; and hiring 29338
or contracting for staff, ushers, managers, and others directly 29339
related to the sports and athletic events in the facility; but not 29340
including general building services. 29341

(K) "Ohio arts facility" means any of the following: 29342

(1) The three theaters located in the state office tower at 29343
77 South High street in Columbus; 29344

(2) Any capital facility in this state to which both of the 29345
following apply: 29346

(a) The construction of an arts project related to the 29347
facility was authorized or funded by the general assembly pursuant 29348
to division (D)(3) of section 3383.07 of the Revised Code and 29349
proceeds of state bonds are used for costs of the arts project. 29350

(b) The facility is managed directly by, or is subject to a 29351
cooperative or management contract with, the Ohio arts and sports 29352
facilities commission, and is used for or in connection with the 29353
activities of the commission, including the presentation or making 29354
available of arts to the public and the provision of training or 29355
education in the arts. ~~A cooperative or management contract shall~~ 29356
~~be for a term not less than the time remaining to the date of~~ 29357
~~payment or provision for payment of any state bonds issued to pay~~ 29358
~~the costs of the arts project, as determined by the director of~~ 29359
~~budget and management and certified by the director to the Ohio~~ 29360
~~arts and sports facilities commission and to the Ohio building~~ 29361
~~authority.~~ 29362

(3) A state historical facility or a local historical 29363
facility. 29364

(L) "State agency" means the state or any of its branches, 29365
officers, boards, commissions, authorities, departments, 29366
divisions, or other units or agencies. 29367

(M) "Construction" includes acquisition, including 29368
acquisition by lease-purchase, demolition, reconstruction, 29369
alteration, renovation, remodeling, enlargement, improvement, site 29370
improvements, and related equipping and furnishing. 29371

(N) "State historical facility" means a site or facility of 29372
archaeological, architectural, environmental, or historical 29373
interest or significance, or a facility, including a storage 29374
facility, appurtenant to the operations of such a site or 29375
facility, that is owned by or is located on real property owned by 29376
the state or by an arts organization, so long as the real property 29377
of the arts organization is contiguous to state-owned real 29378
property that is in the care, custody, and control of an arts 29379
organization, and that is managed directly by or is subject to a 29380
cooperative or management contract with the Ohio arts and sports 29381
facilities commission and is used for or in connection with the 29382
activities of the commission, including the presentation or making 29383
available of arts to the public. 29384

(O) "Ohio sports facility" means all or a portion of a 29385
stadium, arena, or other capital facility in this state, a primary 29386
purpose of which is to provide a site or venue for the 29387
presentation to the public of events of one or more major or minor 29388
league professional athletic or sports teams that are associated 29389
with the state or with a city or region of the state, which 29390
facility is owned by or is located on real property owned by the 29391
state or a governmental agency, and including all parking 29392
facilities, walkways, and other auxiliary facilities, equipment, 29393
furnishings, and real and personal property and interests and 29394
rights therein, that may be appropriate for or used for or in 29395
connection with the facility or its operation, for capital costs 29396
of which state funds are spent pursuant to this chapter. A 29397
facility constructed as an Ohio sports facility may be both an 29398
Ohio arts facility and an Ohio sports facility. 29399

Sec. 3383.07. (A) The department of administrative services 29400
shall provide for the construction of an arts project in 29401
conformity with Chapter 153. of the Revised Code, except as 29402
follows: 29403

(1) For an arts project that has an estimated construction 29404
cost, excluding the cost of acquisition, of twenty-five million 29405
dollars or more, and that is financed by the Ohio building 29406
authority, construction services may be provided by the authority 29407
if the authority determines it should provide those services. 29408

(2) For an arts project other than a state historical 29409
facility, construction services may be provided on behalf of the 29410
state by the Ohio arts and sports facilities commission, or by a 29411
governmental agency or an arts organization that occupies, will 29412
occupy, or is responsible for the Ohio arts facility, as 29413
determined by the commission. Construction services to be provided 29414
by a governmental agency or an arts organization shall be 29415
specified in an agreement between the commission and the 29416
governmental agency or arts organization. The agreement, or any 29417
actions taken under it, are not subject to Chapter 123. or 153. of 29418
the Revised Code, except for sections 123.151 and 153.011 of the 29419
Revised Code, and shall be subject to Chapter 4115. of the Revised 29420
Code. 29421

(3) For an arts project that is a state historical facility, 29422
construction services may be provided by the Ohio arts and sports 29423
facilities commission or by an arts organization that occupies, 29424
will occupy, or is responsible for the facility, as determined by 29425
the commission. The construction services to be provided by the 29426
arts organization shall be specified in an agreement between the 29427
commission and the arts organization. That agreement, and any 29428
actions taken under it, are not subject to Chapter 123., 153., or 29429
4115. of the Revised Code. 29430

(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 29463
governmental agency or nonprofit corporation. That agreement, and 29464
any actions taken under it, are not subject to Chapter 123. or 29465
153. of the Revised Code, except for sections 123.151 and 153.011 29466
of the Revised Code, and shall be subject to Chapter 4115. of the 29467
Revised Code. 29468

(D) This division does not apply to a state historical 29469
facility. No state funds, including any state bond proceeds, shall 29470
be spent on the construction of any arts project under this 29471
chapter unless, with respect to the arts project and to the Ohio 29472
arts facility related to the project, all of the following apply: 29473

(1) The Ohio arts and sports facilities commission has 29474
determined that there is a need for the arts project and the Ohio 29475
arts facility related to the project in the region of the state in 29476
which the Ohio arts facility is located or for which the facility 29477
is proposed. 29478

(2) The commission has determined that, as an indication of 29479
substantial regional support for the arts project, the arts 29480
organization has made provision satisfactory to the commission, in 29481
its sole discretion, for local contributions amounting to not less 29482
than fifty per cent of the total state funding for the arts 29483
project. 29484

(3) The general assembly has specifically authorized the 29485
spending of money on, or made an appropriation for, the 29486
construction of the arts project, or for rental payments relating 29487
to the financing of the construction of the arts project. 29488
Authorization to spend money, or an appropriation, for planning 29489
the arts project does not constitute authorization to spend money 29490
on, or an appropriation for, construction of the arts project. 29491

(E) No state funds, including any state bond proceeds, shall 29492
be spent on the construction of any state historical facility 29493

under this chapter unless the general assembly has specifically 29494
authorized the spending of money on, or made an appropriation for, 29495
the construction of the arts project related to the facility, or 29496
for rental payments relating to the financing of the construction 29497
of the arts project. Authorization to spend money, or an 29498
appropriation, for planning the arts project does not constitute 29499
authorization to spend money on, or an appropriation for, the 29500
construction of the arts project. 29501

(F) State funds shall not be used to pay or reimburse more 29502
than fifteen per cent of the initial estimated construction cost 29503
of an Ohio sports facility, excluding any site acquisition cost, 29504
and no state funds, including any state bond proceeds, shall be 29505
spent on any Ohio sports facility under this chapter unless, with 29506
respect to that facility, all of the following apply: 29507

(1) The Ohio arts and sports facilities commission has 29508
determined that there is a need for the facility in the region of 29509
the state for which the facility is proposed to provide the 29510
function of an Ohio sports facility as provided for in this 29511
chapter. 29512

(2) As an indication of substantial local support for the 29513
facility, the commission has received a financial and development 29514
plan satisfactory to it, and provision has been made, by agreement 29515
or otherwise, satisfactory to the commission, for a contribution 29516
amounting to not less than eighty-five per cent of the total 29517
estimated construction cost of the facility, excluding any site 29518
acquisition cost, from sources other than the state. 29519

(3) The general assembly has specifically authorized the 29520
spending of money on, or made an appropriation for, the 29521
construction of the facility, or for rental payments relating to 29522
state financing of all or a portion of the costs of constructing 29523
the facility. Authorization to spend money, or an appropriation, 29524
for planning or determining the feasibility of or need for the 29525

facility does not constitute authorization to spend money on, or 29526
an appropriation for, costs of constructing the facility. 29527

(4) If state bond proceeds are being used for the Ohio sports 29528
facility, the state or a governmental agency owns or has 29529
sufficient property interests in the facility or in the site of 29530
the facility or in the portion or portions of the facility 29531
financed from proceeds of state bonds, which may include, but is 29532
not limited to, the right to use or to require the use of the 29533
facility for the presentation of sport and athletic events to the 29534
public at the facility, ~~extending for a period of not less than~~ 29535
~~the greater of the useful life of the portion of the facility~~ 29536
~~financed from proceeds of those bonds as determined using the~~ 29537
~~guidelines for maximum maturities as provided under divisions (B),~~ 29538
~~(C), and (D) of section 133.20 of the Revised Code, or the period~~ 29539
~~of time remaining to the date of payment or provision for payment~~ 29540
~~of outstanding state bonds allocable to costs of the facility, all~~ 29541
~~as determined by the director of budget and management and~~ 29542
~~certified by the director to the Ohio arts and sports facilities~~ 29543
~~commission and to the Ohio building authority.~~ 29544

Sec. 3501.011. (A) Except as otherwise provided in divisions 29545
(B) and (C) of this section, and except as otherwise provided in 29546
any section of Title XXXV of the Revised Code to the contrary, as 29547
used in the sections of the Revised Code relating to elections and 29548
political communications, whenever a person is required to sign or 29549
affix a signature to a declaration of candidacy, nominating 29550
petition, declaration of intent to be a write-in candidate, 29551
initiative petition, referendum petition, recall petition, or any 29552
other kind of petition, or to sign or affix a signature on any 29553
other document that is filed with or transmitted to a board of 29554
elections or the office of the secretary of state, "sign" or 29555
"signature" means that person's written, cursive-style legal mark 29556
written in that person's own hand. 29557

(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 subdivision₇ within its jurisdiction₇ into precincts ~~and~~₁ establish, define, divide, rearrange, and combine the several election precincts within its jurisdiction₁ 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 29589
accessibility and other accessibility to the polling place. 29590

If the board changes the boundaries of a precinct after the 29591
filing of a local option election petition pursuant to sections 29592
4301.32 to 4301.41, 4303.29, or 4305.14 of the Revised Code that 29593
calls for a local option election to be held in that precinct, the 29594
local option election shall be held in the area that constituted 29595
the precinct at the time the local option petition was filed, 29596
regardless of the change in the boundaries. 29597

If the board changes the boundaries of a precinct in order to 29598
meet the requirements of division (B)(1) of this section in a 29599
manner that causes a member of a county central committee to no 29600
longer qualify as a representative of an election precinct in the 29601
county, of a ward of a city in the county, or of a township in the 29602
county, the member shall continue to represent the precinct, ward, 29603
or township for the remainder of the member's term, regardless of 29604
the change in boundaries. 29605

In an emergency, the board may provide more than one polling 29606
place in a precinct. In order to provide for the convenience of 29607
the voters, the board may locate polling places for voting or 29608
registration outside the boundaries of precincts, provided that 29609
the nearest public school or public building shall be used if the 29610
board determines it to be available and suitable for use as a 29611
polling place. Except in an emergency, no change in the number or 29612
location of the polling places in a precinct shall be made during 29613
the twenty-five days immediately preceding a primary or general 29614
election. 29615

Electors who have failed to respond within thirty days to any 29616
confirmation notice shall not be counted in determining the size 29617
of any precinct under this section. 29618

(B)(1) Except as otherwise provided in division (B)(2) ~~or (3)~~ 29619

of this section, ~~not later than August 1, 2000,~~ the a board of 29620
elections shall determine all precinct boundaries using 29621
geographical units used by the United States department of 29622
commerce, bureau of the census, in reporting the decennial census 29623
of Ohio. 29624

~~(2) When any part of the boundary of a precinct also forms a 29625
part of the boundary of a legislative district and the precinct 29626
boundary cannot be determined by August 1, 2000, using the 29627
geographical units described in division (B)(1) of this section 29628
without making that part of the precinct boundary that also forms 29629
part of the legislative district boundary different from that 29630
legislative district boundary, the board of elections may 29631
determine the boundary of that precinct using the geographical 29632
units described in division (B)(1) of this section not later than 29633
April 1, 2002. As used in this division, legislative district 29634
means a district determined under Article XI of the Ohio 29635
Constitution. 29636~~

~~(3) The board of elections may apply to the secretary of 29637
state for a waiver from the requirement of division (B)(1) of this 29638
section when it is not feasible to comply with that requirement 29639
because of unusual physical boundaries or residential development 29640
practices that would cause unusual hardship for voters. The board 29641
shall identify the affected precincts and census units, explain 29642
the reason for the waiver request, and include a map illustrating 29643
where the census units will be split because of the requested 29644
waiver. If the secretary of state approves the waiver and so 29645
notifies the board of elections in writing, the board may change a 29646
precinct boundary as necessary under this section, notwithstanding 29647
the requirement in division (B)(1) of this section. 29648~~

~~(C) The board of elections may apply to the secretary of 29649
state for a waiver from the requirement of division (A) of this 29650
section regarding the number of electors in a precinct when the 29651~~

use of geographical units used by the United States department of 29652
commerce, bureau of the census, will cause a precinct to contain 29653
more than one thousand four hundred electors. The board shall 29654
identify the affected precincts and census units, explain the 29655
reason for the waiver request, and include a map illustrating 29656
where census units will be split because of the requested waiver. 29657
If the secretary of state approves the waiver and so notifies the 29658
board of elections in writing, the board may change a precinct 29659
boundary as necessary to meet the requirements of division (B)(1) 29660
of this section. 29661

Sec. 3501.30. (A) The board of elections shall provide for 29662
each polling place the necessary ballot boxes, official ballots, 29663
cards of instructions, registration forms, pollbooks, or poll 29664
lists, tally sheets, forms on which to make summary statements, 29665
writing implements, paper, and all other supplies necessary for 29666
casting and counting the ballots and recording the results of the 29667
voting at ~~such~~ the polling place. ~~Such~~ The pollbooks or poll lists 29668
shall have certificates appropriately printed ~~thereon~~ on them for 29669
the signatures of all the precinct officials, by which they shall 29670
certify that, to the best of their knowledge and belief, ~~said~~ the 29671
pollbooks or poll lists correctly show the names of all electors 29672
who voted in ~~such~~ the polling place at the election indicated 29673
~~therein~~ in the pollbook or poll list. 29674

A All of the following shall be included among the supplies 29675
provided to each polling place: 29676

(1) A large map of each appropriate precinct shall be 29677
~~included among the supplies to each polling place,~~ which shall be 29678
displayed prominently to assist persons who desire to register or 29679
vote on election day. Each map shall show all streets within the 29680
precinct and contain identifying symbols of the precinct in bold 29681
print. 29682

~~Such supplies shall also include a~~ (2) Any materials, 29683
postings, or instructions required to comply with state or federal 29684
laws; 29685

(3) A flag of the United States approximately two and 29686
one-half feet in length along the top, which shall be displayed 29687
outside the entrance to the polling place during the time it is 29688
open for voting. ~~Two;~~ 29689

(4) Two or more small flags of the United States 29690
approximately fifteen inches in length along the top ~~shall be~~ 29691
~~provided and, which~~ shall be placed at a distance of one hundred 29692
feet from the polling place on the thoroughfares or walkways 29693
leading to the polling place, to mark the distance within which 29694
persons other than election officials, witnesses, challengers, 29695
police officers, and electors waiting to mark, marking, or casting 29696
their ballots shall not loiter, congregate, or engage in any kind 29697
of election campaigning. Where small flags cannot reasonably be 29698
placed one hundred feet from the polling place, the presiding 29699
election judge shall place the flags as near to one hundred feet 29700
from the entrance to the polling place as is physically possible. 29701
Police officers and all election officials shall see that this 29702
prohibition against loitering and congregating is enforced. ~~When~~ 29703

When the period of time during which the polling place is 29704
open for voting expires, all of ~~said~~ the flags described in this 29705
division shall be taken into the polling place, and shall be 29706
returned to the board together with all other election ~~materials~~ 29707
~~and~~ supplies required to be delivered to ~~such~~ the board. 29708

(B) The board of elections shall follow the instructions and 29709
advisories of the secretary of state in the production and use of 29710
polling place supplies. 29711

Sec. 3503.10. (A) Each designated agency shall designate one 29712

person within that agency to serve as coordinator for the voter 29713
registration program within the agency and its departments, 29714
divisions, and programs. The designated person shall be trained 29715
under a program designed by the secretary of state and shall be 29716
responsible for administering all aspects of the voter 29717
registration program for that agency as prescribed by the 29718
secretary of state. The designated person shall receive no 29719
additional compensation for performing such duties. 29720

(B) Every designated agency, public high school and 29721
vocational school, public library, and office of a county 29722
treasurer shall provide in each of its offices or locations voter 29723
registration applications and assistance in the registration of 29724
persons qualified to register to vote, in accordance with this 29725
chapter. 29726

(C) Every designated agency shall distribute to its 29727
applicants, prior to or in conjunction with distributing a voter 29728
registration application, a form prescribed by the secretary of 29729
state that includes all of the following: 29730

(1) The question, "Do you want to register to vote or update 29731
your current voter registration?"--followed by boxes for the 29732
applicant to indicate whether the applicant would like to register 29733
or decline to register to vote, and the statement, highlighted in 29734
bold print, "If you do not check either box, you will be 29735
considered to have decided not to register to vote at this time.;" 29736

(2) If the agency provides public assistance, the statement, 29737
"Applying to register or declining to register to vote will not 29738
affect the amount of assistance that you will be provided by this 29739
agency.;" 29740

(3) The statement, "If you would like help in filling out the 29741
voter registration application form, we will help you. The 29742
decision whether to seek or accept help is yours. You may fill out 29743

the application form in private."; 29744

(4) The statement, "If you believe that someone has 29745
interfered with your right to register or to decline to register 29746
to vote, your right to privacy in deciding whether to register or 29747
in applying to register to vote, or your right to choose your own 29748
political party or other political preference, you may file a 29749
complaint with the prosecuting attorney of your county or with the 29750
secretary of state," with the address and telephone number for 29751
each such official's office. 29752

(D) Each designated agency shall distribute a voter 29753
registration form prescribed by the secretary of state to each 29754
applicant with each application for service or assistance, and 29755
with each written application or form for recertification, 29756
renewal, or change of address. 29757

(E) Each designated agency shall do all of the following: 29758

(1) Have employees trained to administer the voter 29759
registration program in order to provide to each applicant who 29760
wishes to register to vote and who accepts assistance, the same 29761
degree of assistance with regard to completion of the voter 29762
registration application as is provided by the agency with regard 29763
to the completion of its own form; 29764

(2) Accept completed voter registration applications, voter 29765
registration change of residence forms, and voter registration 29766
change of name forms, regardless of whether the application or 29767
form was distributed by the designated agency, for transmittal to 29768
the office of the board of elections in the county in which the 29769
agency is located. Each designated agency and the appropriate 29770
board of elections shall establish a method by which the voter 29771
registration applications and other voter registration forms are 29772
transmitted to that board of elections within five days after 29773
being accepted by the agency. 29774

(3) If the designated agency is one that is primarily engaged 29775
in providing services to persons with disabilities under a 29776
state-funded program, and that agency provides services to a 29777
person with disabilities at a person's home, provide the services 29778
described in divisions (E)(1) and (2) of this section at the 29779
person's home; 29780

(4) Keep as confidential, except as required by the secretary 29781
of state for record-keeping purposes, the identity of an agency 29782
through which a person registered to vote or updated the person's 29783
voter registration records, and information relating to a 29784
declination to register to vote made in connection with a voter 29785
registration application issued by a designated agency. 29786

(F) The secretary of state shall prepare and transmit written 29787
instructions on the implementation of the voter registration 29788
program within each designated agency, public high school and 29789
vocational school, public library, and office of a county 29790
treasurer. The instructions shall include directions as follows: 29791

(1) That each person designated to assist with voter 29792
registration maintain strict neutrality with respect to a person's 29793
political philosophies, a person's right to register or decline to 29794
register, and any other matter that may influence a person's 29795
decision to register or not register to vote; 29796

(2) That each person designated to assist with voter 29797
registration not seek to influence a person's decision to register 29798
or not register to vote, not display or demonstrate any political 29799
preference or party allegiance, and not make any statement to a 29800
person or take any action the purpose or effect of which is to 29801
lead a person to believe that a decision to register or not 29802
register has any bearing on the availability of services or 29803
benefits offered, on the grade in a particular class in school, or 29804
on credit for a particular class in school; 29805

(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 29836
school district's schools."; 29837

(5) Establish a method by which the voter registration 29838
application and other voter registration forms are transmitted to 29839
the board of elections within five days after being accepted by 29840
the public high school or vocational school. 29841

(H) Any person employed by the designated agency, public high 29842
school or vocational school, public library, or office of a county 29843
treasurer may be designated to assist with voter registration 29844
pursuant to this section. The designated agency, public high 29845
school or vocational school, public library, or office of a county 29846
treasurer shall provide the designated person, and make available 29847
such space as may be necessary, without charge to the county or 29848
state. 29849

(I) The secretary of state shall prepare and cause to be 29850
displayed in a prominent location in each designated agency a 29851
notice that identifies the person designated to assist with voter 29852
registration, the nature of that person's duties, and where and 29853
when that person is available for assisting in the registration of 29854
voters. 29855

A designated agency may furnish additional supplies and 29856
services to disseminate information to increase public awareness 29857
of the existence of a person designated to assist with voter 29858
registration in every designated agency. 29859

(J) This section does not limit any authority a board of 29860
education, superintendent, or principal has to allow, sponsor, or 29861
promote voluntary election registration programs within a high 29862
school or vocational school, including programs in which pupils 29863
serve as persons designated to assist with voter registration, 29864
provided that no pupil is required to participate. 29865

(K) Each public library and office of the county treasurer 29866

shall establish a method by which voter registration forms are 29867
transmitted to the board of elections within five days after being 29868
accepted by the public library or office of the county treasurer. 29869

(L) The department of job and family services and its 29870
departments, divisions, and programs shall limit administration of 29871
the aspects of the voter registration program for the department 29872
to the requirements prescribed by the secretary of state and the 29873
requirements of this section and the National Voter Registration 29874
Act of 1993. 29875

Sec. 3505.01. On the sixtieth day before the day of the next 29876
general election, the secretary of state shall certify to the 29877
board of elections of each county the forms of the official 29878
ballots to be used at ~~such~~ that general election, together with 29879
the names of the candidates to be printed ~~thereon~~ on those ballots 29880
whose candidacy is to be submitted to the electors of the entire 29881
state. In the case of the presidential ballot for a general 29882
election ~~such, that~~ certification shall be made on the ~~sixtieth~~ 29883
fifty-fifth day before the day of the general election. On the 29884
seventy-fifth day before a special election to be held on the day 29885
specified by division (E) of section 3501.01 of the Revised Code 29886
for the holding of a primary election, designated by the general 29887
assembly for the purpose of submitting to the voters of the state 29888
constitutional amendments proposed by the general assembly, the 29889
secretary of state shall certify to the board of elections of each 29890
county the forms of the official ballots to be used at ~~such~~ that 29891
election. 29892

The board of the most populous county in each district 29893
comprised of more than one county but less than all of the 29894
counties of the state, in which there are candidates whose 29895
candidacies are to be submitted to the electors of ~~such~~ that 29896
district, shall, on the sixtieth day before the day of the next 29897

general election, certify to the board of each county in ~~such the~~ 29898
district the names of ~~such those~~ candidates to be printed on such 29899
ballots. 29900

The board of a county in which the major portion of a 29901
subdivision, located in more than one county, is located shall, on 29902
the sixtieth day before the day of the next general election, 29903
certify to the board of each county in which other portions of 29904
~~such subdivisions~~ that subdivision are located the names of 29905
candidates whose candidacies are to be submitted to the electors 29906
of ~~such that~~ subdivision, to be printed on such ballots. 29907

If, subsequently to the sixtieth day before, or in the case 29908
of a presidential ballot for a general election the fifty-fifth 29909
day before, and prior to the tenth day before the day of ~~such a~~ 29910
general election, a certificate is filed with the secretary of 29911
state to fill a vacancy caused by the death of a candidate, the 29912
secretary of state shall forthwith make a supplemental 29913
certification to the board of each county amending and correcting 29914
~~his~~ the secretary of state's original certification provided for 29915
in the first paragraph of this section. If, within ~~such that~~ time, 29916
such a certificate is filed with the board of the most populous 29917
county in a district comprised of more than one county but less 29918
than all of the counties of the state, or with the board of a 29919
county in which the major portion of the population of a 29920
subdivision, located in more than one county, is located, ~~such the~~ 29921
board with which ~~such a~~ the certificate is filed shall forthwith 29922
make a supplemental certification to the board of each county in 29923
~~such the~~ district or to the board of each county in which other 29924
portions of ~~such the~~ subdivision are located, amending and 29925
correcting its original certification provided for in the second 29926
and third paragraphs of this section. If, at the time such 29927
supplemental certification is received by a board, ballots 29928
carrying the name of the deceased candidate have been printed, 29929

~~such~~ the board shall cause strips of paper bearing the name of the 29930
candidate certified to fill ~~such~~ the vacancy to be printed and 29931
pasted on ~~such~~ those ballots so as to cover the name of the 29932
deceased candidate, except that in voting places using marking 29933
devices, the board shall cause strips of paper bearing the revised 29934
list of candidates for the office, after certification of a 29935
candidate to fill ~~such~~ the vacancy, to be printed and pasted on 29936
~~such~~ the ballot ~~card~~ cards so as to cover the names of candidates 29937
shown prior to the new certification, before such ballots are 29938
delivered to electors. 29939

Sec. 3505.061. (A) The Ohio ballot board, as authorized by 29940
Section 1 of Article XVI, Ohio Constitution, shall consist of the 29941
secretary of state and four appointed members. No more than two of 29942
the appointed members shall be of the same political party. One of 29943
the members shall be appointed by the president of the senate, one 29944
shall be appointed by the minority leader of the senate, one shall 29945
be appointed by the speaker of the house of representatives, and 29946
one shall be appointed by the minority leader of the house of 29947
representatives. The appointments shall be made no later than the 29948
last Monday in January in the year in which the appointments are 29949
to be made. If any appointment is not so made, the secretary of 29950
state, acting in place of the person otherwise required to make 29951
the appointment, shall appoint as many qualified members 29952
affiliated with the appropriate political party as are necessary. 29953

(B)(1) The initial appointees to the board shall serve until 29954
the first Monday in February, 1977. Thereafter, terms of office 29955
shall be for four years, each term ending on the first Monday in 29956
February. The term of the secretary of state on the board shall 29957
coincide with the secretary of state's term of office. Except as 29958
otherwise provided in division (B)(2) of this section, division 29959
(B)(2) of section 3505.063, and division (B)(2) of section 3519.03 29960
of the Revised Code, each appointed member shall hold office from 29961

the date of appointment until the end of the term for which the 29962
member was appointed. Except as otherwise provided in those 29963
divisions, any member appointed to fill a vacancy occurring prior 29964
to the expiration of the term for which the member's predecessor 29965
was appointed shall hold office for the remainder of that term. 29966
Except as otherwise provided in those divisions, any member shall 29967
continue in office subsequent to the expiration date of the 29968
member's term until the member's successor takes office or a 29969
period of sixty days has elapsed, whichever occurs first. Any 29970
vacancy occurring on the board shall be filled in the manner 29971
provided for original appointments. A member appointed to fill a 29972
vacancy shall be of the same political party as that required of 29973
the member whom the member replaces. 29974

(2) The term of office of a member of the board who also is a 29975
member of the general assembly and who was appointed to the board 29976
by the president of the senate, the minority leader of the senate, 29977
the speaker of the house of representatives, or the minority 29978
leader of the house of representatives shall end on the earlier of 29979
the following dates: 29980

(a) The ending date of the ballot board term for which the 29981
member was appointed; 29982

(b) The ending date of the member's term as a member of the 29983
general assembly. 29984

(C) Members of the board shall serve without compensation but 29985
shall be reimbursed for expenses actually and necessarily incurred 29986
in the performance of their duties. 29987

(D) The secretary of state shall be the chairperson of the 29988
board, and the secretary of state or the secretary of state's 29989
representative shall have a vote equal to that of any other 29990
member. The vice-chairperson shall act as chairperson in the 29991
absence or disability of the chairperson, or during a vacancy in 29992

that office. The board shall meet after notice of at least seven 29993
days at a time and place determined by the chairperson. At its 29994
first meeting, the board shall elect a vice-chairperson from among 29995
its members for a term of two years, and it shall adopt rules for 29996
its procedures. After the first meeting, the board shall meet at 29997
the call of the chairperson or upon the written request of three 29998
other members. Three members constitute a quorum. No action shall 29999
be taken without the concurrence of three members. 30000

(E) The secretary of state shall provide technical, 30001
professional, and clerical employees as necessary for the board to 30002
carry out its duties. 30003

Sec. 3505.08. (A) Ballots shall be provided by the board of 30004
elections for all general and special elections. ~~Such~~ The ballots 30005
shall be printed with black ink on No. 2 white book paper fifty 30006
pounds in weight per ream assuming such ream to consist of five 30007
hundred sheets of such paper twenty-five by thirty-eight inches in 30008
size. Each ballot shall have attached at the top two stubs, each 30009
of the width of the ballot and not less than one-half inch in 30010
length, except that, if the board of elections has an alternate 30011
method to account for the ballots that the secretary of state has 30012
authorized, each ballot may have only one stub that shall be the 30013
width of the ballot and not less than one-half inch in length. In 30014
the case of ballots with two stubs, the stubs shall be separated 30015
from the ballot and from each other by perforated lines. The top 30016
stub shall be known as Stub B and shall have printed on its face 30017
"Stub B." The other stub shall be known as Stub A and shall have 30018
printed on its face "Stub A." Each stub shall also have printed on 30019
its face "Consecutive Number" ~~Each~~ 30020

Each ballot of each kind of ballot provided for use in each 30021
precinct shall be numbered consecutively beginning with number 1 30022
by printing such number upon both of the stubs attached ~~thereto~~ to 30023

the ballot. On ballots bearing the names of candidates, each 30024
candidate's name shall be printed in twelve point boldface upper 30025
case type in an enclosed rectangular space, and an enclosed blank 30026
rectangular space shall be provided at the left ~~thereof~~ of the 30027
candidate's name. The name of the political party of a candidate 30028
nominated at a primary election or certified by a party committee 30029
shall be printed in ten point lightface upper and lower case type 30030
and shall be separated by a two point blank space. The name of 30031
each candidate shall be indented one space within ~~such~~ the 30032
enclosed rectangular space, and the name of the political party 30033
shall be indented two spaces within ~~such~~ the enclosed rectangular 30034
space. ~~The~~ 30035

The title of each office on ~~such~~ the ballots shall be printed 30036
in twelve point boldface upper and lower case type in a separate 30037
enclosed rectangular space. A four point rule shall separate the 30038
name of a candidate or a group of candidates for the same office 30039
from the title of the office next appearing below on the ballot, 30040
~~and~~; a two point rule shall separate the title of the office from 30041
the names of candidates; and a one point rule shall separate names 30042
of candidates. Headings shall be printed in display Roman type. 30043
When the names of several candidates are grouped together as 30044
candidates for the same office, there shall be printed on ~~such~~ the 30045
ballots immediately below the title of ~~such~~ the office and within 30046
the separate rectangular space in which ~~such~~ the title is printed 30047
"Vote for not more than," in six point boldface upper and 30048
lower case filling the blank space with that number which will 30049
indicate the number of persons who may be lawfully elected to ~~such~~ 30050
the office. 30051

Columns on ballots shall be separated from each other by a 30052
heavy vertical border or solid line at least one-eighth of an inch 30053
wide, and a similar vertical border or line shall enclose the left 30054
and right side of ballots, ~~and ballots~~. Ballots shall be trimmed 30055

along the sides close to such lines. 30056

The ballots provided for by this section shall be comprised 30057
of four kinds of ballots designated as follows: ~~(A)~~ office type 30058
ballot; ~~(B)~~ nonpartisan ballot; ~~(C)~~ questions and issues ballot; 30059
~~(D)~~ and presidential ballot. 30060

On the back of each office type ballot shall be printed 30061
"Official Office Type Ballot;" on the back of each nonpartisan 30062
ballot shall be printed "Official Nonpartisan Ballot;" on the back 30063
of each questions and issues ballot shall be printed "Official 30064
Questions and Issues Ballot;" and on the back of each presidential 30065
ballot shall be printed "Official Presidential Ballot." On the 30066
back of every ballot also shall be printed the date of the 30067
election at which the ballot is used and the facsimile signatures 30068
of the members of the board of the county in which the ballot is 30069
used. For the purpose of identifying the kind of ballot, the back 30070
of every ballot may be numbered in ~~such the~~ order ~~as~~ the board 30071
shall determine. ~~Such~~ The numbers shall be printed in not less 30072
than thirty-six point type above the words "Official Office Type 30073
Ballot," "Official Nonpartisan Ballot," "Official Questions and 30074
Issues Ballot," or "Official Presidential Ballot," as the case may 30075
be. Ballot boxes bearing corresponding numbers shall be furnished 30076
for each precinct in which the above-described numbered ballots 30077
are used. 30078

On the back of every ballot used, there shall be a solid 30079
black line printed opposite the blank rectangular space that is 30080
used to mark the choice of the voter. This line shall be printed 30081
wide enough so that the mark in the blank rectangular space will 30082
not be visible from the back side of the ballot. 30083

Sample ballots may be printed by the board of elections for 30084
all general elections. ~~Such~~ The ballots shall be printed on 30085
colored paper, and "Sample Ballot" shall be plainly printed in 30086
boldface type on the face of each ballot. In counties of less than 30087

one hundred thousand population, the board may print not more than 30088
five hundred sample ballots; in all other counties, it may print 30089
not more than one thousand sample ballots. ~~Such~~ The sample ballots 30090
shall not be distributed by a political party or a candidate, nor 30091
shall a political party or candidate cause their title or name to 30092
be imprinted ~~thereon~~ on sample ballots. 30093

(B) Notwithstanding division (A) of this section, in 30094
approving the form of an official ballot, the secretary of state 30095
may authorize the use of fonts, type face settings, and ballot 30096
formats other than those prescribed in that division. 30097

Sec. 3505.10. (A) On the presidential ballot below the stubs 30098
at the top of the face of the ballot shall be printed "Official 30099
Presidential Ballot" centered between the side edges of the 30100
ballot. Below "Official Presidential Ballot" shall be printed a 30101
heavy line centered between the side edges of the ballot. Below 30102
the line shall be printed "Instruction to Voters" centered between 30103
the side edges of the ballot, and below ~~such~~ those words shall be 30104
printed the following instructions: 30105

~~"(A)~~(1) To vote for the candidates for president and 30106
vice-president whose names are printed below, record your vote in 30107
the manner provided next to the names of such candidates. That 30108
recording of the vote will be counted as a vote for each of the 30109
candidates for presidential elector whose names have been 30110
certified to the secretary of state and who are members of the 30111
same political party as the nominees for president and 30112
vice-president. A recording of the vote for independent candidates 30113
for president and vice-president shall be counted as a vote for 30114
the presidential electors filed by such candidates with the 30115
secretary of state. 30116

~~(B)~~(2) To vote for candidates for president and 30117
vice-president in the blank space below, record your vote in the 30118

manner provided and write the names of your choice for president 30119
and vice-president under the respective headings provided for 30120
those offices. Such write-in will be counted as a vote for the 30121
candidates' presidential electors whose names have been properly 30122
certified to the secretary of state. 30123

~~(C)~~(3) If you tear, soil, deface, or erroneously mark this 30124
ballot, return it to the precinct election officers or, if you 30125
cannot return it, notify the precinct election officers, and 30126
obtain another ballot." 30127

(B) Below ~~such~~ those instructions to the voter shall be 30128
printed a single vertical column of enclosed rectangular spaces 30129
equal in number to the number of presidential candidates plus one 30130
additional space for write-in candidates. Each of ~~such~~ those 30131
rectangular spaces shall be enclosed by a heavy line along each of 30132
its four sides, and such spaces shall be separated from each other 30133
by one-half inch of open space. 30134

In each of ~~such~~ those enclosed rectangular spaces, except the 30135
space provided for write-in candidates, shall be printed the names 30136
of the candidates for president and vice-president certified to 30137
the secretary of state or nominated as such in one of the 30138
following manners: 30139

(1) Nominated by the national convention of a political party 30140
to which delegates and alternates were elected in this state at 30141
the next preceding primary election ~~and the names of those~~ 30142
~~independent candidates nominated.~~ A political party certifying 30143
candidates so nominated shall certify the names of those 30144
candidates to the secretary of state on or before the sixtieth day 30145
before the day of the general election. 30146

(2) Nominated by nominating petition in accordance with 30147
section 3513.257 of the Revised Code. ~~The~~ Such a petition shall be 30148
filed on or before the seventy-fifth day before the day of the 30149

general election to provide sufficient time to verify the 30150
sufficiency and accuracy of signatures on it. 30151

(3) Certified to the secretary of state for placement on the 30152
presidential ballot by authorized officials of an intermediate or 30153
minor political party that has held a state or national convention 30154
for the purpose of choosing those candidates or that may, without 30155
a convention, certify those candidates in accordance with the 30156
procedure authorized by its party rules. The officials shall 30157
certify the names of those candidates to the secretary of state on 30158
or before the sixtieth day before the day of the general election. 30159
The certification shall be accompanied by a designation of a 30160
sufficient number of presidential electors to satisfy the 30161
requirements of law. 30162

The names of candidates for electors of president and 30163
vice-president shall not be placed on the ballot, but shall be 30164
certified to the secretary of state as required by sections 30165
3513.11 and 3513.257 of the Revised Code. ~~The names of candidates~~ 30166
~~for president and vice president may be certified to the secretary~~ 30167
~~of state, for placement on the presidential ballot, by authorized~~ 30168
~~officials of an intermediate or minor political party which has~~ 30169
~~held a state or national convention for the purpose of choosing~~ 30170
~~such candidates, or which may, without convention, certify such~~ 30171
~~candidates in accordance with the procedure authorized by its~~ 30172
~~party rules. Certification to the secretary of state of such~~ 30173
~~candidates shall be made on or before the seventy fifth day before~~ 30174
~~the day of the general election and shall be accompanied by~~ 30175
~~designation of a sufficient number of presidential electors to~~ 30176
~~satisfy the requirements of law. A vote for any of such candidates~~ 30177
for president and vice-president shall be a vote for the electors 30178
of ~~such~~ those candidates whose names have been certified to the 30179
secretary of state. 30180

(C) The arrangement of the printing in each of ~~such~~ the 30181

enclosed rectangular spaces shall be substantially as follows: 30182
Near the top and centered within the rectangular space shall be 30183
printed "For President" in ten-point boldface upper and lower case 30184
type. Below "For President" shall be printed the name of the 30185
candidate for president in twelve-point boldface upper case type. 30186
Below the name of the candidate for president shall be printed the 30187
name of the political party by which ~~such~~ that candidate for 30188
president was nominated in eight-point lightface upper and lower 30189
case type. Below the name of such political party shall be printed 30190
"For Vice-President" in ten-point boldface upper and lower case 30191
type. Below "For Vice-President" shall be printed the name of the 30192
candidate for vice-president in twelve-point boldface upper case 30193
type. Below the name of the candidate for vice-president shall be 30194
printed the name of the political party by which ~~such~~ that 30195
candidate for vice-president was nominated in eight-point 30196
lightface upper and lower case type. No political identification 30197
or name of any political party shall be printed below the names of 30198
presidential and vice-presidential candidates nominated by 30199
petition. 30200

The rectangular spaces on the ballot described in this 30201
section shall be rotated and printed as provided in section 30202
3505.03 of the Revised Code. 30203

Sec. 3517.092. (A) As used in this section: 30204

(1) "Appointing authority" has the same meaning as in section 30205
124.01 of the Revised Code. 30206

(2) "State elected officer" means any person appointed or 30207
elected to a state elective office. 30208

(3) "State elective office" means any of the offices of 30209
governor, lieutenant governor, secretary of state, auditor of 30210
state, treasurer of state, attorney general, member of the state 30211
board of education, member of the general assembly, and justice 30212

and chief justice of the supreme court.	30213
(4) "County elected officer" means any person appointed or elected to a county elective office.	30214 30215
(5) "County elective office" means any of the offices of county auditor, county treasurer, clerk of the court of common pleas, sheriff, county recorder, county engineer, county commissioner, prosecuting attorney, and coroner.	30216 30217 30218 30219
(6) "Contribution" includes a contribution to any political party, campaign committee, political action committee, political contributing entity, or legislative campaign fund.	30220 30221 30222
(B) No state elected officer, no campaign committee of such an officer, and no other person or entity shall knowingly solicit or accept a contribution on behalf of that officer or that officer's campaign committee from any of the following:	30223 30224 30225 30226
(1) A state employee whose appointing authority is the state elected officer;	30227 30228
(2) A state employee whose appointing authority is authorized or required by law to be appointed by the state elected officer;	30229 30230
(3) A state employee who functions in or is employed in or by the same public agency, department, division, or office as the state elected officer.	30231 30232 30233
(C) No candidate for a state elective office, no campaign committee of such a candidate, and no other person or entity shall knowingly solicit or accept a contribution on behalf of that candidate or that candidate's campaign committee from any of the following:	30234 30235 30236 30237 30238
(1) A state employee at the time of the solicitation, whose appointing authority will be the candidate, if elected;	30239 30240
(2) A state employee at the time of the solicitation, whose appointing authority will be appointed by the candidate, if	30241 30242

elected, as authorized or required by law; 30243

(3) A state employee at the time of the solicitation, who 30244
will function in or be employed in or by the same public agency, 30245
department, division, or office as the candidate, if elected. 30246

(D) No county elected officer, no campaign committee of such 30247
an officer, and no other person or entity shall knowingly solicit 30248
a contribution on behalf of that officer or that officer's 30249
campaign committee from any of the following: 30250

(1) A county employee whose appointing authority is the 30251
county elected officer; 30252

(2) A county employee whose appointing authority is 30253
authorized or required by law to be appointed by the county 30254
elected officer; 30255

(3) A county employee who functions in or is employed in or 30256
by the same public agency, department, division, or office as the 30257
county elected officer. 30258

(E) No candidate for a county elective office, no campaign 30259
committee of such a candidate, and no other person or entity shall 30260
knowingly solicit a contribution on behalf of that candidate or 30261
that candidate's campaign committee from any of the following: 30262

(1) A county employee at the time of the solicitation, whose 30263
appointing authority will be the candidate, if elected; 30264

(2) A county employee at the time of the solicitation, whose 30265
appointing authority will be appointed by the candidate, if 30266
elected, as authorized or required by law; 30267

(3) A county employee at the time of the solicitation, who 30268
will function in or be employed in or by the same public agency, 30269
department, division, or office as the candidate, if elected. 30270

(F)(1) No public employee shall solicit a contribution from 30271
any person while the public employee is performing the public 30272

employee's official duties or in those areas of a public building 30273
where official business is transacted or conducted. 30274

(2) No person shall solicit a contribution from any public 30275
employee while the public employee is performing the public 30276
employee's official duties or is in those areas of a public 30277
building where official business is transacted or conducted. 30278

(3) As used in division (F) of this section, "public 30279
employee" does not include any person holding an elective office. 30280

(G) The prohibitions in divisions (B), (C), (D), (E), and (F) 30281
of this section are in addition to the prohibitions in sections 30282
124.57, ~~1553.09~~, 3304.22, and 4503.032 of the Revised Code. 30283

Sec. 3701.02. There is hereby created a department of health. 30284
The department shall consist of a director of health ~~and~~, a public 30285
health council, and the Ohio occupational therapy, physical 30286
therapy, and athletic trainers board. 30287

Sec. 3701.021. (A) The public health council shall adopt, in 30288
accordance with Chapter 119. of the Revised Code, such rules as 30289
are necessary to carry out sections 3701.021 to ~~3701.028~~ 3701.0210 30290
of the Revised Code, including, but not limited to, rules to 30291
establish the following: 30292

(1) Medical and financial eligibility requirements for the 30293
program for medically handicapped children; 30294

(2) Eligibility requirements for providers of services for 30295
medically handicapped children; 30296

(3) Procedures to be followed by the department of health in 30297
disqualifying providers for violating requirements adopted under 30298
division (A)(2) of this section; 30299

(4) Procedures to be used by the department regarding 30300
application for diagnostic services under division (B) of section 30301

3701.023 of the Revised Code and payment for those services under	30302
division (E) of that section;	30303
(5) Standards for the provision of service coordination by	30304
the department of health and city and general health districts;	30305
(6) Procedures for the department to use to determine the	30306
amount to be paid annually by each county for services for	30307
medically handicapped children and to allow counties to retain	30308
funds under divisions (A)(2) and (3) of section 3701.024 of the	30309
Revised Code;	30310
(7) Financial eligibility requirements for services for Ohio	30311
residents twenty-one years of age or older who have cystic	30312
fibrosis;	30313
(8) Criteria for payment of approved providers who provide	30314
services for medically handicapped children;	30315
(9) Criteria for the department to use in determining whether	30316
the payment of health insurance premiums of participants in the	30317
program for medically handicapped children is cost-effective;	30318
(10) Procedures for appeal of denials of applications under	30319
divisions (A) and (D) of section 3701.023 of the Revised Code,	30320
disqualification of providers, and amounts paid for services;	30321
(11) Terms of appointment for members of the medically	30322
handicapped children's medical advisory council created in section	30323
3701.025 of the Revised Code;	30324
<u>(12) Eligibility requirements for the hemophilia program,</u>	30325
<u>including income and hardship requirements.</u>	30326
(B) The department of health shall develop a manual of	30327
operational procedures and guidelines for the program for	30328
medically handicapped children to implement sections 3701.021 to	30329
3701.028 <u>3701.0210</u> of the Revised Code.	30330

Sec. 3701.022. As used in sections 3701.021 to 3701.028	30331
<u>3701.0210</u> of the Revised Code:	30332
(A) "Medically handicapped child" means an Ohio resident	30333
under twenty-one years of age who suffers primarily from an	30334
organic disease, defect, or a congenital or acquired physically	30335
handicapping and associated condition that may hinder the	30336
achievement of normal growth and development.	30337
(B) "Provider" means a health professional, hospital, medical	30338
equipment supplier, and any individual, group, or agency that is	30339
approved by the department of health pursuant to division (C) of	30340
section 3701.023 of the Revised Code and that provides or intends	30341
to provide goods or services to a child who is eligible for the	30342
program for medically handicapped children.	30343
(C) "Service coordination" means case management services	30344
provided to medically handicapped children that promote effective	30345
and efficient organization and utilization of public and private	30346
resources and ensure that care rendered is family-centered,	30347
community-based, and coordinated.	30348
(D)(1) "Third party" means any person or government entity	30349
other than the following:	30350
(a) A medically handicapped child participating in the	30351
program for medically handicapped children or the child's parent	30352
or guardian;	30353
(b) The department or any program administered by the	30354
department, including the "Maternal and Child Health Block Grant,"	30355
Title V of the "Social Security Act," 95 Stat. 818 (1981), 42	30356
U.S.C.A. 701, as amended;	30357
(c) The "caring program for children" operated by the	30358
nonprofit community mutual insurance corporation.	30359
(2) "Third party" includes all of the following:	30360

(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;

(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;

(c) The program awarding reparations to victims of crime established under sections 2743.51 to 2743.72 of the Revised Code.

(E) "Third-party benefits" means any and all benefits paid by a third party to or on behalf of a medically handicapped child participating in the program or the child's parent or guardian for goods or services that are authorized by the department pursuant to division (B) or (D) of section 3701.023 of the Revised Code.

(F) "Hemophilia program" means the hemophilia program the department of health is required to establish and administer under section 3701.029 of the Revised Code.

Sec. 3701.024. (A)(1) Under a procedure established in rules adopted under section 3701.021 of the Revised Code, the department of health shall determine the amount each county shall provide annually for the program for medically handicapped children, based on a proportion of the county's total general property tax duplicate, not to exceed one-tenth of a mill ~~through fiscal year 2005 and three tenths of a mill thereafter~~, and charge the county for any part of expenses incurred under the program for treatment services on behalf of medically handicapped children having legal settlement in the county that is not paid from federal funds or through the medical assistance program established under section 5111.01 of the Revised Code. The department shall not charge the

county for expenses exceeding the difference between the amount 30391
determined under division (A)(1) of this section and any amounts 30392
retained under divisions (A)(2) and (3) of this section. 30393

All amounts collected by the department under division (A)(1) 30394
of this section shall be deposited into the state treasury to the 30395
credit of the medically handicapped children-county assessment 30396
fund, which is hereby created. The fund shall be used by the 30397
department to comply with sections 3701.021 to 3701.028 of the 30398
Revised Code. 30399

(2) The department, in accordance with rules adopted under 30400
section 3701.021 of the Revised Code, may allow each county to 30401
retain up to ten per cent of the amount determined under division 30402
(A)(1) of this section to provide funds to city or general health 30403
districts of the county with which the districts shall provide 30404
service coordination, public health nursing, or transportation 30405
services for medically handicapped children. 30406

(3) In addition to any amount retained under division (A)(2) 30407
of this section, the department, in accordance with rules adopted 30408
under section 3701.021 of the Revised Code, may allow counties 30409
that it determines have significant numbers of potentially 30410
eligible medically handicapped children to retain an amount equal 30411
to the difference between: 30412

(a) Twenty-five per cent of the amount determined under 30413
division (A)(1) of this section; 30414

(b) Any amount retained under division (A)(2) of this 30415
section. 30416

Counties shall use amounts retained under division (A)(3) of 30417
this section to provide funds to city or general health districts 30418
of the county with which the districts shall conduct outreach 30419
activities to increase participation in the program for medically 30420
handicapped children. 30421

(4) Prior to any increase in the millage charged to a county, 30422
the public health council shall hold a public hearing on the 30423
proposed increase and shall give notice of the hearing to each 30424
board of county commissioners that would be affected by the 30425
increase at least thirty days prior to the date set for the 30426
hearing. Any county commissioner may appear and give testimony at 30427
the hearing. Any increase in the millage any county is required to 30428
provide for the program for medically handicapped children shall 30429
be determined, and notice of the amount of the increase shall be 30430
provided to each affected board of county commissioners, no later 30431
than the first day of June of the fiscal year next preceding the 30432
fiscal year in which the increase will take effect. 30433

(B) Each board of county commissioners shall establish a 30434
medically handicapped children's fund and shall appropriate 30435
thereto an amount, determined in accordance with division (A)(1) 30436
of this section, for the county's share in providing medical, 30437
surgical, and other aid to medically handicapped children residing 30438
in such county and for the purposes specified in divisions (A)(2) 30439
and (3) of this section. Each county shall use money retained 30440
under divisions (A)(2) and (3) of this section only for the 30441
purposes specified in those divisions. 30442

Sec. 3701.029. Subject to available funds, the department of 30443
health shall establish and administer a hemophilia program to 30444
provide payment of health insurance premiums for Ohio residents 30445
who meet all of the following requirements: 30446

(A) Have been diagnosed with hemophilia or a related bleeding 30447
disorder; 30448

(B) Are at least twenty-one years of age; 30449

(C) Meet the eligibility requirements established by rules 30450
adopted under division (A)(12) of section 3701.021 of the Revised 30451

Code. 30452

Sec. ~~3701.145~~ 3701.0210. The director of health medically 30453
handicapped children's medical advisory council shall ~~establish~~ 30454
appoint a hemophilia advisory ~~council~~ subcommittee to advise the 30455
director ~~and the department~~ of health and council on all matters 30456
pertaining to the care and treatment of persons with hemophilia. 30457
~~The council~~ The duties of the subcommittee include, but are not 30458
limited to, the monitoring of care and treatment of children and 30459
adults who suffer from hemophilia or from other similar blood 30460
disorders. 30461

The subcommittee shall consist of not fewer than ~~nineteen~~ 30462
fifteen members, each of whom shall be appointed ~~by the director~~ 30463
to terms of four years. The members of the ~~council~~ subcommittee 30464
shall elect a chairperson from among the appointed membership to 30465
serve a term of two years. Members of the ~~council~~ subcommittee 30466
shall serve without compensation, except that they may be 30467
reimbursed for travel expenses to and from meetings of the ~~council~~ 30468
subcommittee. 30469

Members shall be appointed to represent all geographic areas 30470
of this state. Not fewer than five members of the ~~council~~ 30471
subcommittee shall be persons with hemophilia or family members of 30472
persons with hemophilia. Not fewer than five members shall be 30473
providers of health care services to persons with hemophilia. Not 30474
fewer than five members shall be experts in fields of importance 30475
to treatment of persons with hemophilia, including experts in 30476
infectious diseases, insurance, and law. 30477

~~The council shall submit to the director of health, the~~ 30478
~~governor, and the general assembly, a report no later than the~~ 30479
~~thirtieth day of September of each year summarizing the current~~ 30480
~~status and needs of persons in this state with hemophilia and of~~ 30481
~~family members of persons with hemophilia.~~ 30482

~~Notwithstanding section 101.83 of the Revised Code, that~~ 30483
~~section does not apply to the medically handicapped children's~~ 30484
~~medical advisory council hemophilia advisory subcommittee, and the~~ 30485
~~subcommittee shall not expire under that section.~~ 30486

Sec. 3701.141. (A) There is hereby created in the department 30487
of health the ~~office of women's health initiatives~~ program, 30488
~~consisting of the chief of the office and an administrative~~ 30489
~~assistant. To the extent of available funds, other positions~~ 30490
~~determined necessary and relevant by the director of health may be~~ 30491
~~added. The administrative assistant and all other employees~~ 30492
~~assigned to the office shall report to the chief and the chief to~~ 30493
~~the director or the deputy specified by the director.~~ 30494

(B) To the extent funds are available, the ~~office of women's~~ 30495
health ~~initiatives~~ program shall: 30496

(1) Identify, review, and assist the director in the 30497
coordination of programs and resources the department of health is 30498
committing to women's health concerns, including the department's 30499
women's and infants' program activities; 30500

(2) Advocate for women's health by requesting that the 30501
department conduct, sponsor, encourage, or fund research; 30502
establish additional programs regarding women's health concerns as 30503
needed; and monitor the research and program efforts; 30504

(3) Collect, classify, and store relevant research conducted 30505
by the department or other entities, and provide, unless otherwise 30506
prohibited by law, interested persons access to research results; 30507

(4) ~~Generate~~ Apply for grant ~~activities~~ opportunities. 30508

~~(C) Prior to the director's report to the governor on the~~ 30509
~~department's biennial budget request, the office of women's health~~ 30510
~~initiatives shall submit in writing to the director of health a~~ 30511
~~biennial report of recommended programs, projects, and research to~~ 30512

~~address critical issues in women's health.~~ 30513

Sec. 3701.342. After consultation with the public health 30514
standards task force established under section 3701.343 of the 30515
Revised Code, the public health council shall adopt rules 30516
establishing minimum standards and optimum achievable standards 30517
for boards of health and local health departments. The minimum 30518
standards shall assure that boards of health and local health 30519
departments provide for the following: 30520

(A) Analysis and prevention of communicable disease; 30521

(B) Analysis of the causes of, and appropriate treatment for, 30522
the leading causes of morbidity and mortality; 30523

(C) The administration and management of the local health 30524
department; 30525

(D) Access to primary health care by medically underserved 30526
individuals; 30527

(E) Environmental health management programs; 30528

(F) Health promotion services designed to encourage 30529
individual and community wellness. 30530

The public health council shall adopt rules establishing a 30531
formula for distribution of state health district subsidy funds to 30532
boards of health and local health departments. The formula shall 30533
provide no subsidy funds to a board or department unless it meets 30534
minimum standards and shall provide higher funding levels for 30535
boards and districts that meet optimum achievable standards. 30536

~~Notwithstanding section 119.03 of the Revised Code, rules 30537
adopted under this section shall not take effect unless approved 30538
by concurrent resolution of the general assembly.~~ 30539

Sec. 3701.61. (A) The department of health shall establish 30540
the help me grow program for the purpose of encouraging early 30541

prenatal and well-baby care. The program shall include 30542
distributing subsidies to counties to provide the following 30543
services: 30544

(1) Home-visiting services to newborn infants and their 30545
families; 30546

(2) Services to infants and toddlers under three years of age 30547
who are at risk for, or who have, a developmental delay or 30548
disability and their families. 30549

(B) The department shall not provide home-visiting services 30550
under the help me grow program unless requested in writing by a 30551
parent of the infant or toddler. 30552

(C) Pursuant to Chapter 119. of the Revised Code, the 30553
department shall adopt rules that are necessary and proper to 30554
implement this section. 30555

Sec. 3701.82. (A) A brazier, salamander, space heater, room 30556
heater, furnace, water heater, or other burner or heater using 30557
wood, coal, coke, fuel oil, kerosene, gasoline, natural gas, 30558
liquid petroleum gas, or similar fuel, and tending to give off 30559
carbon monoxide or other harmful gases: 30560

(1) When used in living quarters, or in any enclosed building 30561
or space in which persons are usually present, shall be used with 30562
a flue or vent so designed, installed, and maintained as to vent 30563
the products of combustion outdoors; except in storage, factory, 30564
or industrial buildings which are provided with sufficient 30565
ventilation to avoid the danger of carbon monoxide poisoning; 30566

(2) When used as a portable or temporary burner or heater at 30567
a construction site, or in a warehouse, shed, or structure in 30568
which persons are temporarily present, shall be vented as provided 30569
in division (A)(1) of this section, or used with sufficient 30570
ventilation to avoid the danger of carbon monoxide poisoning. 30571

(B) This section does not apply to domestic ranges, laundry stoves, gas logs installed in a fireplace with an adequate flue, or hot plates, unless the same are used as space or room heaters.

(C) No person shall negligently use, or, being the owner, person in charge, or occupant of premises, negligently permit the use of a burner or heater in violation of the standards for venting and ventilation provided in this section.

(D) Division (A) of this section does not apply to any kerosene-fired space or room heater that is equipped with an automatic extinguishing tip-over device, or to any natural gas-fired or liquid petroleum gas-fired space or room heater that is equipped with an oxygen depletion safety shutoff system, and that has its fuel piped from a source outside of the building in which it is located, that are approved by an authoritative source recognized ~~by the state fire marshal~~ in the state fire code adopted ~~by him~~ under section 3737.82 of the Revised Code.

(E) The state fire marshal may make rules to ensure the safe use of unvented kerosene, natural gas, or liquid petroleum gas heaters exempted from division (A) of this section when used in assembly buildings, business buildings, high hazard buildings, institutional buildings, mercantile buildings, and type R-1 and R-2 residential buildings, as these groups of buildings are defined in rules adopted by the board of building and fire standards under section 3781.10 of the Revised Code. No person shall negligently use, or, being the owner, person in charge, or occupant of premises, negligently permit the use of a heater in violation of any rules adopted under this division.

(F) The state fire marshal may make rules prescribing standards for written instructions containing ventilation requirements and warning of any potential fire hazards that may occur in using a kerosene, natural gas, or liquid petroleum gas

heater. No person shall sell or offer for sale any kerosene, 30603
natural gas, or liquid petroleum gas heater unless the 30604
manufacturer provides with the heater written instructions that 30605
comply with any rules adopted under this division. 30606

(G) No product labeled as a fuel additive for kerosene 30607
heaters and having a flash point below one hundred degrees 30608
fahrenheit or thirty-seven and eight-tenths degrees centigrade 30609
shall be sold, offered for sale, or used in any kerosene space 30610
heater. 30611

(H) No device that prohibits any safety feature on a 30612
kerosene, natural gas, or liquid petroleum gas space heater from 30613
operating shall be sold, offered for sale, or used in connection 30614
with any kerosene, natural gas, or liquid petroleum gas space 30615
heater. 30616

(I) No person shall sell or offer for sale any 30617
kerosene-fired, natural gas, or liquid petroleum gas-fired heater 30618
that is not exempt from division (A) of this section unless it is 30619
marked conspicuously by the manufacturer on the container with the 30620
phrase "Not Approved For Home Use." 30621

(J) No person shall use a cabinet-type, liquid petroleum 30622
gas-fired heater having a fuel source within the heater, inside 30623
any building, except as permitted ~~by the state fire marshal~~ in the 30624
state fire code adopted ~~by him~~ under section 3737.82 of the 30625
Revised Code. 30626

Sec. 3701.83. (A) There is hereby created in the state 30627
treasury the general operations fund. Moneys in the fund shall be 30628
used for the purposes specified in sections 3701.04, 3701.344, 30629
~~3701.88,~~ 3702.20, 3710.15, 3711.021, 3717.45, 3721.02, 3722.04, 30630
3733.04, 3733.25, 3733.43, 3748.04, 3748.05, 3748.07, 3748.12, 30631
3748.13, 3749.04, 3749.07, 4747.04, 4751.04, and 4769.09 of the 30632
Revised Code. 30633

(B) The alcohol testing program fund is hereby created in the state treasury. The director of health shall use the fund to administer and enforce the alcohol testing and permit program authorized by section 3701.143 of the Revised Code.

The fund shall receive transfers from the liquor control fund created under section 4301.12 of the Revised Code. All investment earnings of the alcohol testing program fund shall be credited to the fund.

Sec. 3701.881. (A) As used in this section:

(1) "Applicant" means both of the following:

(a) A person who is under final consideration for appointment or employment with a home health agency in a position as a person responsible for the care, custody, or control of a child;

(b) A person who is under final consideration for employment with a home health agency in a full-time, part-time, or temporary position that involves providing direct care to an older adult. With regard to persons providing direct care to older adults, "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.

(2) "Criminal records check" and "older adult" have the same meanings as in section 109.572 of the Revised Code.

(3) "~~Home health agency" has the same meaning as in section 3701.88 of the Revised Code~~ means a person or government entity, other than a nursing home, residential care facility, or hospice care program, that has the primary function of providing any of the following services to a patient at a place of residence used as the patient's home:

(a) Skilled nursing care;

<u>(b) Physical therapy;</u>	30663
<u>(c) Speech-language pathology;</u>	30664
<u>(d) Occupational therapy;</u>	30665
<u>(e) Medical social services;</u>	30666
<u>(f) Home health aide services.</u>	30667
<u>(4) "Home health aide services" means any of the following</u>	30668
<u>services provided by an individual employed with or contracted for</u>	30669
<u>by a home health agency:</u>	30670
<u>(a) Hands-on bathing or assistance with a tub bath or shower;</u>	30671
<u>(b) Assistance with dressing, ambulation, and toileting;</u>	30672
<u>(c) Catheter care but not insertion;</u>	30673
<u>(d) Meal preparation and feeding.</u>	30674
<u>(5) "Hospice care program" has the same meaning as in section</u>	30675
<u>3712.01 of the Revised Code.</u>	30676
<u>(6) "Medical social services" means services provided by a</u>	30677
<u>social worker under the direction of a patient's attending</u>	30678
<u>physician.</u>	30679
<u>(7) "Minor drug possession offense" has the same meaning as</u>	30680
<u>in section 2925.01 of the Revised Code.</u>	30681
<u>(8) "Nursing home," "residential care facility," and "skilled</u>	30682
<u>nursing care" have the same meanings as in section 3721.01 of the</u>	30683
<u>Revised Code.</u>	30684
<u>(9) "Occupational therapy" has the same meaning as in section</u>	30685
<u>4755.01 of the Revised Code.</u>	30686
<u>(10) "Physical therapy" has the same meaning as in section</u>	30687
<u>4755.40 of the Revised Code.</u>	30688
<u>(11) "Social worker" means a person licensed under Chapter</u>	30689
<u>4757. of the Revised Code to practice as a social worker or</u>	30690

independent social worker. 30691

(12) "Speech-language pathology" has the same meaning as in 30692
section 4753.01 of the Revised Code. 30693

(B)(1) Except as provided in division (I) of this section, 30694
the chief administrator of a home health agency shall request the 30695
superintendent of the bureau of criminal identification and 30696
investigation to conduct a criminal records check with respect to 30697
each applicant. If the position may involve both responsibility 30698
for the care, custody, or control of a child and provision of 30699
direct care to an older adult, the chief administrator shall 30700
request that the superintendent conduct a single criminal records 30701
check for the applicant. If an applicant for whom a criminal 30702
records check request is required under this division does not 30703
present proof of having been a resident of this state for the 30704
five-year period immediately prior to the date upon which the 30705
criminal records check is requested or does not provide evidence 30706
that within that five-year period the superintendent has requested 30707
information about the applicant from the federal bureau of 30708
investigation in a criminal records check, the chief administrator 30709
shall request that the superintendent obtain information from the 30710
federal bureau of investigation as a part of the criminal records 30711
check for the applicant. Even if an applicant for whom a criminal 30712
records check request is required under this division presents 30713
proof that the applicant has been a resident of this state for 30714
that five-year period, the chief administrator may request that 30715
the superintendent include information from the federal bureau of 30716
investigation in the criminal records check. 30717

(2) Any person required by division (B)(1) of this section to 30718
request a criminal records check shall provide to each applicant 30719
for whom a criminal records check request is required under that 30720
division a copy of the form prescribed pursuant to division (C)(1) 30721
of section 109.572 of the Revised Code and a standard impression 30722

sheet prescribed pursuant to division (C)(2) of section 109.572 of 30723
the Revised Code, obtain the completed form and impression sheet 30724
from each applicant, and forward the completed form and impression 30725
sheet to the superintendent of the bureau of criminal 30726
identification and investigation at the time the chief 30727
administrator requests a criminal records check pursuant to 30728
division (B)(1) of this section. 30729

(3) An applicant who receives pursuant to division (B)(2) of 30730
this section a copy of the form prescribed pursuant to division 30731
(C)(1) of section 109.572 of the Revised Code and a copy of an 30732
impression sheet prescribed pursuant to division (C)(2) of that 30733
section and who is requested to complete the form and provide a 30734
set of fingerprint impressions shall complete the form or provide 30735
all the information necessary to complete the form and shall 30736
provide the impression sheets with the impressions of the 30737
applicant's fingerprints. If an applicant, upon request, fails to 30738
provide the information necessary to complete the form or fails to 30739
provide fingerprint impressions, the home health agency shall not 30740
employ that applicant for any position for which a criminal 30741
records check is required by division (B)(1) of this section. 30742

(C)(1) Except as provided in rules adopted by the department 30743
of health in accordance with division (F) of this section and 30744
subject to division (C)(3) of this section, no home health agency 30745
shall employ a person as a person responsible for the care, 30746
custody, or control of a child if the person previously has been 30747
convicted of or pleaded guilty to any of the following: 30748

(a) A violation of section 2903.01, 2903.02, 2903.03, 30749
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 30750
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 30751
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 30752
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 30753
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 30754

2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 30755
2925.06, or 3716.11 of the Revised Code, a violation of section 30756
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 30757
violation of section 2919.23 of the Revised Code that would have 30758
been a violation of section 2905.04 of the Revised Code as it 30759
existed prior to July 1, 1996, had the violation been committed 30760
prior to that date, a violation of section 2925.11 of the Revised 30761
Code that is not a minor drug possession offense, or felonious 30762
sexual penetration in violation of former section 2907.12 of the 30763
Revised Code; 30764

(b) A violation of an existing or former law of this state, 30765
any other state, or the United States that is substantially 30766
equivalent to any of the offenses listed in division (C)(1)(a) of 30767
this section. 30768

(2) Except as provided in rules adopted by the department of 30769
health in accordance with division (F) of this section and subject 30770
to division (C)(3) of this section, no home health agency shall 30771
employ a person in a position that involves providing direct care 30772
to an older adult if the person previously has been convicted of 30773
or pleaded guilty to any of the following: 30774

(a) A violation of section 2903.01, 2903.02, 2903.03, 30775
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 30776
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 30777
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 30778
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 30779
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 30780
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 30781
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 30782
2925.22, 2925.23, or 3716.11 of the Revised Code. 30783

(b) A violation of an existing or former law of this state, 30784
any other state, or the United States that is substantially 30785
equivalent to any of the offenses listed in division (C)(2)(a) of 30786

this section. 30787

(3)(a) A home health agency may employ conditionally an 30788
applicant for whom a criminal records check request is required 30789
under division (B) of this section as a person responsible for the 30790
care, custody, or control of a child until the criminal records 30791
check regarding the applicant required by this section is 30792
completed and the agency receives the results of the criminal 30793
records check. If the results of the criminal records check 30794
indicate that, pursuant to division (C)(1) of this section, the 30795
applicant does not qualify for employment, the agency shall 30796
release the applicant from employment unless the agency chooses to 30797
employ the applicant pursuant to division (F) of this section. 30798

(b)(i) A home health agency may employ conditionally an 30799
applicant for whom a criminal records check request is required 30800
under division (B) of this section in a position that involves 30801
providing direct care to an older adult or in a position that 30802
involves both responsibility for the care, custody, and control of 30803
a child and the provision of direct care to older adults prior to 30804
obtaining the results of a criminal records check regarding the 30805
individual, provided that the agency shall request a criminal 30806
records check regarding the individual in accordance with division 30807
(B)(1) of this section not later than five business days after the 30808
individual begins conditional employment. In the circumstances 30809
described in division (I)(2) of this section, a home health agency 30810
may employ conditionally in a position that involves providing 30811
direct care to an older adult an applicant who has been referred 30812
to the home health agency by an employment service that supplies 30813
full-time, part-time, or temporary staff for positions involving 30814
the direct care of older adults and for whom, pursuant to that 30815
division, a criminal records check is not required under division 30816
(B) of this section. In the circumstances described in division 30817
(I)(4) of this section, a home health agency may employ 30818

conditionally in a position that involves both responsibility for 30819
the care, custody, and control of a child and the provision of 30820
direct care to older adults an applicant who has been referred to 30821
the home health agency by an employment service that supplies 30822
full-time, part-time, or temporary staff for positions involving 30823
both responsibility for the care, custody, and control of a child 30824
and the provision of direct care to older adults and for whom, 30825
pursuant to that division, a criminal records check is not 30826
required under division (B) of this section. 30827

(ii) A home health agency that employs an individual 30828
conditionally under authority of division (C)(3)(b)(i) of this 30829
section shall terminate the individual's employment if the results 30830
of the criminal records check requested under division (B)(1) of 30831
this section or described in division (I)(2) or (4) of this 30832
section, other than the results of any request for information 30833
from the federal bureau of investigation, are not obtained within 30834
the period ending sixty days after the date the request is made. 30835
Regardless of when the results of the criminal records check are 30836
obtained, if the individual was employed conditionally in a 30837
position that involves the provision of direct care to older 30838
adults and the results indicate that the individual has been 30839
convicted of or pleaded guilty to any of the offenses listed or 30840
described in division (C)(2) of this section, or if the individual 30841
was employed conditionally in a position that involves both 30842
responsibility for the care, custody, and control of a child and 30843
the provision of direct care to older adults and the results 30844
indicate that the individual has been convicted of or pleaded 30845
guilty to any of the offenses listed or described in division 30846
(C)(1) or (2) of this section, the agency shall terminate the 30847
individual's employment unless the agency chooses to employ the 30848
individual pursuant to division (F) of this section. Termination 30849
of employment under this division shall be considered just cause 30850
for discharge for purposes of division (D)(2) of section 4141.29 30851

of the Revised Code if the individual makes any attempt to deceive 30852
the agency about the individual's criminal record. 30853

(D)(1) Each home health agency shall pay to the bureau of 30854
criminal identification and investigation the fee prescribed 30855
pursuant to division (C)(3) of section 109.572 of the Revised Code 30856
for each criminal records check conducted in accordance with that 30857
section upon the request pursuant to division (B)(1) of this 30858
section of the chief administrator of the home health agency. 30859

(2) A home health agency may charge an applicant a fee for 30860
the costs it incurs in obtaining a criminal records check under 30861
this section, unless the medical assistance program established 30862
under Chapter 5111. of the Revised Code reimburses the agency for 30863
the costs. A fee charged under division (D)(2) of this section 30864
shall not exceed the amount of fees the agency pays under division 30865
(D)(1) of this section. If a fee is charged under division (D)(2) 30866
of this section, the agency shall notify the applicant at the time 30867
of the applicant's initial application for employment of the 30868
amount of the fee and that, unless the fee is paid, the agency 30869
will not consider the applicant for employment. 30870

(E) The report of any criminal records check conducted by the 30871
bureau of criminal identification and investigation in accordance 30872
with section 109.572 of the Revised Code and pursuant to a request 30873
made under division (B)(1) of this section is not a public record 30874
for the purposes of section 149.43 of the Revised Code and shall 30875
not be made available to any person other than the following: 30876

(1) The individual who is the subject of the criminal records 30877
check or the individual's representative; 30878

(2) The home health agency requesting the criminal records 30879
check or its representative; 30880

(3) The administrator of any other facility, agency, or 30881
program that provides direct care to older adults that is owned or 30882

operated by the same entity that owns or operates the home health agency; 30883
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(4) Any 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; 30885
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(5) Any person to whom the report is provided pursuant to, and in accordance with, division (I)(1), (2), (3), or (4) of this section. 30889
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(F) The department of health shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which the home health 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 who meets standards in regard to rehabilitation set by the department or employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(2) of this section but meets personal character standards set by the department. 30892
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(G) Any person required by division (B)(1) of this section to request a criminal records check shall inform each person, at the time of initial application for employment that the person is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for that position. 30902
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(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an individual who a home health agency employs 30911
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in a position that involves providing direct care to older adults, 30914
all of the following shall apply: 30915

(1) If the agency employed the individual in good faith and 30916
reasonable reliance on the report of a criminal records check 30917
requested under this section, the agency shall not be found 30918
negligent solely because of its reliance on the report, even if 30919
the information in the report is determined later to have been 30920
incomplete or inaccurate; 30921

(2) If the agency employed the individual in good faith on a 30922
conditional basis pursuant to division (C)(3)(b) of this section, 30923
the agency shall not be found negligent solely because it employed 30924
the individual prior to receiving the report of a criminal records 30925
check requested under this section; 30926

(3) If the agency in good faith employed the individual 30927
according to the personal character standards established in rules 30928
adopted under division (F) of this section, the agency shall not 30929
be found negligent solely because the individual prior to being 30930
employed had been convicted of or pleaded guilty to an offense 30931
listed or described in division (C)(1) or (2) of this section. 30932

(I)(1) The chief administrator of a home health agency is not 30933
required to request that the superintendent of the bureau of 30934
criminal identification and investigation conduct a criminal 30935
records check of an applicant for a position that involves the 30936
provision of direct care to older adults if the applicant has been 30937
referred to the agency by an employment service that supplies 30938
full-time, part-time, or temporary staff for positions involving 30939
the direct care of older adults and both of the following apply: 30940

(a) The chief administrator receives from the employment 30941
service or the applicant a report of the results of a criminal 30942
records check regarding the applicant that has been conducted by 30943
the superintendent within the one-year period immediately 30944

preceding the applicant's referral; 30945

(b) The report of the criminal records check demonstrates 30946
that the person has not been convicted of or pleaded guilty to an 30947
offense listed or described in division (C)(2) of this section, or 30948
the report demonstrates that the person has been convicted of or 30949
pleaded guilty to one or more of those offenses, but the home 30950
health agency chooses to employ the individual pursuant to 30951
division (F) of this section. 30952

(2) The chief administrator of a home health agency is not 30953
required to request that the superintendent of the bureau of 30954
criminal identification and investigation conduct a criminal 30955
records check of an applicant for a position that involves 30956
providing direct care to older adults and may employ the applicant 30957
conditionally in a position of that nature as described in this 30958
division, if the applicant has been referred to the agency by an 30959
employment service that supplies full-time, part-time, or 30960
temporary staff for positions involving the direct care of older 30961
adults and if the chief administrator receives from the employment 30962
service or the applicant a letter from the employment service that 30963
is on the letterhead of the employment service, dated, and signed 30964
by a supervisor or another designated official of the employment 30965
service and that states that the employment service has requested 30966
the superintendent to conduct a criminal records check regarding 30967
the applicant, that the requested criminal records check will 30968
include a determination of whether the applicant has been 30969
convicted of or pleaded guilty to any offense listed or described 30970
in division (C)(2) of this section, that, as of the date set forth 30971
on the letter, the employment service had not received the results 30972
of the criminal records check, and that, when the employment 30973
service receives the results of the criminal records check, it 30974
promptly will send a copy of the results to the home health 30975
agency. If a home health agency employs an applicant conditionally 30976

in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the home health agency, and division (C)(3)(b) of this section applies regarding the conditional employment.

(3) The chief administrator of a home health agency is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant for a position that involves both responsibility for the care, custody, and control of a child and the provision of direct care to older adults if the applicant has been referred to the agency by an employment service that supplies full-time, part-time, or temporary staff for positions involving both responsibility for the care, custody, and control of a child and the provision of direct care to older adults and both of the following apply:

(a) The chief administrator receives from the employment service or applicant a report of a criminal records check of the type described in division (I)(1)(a) of this section;

(b) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) or (2) of this section, or the report demonstrates that the person has been convicted of or pleaded guilty to one or more of those offenses, but the home health agency chooses to employ the individual pursuant to division (F) of this section.

(4) The chief administrator of a home health agency is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant for a position that involves both responsibility for the care, custody, and control of a child and the provision of direct care to older adults and may employ the

applicant conditionally in a position of that nature as described 31009
in this division, if the applicant has been referred to the agency 31010
by an employment service that supplies full-time, part-time, or 31011
temporary staff for positions involving both responsibility for 31012
the care, custody, and control of a child and the direct care of 31013
older adults and if the chief administrator receives from the 31014
employment service or the applicant a letter from the employment 31015
service that is on the letterhead of the employment service, 31016
dated, and signed by a supervisor or another designated official 31017
of the employment service and that states that the employment 31018
service has requested the superintendent to conduct a criminal 31019
records check regarding the applicant, that the requested criminal 31020
records check will include a determination of whether the 31021
applicant has been convicted of or pleaded guilty to any offense 31022
listed or described in division (C)(1) or (2) of this section, 31023
that, as of the date set forth on the letter, the employment 31024
service had not received the results of the criminal records 31025
check, and that, when the employment service receives the results 31026
of the criminal records check, it promptly will send a copy of the 31027
results to the home health agency. If a home health agency employs 31028
an applicant conditionally in accordance with this division, the 31029
employment service, upon its receipt of the results of the 31030
criminal records check, promptly shall send a copy of the results 31031
to the home health agency, and division (C)(3)(b) of this section 31032
applies regarding the conditional employment. 31033

Sec. 3701.99. (A) Whoever violates section 3701.25 of the 31034
Revised Code is guilty of a minor misdemeanor on a first offense; 31035
on each subsequent offense, the person is guilty of a misdemeanor 31036
of the second degree. 31037

(B) Whoever violates division (I) of section 3701.262, 31038
division (D) of section 3701.263, or section 3701.352 or sections 31039
3701.46 to 3701.55 of the Revised Code is guilty of a minor 31040

misdemeanor on a first offense; on each subsequent offense, the person is guilty of a misdemeanor of the fourth degree.

(C) Whoever violates section 3701.82 of the Revised Code is guilty of a misdemeanor of the first degree.

(D) Whoever violates section 3701.81 of the Revised Code is guilty of a misdemeanor of the second degree.

~~(E) Whoever violates division (G) of section 3701.88 of the Revised Code shall be fined not more than one hundred dollars. Each day the violation continues is a separate offense.~~

Sec. 3702.31. (A) The quality monitoring and inspection fund is hereby created in the state treasury. The director of health shall use the fund to administer and enforce this section and sections 3702.11 to 3702.20, 3702.30, and 3702.32 of the Revised Code and rules adopted pursuant to those sections. The director shall deposit in the fund any moneys collected pursuant to this section or section 3702.32 of the Revised Code. All investment earnings of the fund shall be credited to the fund.

(B) The director of health shall adopt rules pursuant to Chapter 119. of the Revised Code establishing fees for both of the following:

(1) Initial and renewal license applications submitted under section 3702.30 of the Revised Code. The fees established under division (B)(1) of this section shall not exceed the actual and necessary costs of performing the activities described in division (A) of this section.

(2) Inspections conducted under section 3702.15 or 3702.30 of the Revised Code. The fees established under division (B)(2) of this section shall not exceed the actual and necessary costs incurred during an inspection, including any indirect costs incurred by the department for staff, salary, or other

administrative costs. The director of health shall provide to each 31071
health care facility or provider inspected pursuant to section 31072
3702.15 or 3702.30 of the Revised Code a written statement of the 31073
fee. The statement shall itemize and total the costs incurred. 31074
Within fifteen days after receiving a statement from the director, 31075
the facility or provider shall forward the total amount of the fee 31076
to the director. 31077

(3) The fees described in divisions (B)(1) and (2) of this 31078
section shall meet both of the following requirements: 31079

(a) For each service described in section 3702.11 of the 31080
Revised Code, the fee shall not exceed one thousand ~~two~~ seven 31081
hundred fifty dollars annually, except that the total fees charged 31082
to a health care provider under this section shall not exceed five 31083
thousand dollars annually. 31084

(b) The fee shall exclude any costs reimbursable by the 31085
United States health care financing administration as part of the 31086
certification process for the medicare program established under 31087
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 31088
U.S.C.A. 301, as amended, and the medicaid program established 31089
under Title XIX of that act. 31090

(4) The director shall not establish a fee for any service 31091
for which a licensure or inspection fee is paid by the health care 31092
provider to a state agency for the same or similar licensure or 31093
inspection. 31094

Sec. 3702.529. (A) A person granted a nonreviewability ruling 31095
prior to April 20, 1995, may implement the activity for which the 31096
ruling was issued in accordance with the information provided to 31097
the director of health in the request for the ruling, 31098
notwithstanding the amendments to sections 3702.51 to 3702.62 of 31099
the Revised Code by Amended Substitute Senate Bill No. 50 and 31100
Amended Substitute Senate Bill No. 156, both of the 121st general 31101

assembly. A person granted a certificate of need or 31102
nonreviewability ruling prior to that date is not required to file 31103
a notice of intent under section 3702.581 of the Revised Code, as 31104
that section existed prior to the effective date of this 31105
amendment, with respect to the activity for which the certificate 31106
or ruling was issued. 31107

(B) A certificate of need is not required for any person to 31108
add a cardiac catheterization laboratory to an existing cardiac 31109
catheterization service, as described in division (R)(11) of 31110
section 3702.51 of the Revised Code, if the person, prior to ~~the~~ 31111
~~effective date of this section June 30, 1995~~, filed a notice of 31112
intent under section 3702.581 of the Revised Code, as that section 31113
existed prior to the effective date of this amendment, to do so. 31114
However, the exemption provided by this division expires six 31115
months after ~~the effective date of this section June 30, 1995~~, 31116
unless the person has taken action to implement the addition by 31117
taking the applicable action listed in divisions (A)(1) to (6) of 31118
section 3702.525 of the Revised Code and provides the director 31119
with written documentation that action has been taken. 31120

(C) The director shall issue a reviewability ruling, in 31121
accordance with the version of section 3702.528 of the Revised 31122
Code in effect immediately prior to ~~the effective date of this~~ 31123
~~section June 30, 1995~~, to any hospital that requested one prior to 31124
that date concerning a relocation of any of the following to 31125
another hospital in the same or a different metropolitan 31126
statistical area: 31127

(1) Obstetric or newborn care beds registered under section 31128
3701.07 of the Revised Code as level II or III beds; 31129

(2) Pediatric intensive care beds; 31130

(3) A health service specified in division (R)(1) of section 31131
3702.51 of the Revised Code. 31132

A certificate of need is not required to conduct such a 31133
relocation for which the director has issued a nonreviewability 31134
ruling. However, the exemption provided by this division expires 31135
six months after ~~the effective date of this section~~ June 30, 1995, 31136
unless the hospital has taken action to implement the relocation 31137
by taking the applicable action listed in divisions (A)(1) to (6) 31138
of section 3702.525 of the Revised Code and provides the director 31139
with written documentation that action has been taken. 31140

The director shall not issue a reviewability ruling requested 31141
under the previous version of section 3702.528 of the Revised Code 31142
concerning a relocation of long-term care beds. 31143

(D) A certificate of need is not required to relocate 31144
existing health services from one hospital to another, as 31145
described in division (T) of the version of section 3702.51 of the 31146
Revised Code in effect immediately prior to ~~the effective date of~~ 31147
~~this section~~ June 30, 1995, if the hospitals filed the notice of 31148
intent required by division (T)(2) of that version prior to ~~the~~ 31149
~~effective date of this amendment~~ June 30, 1995, and comply with 31150
divisions (T)(1) and (T)(3) to (6) of that version. 31151

Sec. 3702.53. (A) No person shall carry out any reviewable 31152
activity unless a certificate of need for such activity has been 31153
granted under sections 3702.51 to 3702.62 of the Revised Code or 31154
the person is exempted by division (T) of section 3702.51 or 31155
section 3702.527, 3702.528, 3702.529, 3702.5210, or 3702.62 of the 31156
Revised Code from the requirement that a certificate of need be 31157
obtained. No person shall carry out any reviewable activity if a 31158
certificate of need authorizing that activity has been withdrawn 31159
by the director of health under section 3702.52 or 3702.526 of the 31160
Revised Code. No person shall carry out a reviewable activity if 31161
the certificate of need authorizing that activity is void pursuant 31162
to section 3702.524 of the Revised Code or has expired pursuant to 31163

section 3702.525 of the Revised Code. 31164

(B) No person shall separate portions of any proposal for any 31165
reviewable activity to evade the requirements of sections 3702.51 31166
to 3702.62 of the Revised Code. 31167

(C) No person granted a certificate of need shall carry out 31168
the reviewable activity authorized by the certificate of need 31169
other than in substantial accordance with the approved application 31170
for the certificate of need. 31171

~~(D) No person shall fail to file a notice required by section 31172
3702.581 of the Revised Code. 31173~~

Sec. 3702.532. When the director of health determines that a 31174
person has violated section 3702.53 of the Revised Code, the 31175
director shall send a notice to the person by certified mail, 31176
return receipt requested, specifying the activity constituting the 31177
violation and the penalties imposed under section 3702.54, 31178
3702.541, or 3702.542, ~~or 3702.543~~ of the Revised Code. 31179

Sec. 3702.54. Except as provided in sections 3702.541~~7~~ and 31180
3702.542~~7~~ and former section 3702.543 of the Revised Code, 31181
divisions (A) and (B) of this section apply when the director of 31182
health determines that a person has violated section 3702.53 of 31183
the Revised Code. 31184

(A) The director shall impose a civil penalty on the person 31185
in an amount equal to the greatest of the following: 31186

(1) Three thousand dollars; 31187

(2) Five per cent of the operating cost of the activity that 31188
constitutes the violation during the period of time it was 31189
conducted in violation of section 3702.53 of the Revised Code; 31190

(3) Two per cent of the total capital cost associated with 31191
implementation of the activity. 31192

In no event, however, shall the penalty exceed two hundred 31193
fifty thousand dollars. 31194

(B)(1) Notwithstanding section 3702.52 of the Revised Code, 31195
the director shall refuse to accept for review any application for 31196
a certificate of need filed by or on behalf of the person, or any 31197
successor to the person or entity related to the person, for a 31198
period of not less than one year and not more than three years 31199
after ~~he~~ the director mails the notice of ~~his~~ the director's 31200
determination under section 3702.532 of the Revised Code or, if 31201
~~his~~ the determination is appealed under section 3702.60 of the 31202
Revised Code, the issuance of the order upholding ~~his~~ the 31203
determination that is not subject to further appeal. In 31204
determining the length of time during which ~~he will not accept~~ 31205
applications will not be accepted, the director may consider any 31206
of the following: 31207

(a) The nature and magnitude of the violation; 31208

(b) The ability of the person to have averted the violation; 31209

(c) Whether the person disclosed the violation to the 31210
director before the director commenced his investigation; 31211

(d) The person's history of compliance with sections 3702.51 31212
to 3702.62 and the rules adopted under section 3702.57 of the 31213
Revised Code; 31214

(e) Any community hardship that may result from refusing to 31215
accept future applications from the person. 31216

(2) Notwithstanding the one-year minimum imposed by division 31217
(B)(1) of this section, the director may establish a period of 31218
less than one year during which ~~he~~ the director will refuse to 31219
accept certificate of need applications if, after reviewing all 31220
information available to ~~him~~ the director, ~~he~~ the director 31221
determines and expressly indicates in the notice mailed under 31222

section 3702.532 of the Revised Code that refusing to accept 31223
applications for a longer period would result in hardship to the 31224
community in which the person provides health services. The 31225
director's finding of community hardship shall not affect the 31226
granting or denial of any future certificate of need application 31227
filed by the person. 31228

Sec. 3702.544. Each person required by section 3702.54, 31229
3702.541, or 3702.542, or former section 3702.543 of the Revised 31230
Code to pay a civil penalty shall do so not later than sixty days 31231
after receiving the notice mailed under section 3702.532 of the 31232
Revised Code or, if the person appeals under section 3702.60 of 31233
the Revised Code the director of health's determination that a 31234
violation has occurred, not later than sixty days after the 31235
issuance of an order upholding ~~his~~ the director's determination 31236
that is not subject to further appeal. The civil penalties shall 31237
be paid to the director. The director shall deposit them into the 31238
certificate of need fund created by section 3702.52 of the Revised 31239
Code. 31240

Sec. 3702.55. Except as provided in section 3702.542 of the 31241
Revised Code, a person that the director of health determines has 31242
violated section 3702.53 of the Revised Code shall cease 31243
conducting the activity that constitutes the violation or 31244
utilizing the equipment or facility resulting from the violation 31245
not later than thirty days after the person receives the notice 31246
mailed under section 3702.532 of the Revised Code or, if the 31247
person appeals the director's determination under section 3702.60 31248
of the Revised Code, thirty days after the person receives an 31249
order upholding the director's determination that is not subject 31250
to further appeal. A person that applies for a certificate of need 31251
as described in section 3702.542 of the Revised Code shall cease 31252
conducting the activity or using the equipment or facility in 31253

accordance with the timetable established by the director of 31254
health under that section. 31255

If any person determined to have violated section 3702.53 of 31256
the Revised Code fails to cease conducting an activity or using 31257
equipment or a facility as required by this section or a timetable 31258
established under section 3702.542 of the Revised Code, or if the 31259
person continues to seek payment or reimbursement for services 31260
rendered or costs incurred in conducting the activity as 31261
prohibited by section 3702.56 of the Revised Code, in addition to 31262
the penalties imposed under section 3702.54, 3702.541, or 31263
3702.542~~7~~ or former section 3702.543 of the Revised Code: 31264

(A) The director of health may refuse to include any beds 31265
involved in the activity in the bed capacity of a hospital for 31266
purposes of registration under section 3701.07 of the Revised 31267
Code; 31268

(B) The director of health may refuse to license, or may 31269
revoke a license or reduce bed capacity previously granted to, a 31270
maternity boardinghouse or lying-in hospital under section 3711.02 31271
of the Revised Code; a hospice care program under section 3712.04 31272
of the Revised Code; a nursing home, rest home, or home for the 31273
aging under section 3721.02 of the Revised Code; or any beds 31274
within any of those facilities that are involved in the activity; 31275

(C) A political subdivision certified under section 3721.09 31276
of the Revised Code may refuse to license, or may revoke a license 31277
or reduce bed capacity previously granted to, a nursing home, rest 31278
home, or home for the aging, or any beds within any of those 31279
facilities that are involved in the activity; 31280

(D) The director of mental health may refuse to license under 31281
section 5119.20 of the Revised Code, or may revoke a license or 31282
reduce bed capacity previously granted to, a hospital receiving 31283
mentally ill persons or beds within such a hospital that are 31284

involved in the activity; 31285

(E) The department of job and family services may refuse to 31286
enter into a provider agreement that includes a facility, beds, or 31287
services that result from the activity. 31288

Sec. 3702.60. (A) Any affected person may appeal a 31289
reviewability ruling issued on or after April 20, 1995, to the 31290
director of health in accordance with Chapter 119. of the Revised 31291
Code, and the director shall provide an adjudication hearing in 31292
accordance with that chapter. An affected person may appeal the 31293
director's ruling in the adjudication hearing to the tenth 31294
district court of appeals. 31295

(B) The certificate of need applicant or another affected 31296
person may appeal to the director in accordance with Chapter 119. 31297
of the Revised Code a decision issued by the director on or after 31298
April 20, 1995, to grant or deny a certificate of need application 31299
for which an adjudication hearing was not conducted under section 31300
3702.52 of the Revised Code, and the director shall provide an 31301
adjudication hearing in accordance with that chapter. The 31302
certificate of need applicant or an affected person that was a 31303
party to and participated in an adjudication hearing conducted 31304
under this division or section 3702.52 of the Revised Code may 31305
appeal to the tenth district court of appeals the decision issued 31306
by the director following the adjudication hearing. No person may 31307
appeal to the director or a court the director's granting of a 31308
certificate of need prior to ~~the effective date of this amendment~~ 31309
June 30, 1995, under the version of section 3702.52 of the Revised 31310
Code in effect immediately prior to that date due to failure to 31311
submit timely written objections, no person may appeal to the 31312
director or a court the director's granting of a certificate of 31313
need under division (C)(1) or (2) of section 3702.52 of the 31314
Revised Code. 31315

(C) The certificate of need holder may appeal to the director 31316
in accordance with Chapter 119. of the Revised Code a decision 31317
issued by the director under section 3702.52 or 3702.526 of the 31318
Revised Code on or after April 20, 1995, to withdraw a certificate 31319
of need, and the director shall provide an adjudication hearing in 31320
accordance with that chapter. The person may appeal the director's 31321
ruling in the adjudication hearing to the tenth district court of 31322
appeals. 31323

(D) Any person determined by the director to have violated 31324
section 3702.53 of the Revised Code may appeal that determination, 31325
or the penalties imposed under section 3702.54, 3702.541, or 31326
3702.542~~7~~ or former section 3702.543 of the Revised Code, to the 31327
director in accordance with Chapter 119. of the Revised Code, and 31328
the director shall provide an adjudication hearing in accordance 31329
with that chapter. The person may appeal the director's ruling in 31330
the adjudication hearing to the tenth district court of appeals. 31331

(E) Each person appealing under this section to the director 31332
shall file with the director, not later than thirty days after the 31333
decision, ruling, or determination of the director was mailed, a 31334
notice of appeal designating the decision, ruling, or 31335
determination appealed from. 31336

(F) Each person appealing under this section to the tenth 31337
district court of appeals shall file with the court, not later 31338
than thirty days after the date the director's adjudication order 31339
was mailed, a notice of appeal designating the order appealed 31340
from. The appellant also shall file notice with the director not 31341
later than thirty days after the date the order was mailed. 31342

(1) Not later than thirty days after receipt of the notice of 31343
appeal, the director shall prepare and certify to the court the 31344
complete record of the proceedings out of which the appeal arises. 31345
The expense of preparing and transcribing the record shall be 31346

taxed as part of the costs of the appeal. In the event that the 31347
record or a part thereof is not certified within the time 31348
prescribed by this division, the appellant may apply to the court 31349
for an order that the record be certified. 31350

(2) In hearing the appeal, the court shall consider only the 31351
evidence contained in the record certified to it by the director. 31352
The court may remand the matter to the director for the admission 31353
of additional evidence on a finding that the additional evidence 31354
is material, newly discovered, and could not with reasonable 31355
diligence have been ascertained before the hearing before the 31356
director. Except as otherwise provided by statute, the court shall 31357
give the hearing on the appeal preference over all other civil 31358
matters, irrespective of the position of the proceedings on the 31359
calendar of the court. 31360

(3) The court shall affirm the director's order if it finds, 31361
upon consideration of the entire record and any additional 31362
evidence admitted under division (F)(2) of this section, that the 31363
order is supported by reliable, probative, and substantial 31364
evidence and is in accordance with law. In the absence of such a 31365
finding, it shall reverse, vacate, or modify the order. 31366

(4) If the court determines that the director committed 31367
material procedural error, the court shall remand the matter to 31368
the director for further consideration or action. 31369

(G) The court may award reasonable attorney's fees against 31370
the appellant if it determines that the appeal was frivolous. 31371
Sections 119.092, 119.093, and 2335.39 of the Revised Code do not 31372
apply to adjudication hearings under this section or section 31373
3702.52 of the Revised Code and judicial appeals under this 31374
section. 31375

(H) No person may intervene in an appeal brought under this 31376
section. 31377

Sec. 3702.61. In addition to the sanctions imposed under 31378
sections 3702.54, 3702.541, 3702.542, ~~3702.543~~, and 3702.55 and 31379
former section 3702.543 of the Revised Code, if any person 31380
violates section 3702.53 of the Revised Code, the attorney general 31381
may commence necessary legal proceedings in the court of common 31382
pleas of Franklin county to enjoin the person from such violation 31383
until the requirements of sections 3702.51 to 3702.62 of the 31384
Revised Code have been satisfied. At the request of the director 31385
of health, the attorney general shall commence any necessary 31386
proceedings. The court has jurisdiction to grant and, on a showing 31387
of a violation, shall grant appropriate injunctive relief. 31388

Sec. 3702.63. As specified in former Section 11 of Am. Sub. 31389
S.B. 50 of the 121st general assembly, as amended by Am. Sub. H.B. 31390
405 of the 124th general assembly, all of the following apply: 31391

(A) The removal of former divisions (E) and (F) of section 31392
3702.52 of the Revised Code by Sections 1 and 2 of Am. Sub. S.B. 31393
50 of the 121st general assembly does not release the holders of 31394
certificates of need issued under those divisions from complying 31395
with any conditions on which the granting of the certificates of 31396
need was based, including the requirement of former division 31397
(E)(6) of that section that the holders not enter into provider 31398
agreements under Chapter 5111. of the Revised Code and Title XIX 31399
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, 31400
as amended, for at least ten years following initial licensure of 31401
the long-term care facilities for which the certificates were 31402
granted. 31403

(B) The repeal of section 3702.55 of the Revised Code by 31404
Section 2 of Am. Sub. S.B. 50 of the 121st general assembly does 31405
not release the holders of certificates of need issued under that 31406
section from complying with any conditions on which the granting 31407

of the certificates of need was based, other than the requirement 31408
of division (A)(6) of that section that the holders not seek 31409
certification under Title XVIII of the "Social Security Act" for 31410
beds recategorized under the certificates. That repeal also does 31411
not eliminate the requirement that the director of health revoke 31412
the licensure of the beds under Chapter 3721. of the Revised Code 31413
if a person to which their ownership is transferred fails, as 31414
required by division (A)(6) of the repealed section, to file 31415
within ten days after the transfer a sworn statement not to seek 31416
certification under Title XIX of the "Social Security Act" for 31417
beds recategorized under the certificates of need. 31418

(C) The repeal of section 3702.56 of the Revised Code by 31419
Section 2 of Am. Sub. S.B. 50 of the 121st general assembly does 31420
not release the holders of certificates of need issued under that 31421
section from complying with any conditions on which the granting 31422
of the certificates of need was based. 31423

Sec. 3702.68. (A) Notwithstanding sections 3702.51 to 3702.62 31424
of the Revised Code, this section applies to the review of 31425
certificate of need applications during the period beginning July 31426
1, 1993, and ending June 30, ~~2003~~ 2005. 31427

(B)(1) Except as provided in division (B)(2) of this section, 31428
the director of health shall neither grant nor deny any 31429
application for a certificate of need submitted prior to July 1, 31430
1993, if the application was for any of the following and the 31431
director had not issued a written decision concerning the 31432
application prior to that date: 31433

(a) Approval of beds in a new health care facility or an 31434
increase of beds in an existing health care facility, if the beds 31435
are proposed to be licensed as nursing home beds under Chapter 31436
3721. of the Revised Code; 31437

(b) Approval of beds in a new county home or new county 31438

nursing home as defined in section 5155.31 of the Revised Code, or 31439
an increase of beds in an existing county home or existing county 31440
nursing home, if the beds are proposed to be certified as skilled 31441
nursing facility beds under Title XVIII or nursing facility beds 31442
under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 31443
42 U.S.C.A. 301, as amended; 31444

(c) Recategorization of hospital beds as described in section 31445
3702.522 of the Revised Code, an increase of hospital beds 31446
registered pursuant to section 3701.07 of the Revised Code as 31447
long-term care beds or skilled nursing facility beds, or a 31448
recategorization of hospital beds that would result in an increase 31449
of beds registered pursuant to that section as long-term care beds 31450
or skilled nursing facility beds. 31451

On July 1, 1993, the director shall return each such 31452
application to the applicant and, notwithstanding section 3702.52 31453
of the Revised Code regarding the uses of the certificate of need 31454
fund, shall refund to the applicant the application fee paid under 31455
that section. Applications returned under division (B)(1) of this 31456
section may be resubmitted in accordance with section 3702.52 of 31457
the Revised Code no sooner than July 1, ~~2003~~ 2005. 31458

(2) The director shall continue to review and shall issue a 31459
decision regarding any application submitted prior to July 1, 31460
1993, to increase beds for either of the purposes described in 31461
division (B)(1)(a) or (b) of this section if the proposed increase 31462
in beds is attributable solely to a replacement or relocation of 31463
existing beds within the same county. The director shall authorize 31464
under such an application no additional beds beyond those being 31465
replaced or relocated. 31466

(C)(1) Except as provided in division (C)(2) of this section, 31467
the director, during the period beginning July 1, 1993, and ending 31468
June 30, ~~2003~~ 2005, shall not accept for review under section 31469
3702.52 of the Revised Code any application for a certificate of 31470

need for any of the purposes described in divisions (B)(1)(a) to 31471
(c) of this section. 31472

(2) The director shall accept for review any application for 31473
either of the purposes described in division (B)(1)(a) or (b) of 31474
this section if the proposed increase in beds is attributable 31475
solely to a replacement or relocation of existing beds within the 31476
same county. The director shall authorize under such an 31477
application no additional beds beyond those being replaced or 31478
relocated. The director also shall accept for review any 31479
application that seeks certificate of need approval for existing 31480
beds located in an infirmary that is operated exclusively by a 31481
religious order, provides care exclusively to members of religious 31482
orders who take vows of celibacy and live by virtue of their vows 31483
within the orders as if related, and was providing care 31484
exclusively to members of such a religious order on January 1, 31485
1994. 31486

(D) The director shall issue a decision regarding any case 31487
remanded by a court as the result of a decision issued by the 31488
director prior to July 1, 1993, to grant, deny, or withdraw a 31489
certificate of need for any of the purposes described in divisions 31490
(B)(1)(a) to (c) of this section. 31491

(E) The director shall not project the need for beds listed 31492
in division (B)(1) of this section for the period beginning July 31493
1, 1993, and ending June 30, ~~2003~~ 2005. 31494

This section is an interim section effective until July 1, 31495
~~2003~~ 2005. 31496

Sec. 3702.74. (A) A primary care physician who has signed a 31497
letter of intent under section 3702.73 of the Revised Code, the 31498
director of health, and the Ohio board of regents may enter into a 31499
contract for the physician's participation in the physician loan 31500
repayment program. A lending institution may also be a party to 31501

the contract. 31502

(B) The contract shall include all of the following 31503
obligations: 31504

(1) The primary care physician agrees to provide primary care 31505
services in the health resource shortage area identified in the 31506
letter of intent for at least two years or one year per twenty 31507
thousand dollars of repayment agreed to under division (B)(3) of 31508
this section, whichever is greater; 31509

(2) When providing primary care services in the health 31510
resource shortage area, the primary care physician agrees to do 31511
all of the following: 31512

(a) Provide primary care services for a minimum of forty 31513
hours per week; 31514

(b) Provide primary care services without regard to a 31515
patient's ability to pay; 31516

(c) Meet the conditions prescribed by the "Social Security 31517
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the 31518
department of job and family services for participation in the 31519
medical assistance program established under Chapter 5111. of the 31520
Revised Code and enter into a contract with the department to 31521
provide primary care services to recipients of the medical 31522
assistance program; 31523

(d) Meet the conditions established by the department of job 31524
and family services for participation in the disability ~~assistance~~ 31525
medical assistance program established under Chapter 5115. of the 31526
Revised Code and enter into a contract with the department to 31527
provide primary care services to recipients of disability medical 31528
assistance. 31529

(3) The Ohio board of regents agrees, as provided in section 31530
3702.75 of the Revised Code, to repay, so long as the primary care 31531

physician performs the service obligation agreed to under division 31532
(B)(1) of this section, all or part of the principal and interest 31533
of a government or other educational loan taken by the primary 31534
care physician for expenses described in section 3702.75 of the 31535
Revised Code; 31536

(4) The primary care physician agrees to pay the board the 31537
following as damages if the physician fails to complete the 31538
service obligation agreed to under division (B)(1) of this 31539
section: 31540

(a) If the failure occurs during the first two years of the 31541
service obligation, three times the total amount the board has 31542
agreed to repay under division (B)(3) of this section; 31543

(b) If the failure occurs after the first two years of the 31544
service obligation, three times the amount the board is still 31545
obligated to repay under division (B)(3) of this section. 31546

(C) The contract may include any other terms agreed upon by 31547
the parties, including an assignment to the Ohio board of regents 31548
of the physician's duty to pay the principal and interest of a 31549
government or other educational loan taken by the physician for 31550
expenses described in section 3702.75 of the Revised Code. If the 31551
board assumes the physician's duty to pay a loan, the contract 31552
shall set forth the total amount of principal and interest to be 31553
paid, an amortization schedule, and the amount of each payment to 31554
be made under the schedule. 31555

Sec. 3705.01. As used in this chapter: 31556

(A) "Live birth" means the complete expulsion or extraction 31557
from its mother of a product of human conception that after such 31558
expulsion or extraction breathes or shows any other evidence of 31559
life such as beating of the heart, pulsation of the umbilical 31560
cord, or definite movement of voluntary muscles, whether or not 31561

the umbilical cord has been cut or the placenta is attached. 31562

(B)(1) "Fetal death" means death prior to the complete 31563
expulsion or extraction from its mother of a product of human 31564
conception of at least twenty weeks of gestation, which after such 31565
expulsion or extraction does not breathe or show any other 31566
evidence of life such as beating of the heart, pulsation of the 31567
umbilical cord, or definite movement of voluntary muscles. 31568

(2) "Stillborn" means that an infant suffered a fetal death. 31569

(C) "Dead body" means a human body or part of a human body 31570
from the condition of which it reasonably may be concluded that 31571
death recently occurred. 31572

(D) "Physician" means a person licensed pursuant to Chapter 31573
4731. of the Revised Code to practice medicine or surgery or 31574
osteopathic medicine and surgery. 31575

(E) "Attending physician" means the physician in charge of 31576
the patient's care for the illness or condition that resulted in 31577
death. 31578

(F) "Institution" means any establishment, public or private, 31579
that provides medical, surgical, or diagnostic care or treatment, 31580
or domiciliary care, to two or more unrelated individuals, or to 31581
persons committed by law. 31582

(G) "Funeral director" has the meaning given in section 31583
4717.01 of the Revised Code. 31584

(H) "State registrar" means the head of the office of vital 31585
statistics in the department of health. 31586

(I) "Medical certification" means completion of the medical 31587
certification portion of the certificate of death or fetal death 31588
as to the cause of death or fetal death. 31589

(J) "Final disposition" means the interment, cremation, 31590
removal from the state, donation, or other authorized disposition 31591

of a dead body or a fetal death.	31592
(K) "Interment" means the final disposition of the remains of a dead body by burial or entombment.	31593 31594
(L) "Cremation" means the reduction to ashes of a dead body.	31595
(M) "Donation" means gift of a dead body to a research institution or medical school.	31596 31597
(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.	31598 31599 31600 31601
(O) "Vital records" means certificates or reports of birth, death, fetal death, marriage, divorce, dissolution of marriage, annulment, and data related thereto and other documents maintained as required by statute.	31602 31603 31604 31605
(P) "File" means the presentation of vital records for registration by the office of vital statistics.	31606 31607
(Q) "Registration" means the acceptance by the office of vital statistics and the incorporation of vital records into its official records.	31608 31609 31610
(R) "Birth record" means a birth certificate that has been registered with the office of vital statistics; or, if registered prior to the effective date of this section, with the division of vital statistics; or, if registered prior to the establishment of the division of vital statistics, with the department of health or a local registrar.	31611 31612 31613 31614 31615 31616
(S) "Certification of birth" means a document issued by the director of health or state registrar or a local registrar under division (B) of section 3705.23 of the Revised Code.	31617 31618 31619
Sec. 3705.23. (A)(1) Except as otherwise provided in this	31620

section, the director of health, the state registrar, or a local registrar, on receipt of a signed application and the fee specified in section 3705.24 of the Revised Code, shall issue a certified copy of a vital record, or of a part of a vital record, in the director's or registrar's custody to any applicant, unless the vital record has ceased to be a public record pursuant to section 3705.09, 3705.11, 3705.12, or 3705.15 of the Revised Code. The certified copy shall show the date the vital record was registered by the local registrar.

(2) A certified copy of a vital record may be made by a mechanical, electronic, or other reproduction process. It shall be certified as a true copy by the director, state registrar, or local registrar who has custody of the record and shall include the date of issuance, the name of the issuing officer, the signature of the officer or an authorized facsimile of the signature, and the seal of the issuing office.

(3) A certified copy of a vital record or of any part of a vital record, issued in accordance with this section, shall be considered for all purposes the same as the original and shall be prima-facie evidence of the facts stated in it in all courts and places.

(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 31653
good cause shown, orders disclosure of the information or the 31654
state registrar specifically authorizes release of the information 31655
for statistical or research purposes under conditions the state 31656
registrar, subject to the approval of the director of health, 31657
shall establish by rule. 31658

(B)(1) Unless the applicant specifically requests a certified 31659
copy, the director, the state registrar, or a local registrar, on 31660
receipt of a signed application for a birth record and the fee 31661
specified in section 3705.24 of the Revised Code, may issue a 31662
certification of birth, and the certification of birth shall 31663
contain at least the name, sex, date of birth, registration date, 31664
and place of birth of the person to whose birth the record attests 31665
and shall attest that the person's birth has been registered. A 31666
certification of birth shall be prima-facie evidence of the facts 31667
stated in it in all courts and places. 31668

(2) The director or the state registrar, on the receipt of a 31669
signed application for an heirloom certification of birth and the 31670
fee specified in section 3705.24 of the Revised Code, may issue an 31671
heirloom certification of birth. The director shall prescribe by 31672
rule guidelines for the form of an heirloom certification of 31673
birth, and the guidelines shall require the heirloom certification 31674
of birth to contain at least the name, sex, date of birth, 31675
registration date, and place of birth of the person to whose birth 31676
the record attests and to attest that the person's birth has been 31677
registered. An heirloom certification of birth shall be 31678
prima-facie evidence of the facts stated in it in all courts and 31679
places. 31680

(3) The director or the state registrar, on the receipt of an 31681
application signed by either parent, shall issue a certificate 31682
recognizing the delivery of a stillborn infant. The director shall 31683
prescribe guidelines by rule for the form of the certificate. The 31684

guidelines shall require that the certificate contain at least the name, sex, date of delivery, and place of delivery. The director or the state registrar shall charge no fee for the certificate. A certificate recognizing the delivery of a stillborn infant is not proof of a live birth for purposes of federal, state, and local taxes.

(C) On evidence that a birth certificate was registered through misrepresentation or fraud, the state registrar may withhold the issuance of a certified copy of the birth record or a certification of birth until a court makes a determination that no misrepresentation or fraud occurred.

~~(D) Except as provided in division (A)(4)(b) of this section, the state registrar and a local registrar, on request, shall provide uncertified copies of vital records in accordance with section 149.43 of the Revised Code.~~

Sec. 3705.24. ~~(A) Except as otherwise provided in this division or division (C) of this section, the fee for a certified copy of a vital record or for a certification of birth shall be seven dollars plus any fee required by section 3109.14 of the Revised Code. Except as provided in section 3705.241 of the Revised Code, the fee for a certified copy of a vital record or for a certification of birth issued by the office of vital statistics shall be an amount prescribed by the public health council plus any fee required by section 3109.14 of the Revised Code. The fee for a certified copy of a vital record or for a certification of birth issued by a health district shall be an amount prescribed in accordance with section 3709.09 of the Revised Code plus any fee required by section 3109.14 of the Revised Code. No certified copy of a vital record or certification of birth shall be issued without payment of the fee unless otherwise specified by statute.~~

~~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.~~

~~(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:~~

~~(a) Except as provided in division (A)(4) of this section:~~

~~(i) A certified copy of a vital record or a certification of birth;~~

~~(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;~~

~~(iii) A copy of a record provided pursuant to a request;~~

~~(b) Replacement of a birth certificate following an adoption, legitimation, paternity determination or acknowledgement, or court order;~~

~~(c) Filing of a delayed registration of a vital record;~~

~~(d) Amendment of a vital record that is requested later than one year after the filing date of the vital record;~~

~~(e) Any other documents or services for which the public health council considers the charging of a fee appropriate.~~

~~(2) Fees prescribed under division (A)(1)(a) of this section shall not be less than seven dollars.~~

~~(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.~~

~~(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. 31745
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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. 31748
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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: 31759
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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. 31771
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(2) An overpayment in excess of two dollars shall be returned to the person who made the overpayment. 31775
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~~(C)~~(D) If a local registrar is a salaried employee of a city or a general health district, any fees the local registrar receives pursuant to section 3705.23 of the Revised Code shall be paid into the general fund of the city or the health fund of the general health district.

Each local registrar of vital statistics, or each health district where the local registrar is a salaried employee of the district, shall be entitled to a fee for each birth, fetal death, death, or military service certificate properly and completely made out and registered with the local registrar or district and correctly copied and forwarded to the office of vital statistics in accordance with the population of the primary registration district at the last federal census. The fee for each birth, fetal death, death, or military service certificate shall be:

(1) In primary registration districts of over two hundred fifty thousand, twenty cents;

(2) In primary registration districts of over one hundred twenty-five thousand and less than two hundred fifty thousand, sixty cents;

(3) In primary registration districts of over fifty thousand and less than one hundred twenty-five thousand, eighty cents;

(4) In primary registration districts of less than fifty thousand, one dollar.

~~(D)~~(E) The director of health shall annually certify to the county treasurers of the several counties the number of birth, fetal death, death, and military service certificates registered from their respective counties with the names of the local registrars and the amounts due each registrar and health district at the rates fixed in this section. Such amounts shall be paid by the treasurer of the county in which the registration districts are located. No fees shall be charged or collected by registrars

except as provided by this chapter and section 3109.14 of the Revised Code. 31808
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~~(E)~~(F) A probate judge shall be paid a fee of fifteen cents for each certified abstract of marriage prepared and forwarded by the probate judge to the department of health pursuant to section 3705.21 of the Revised Code. The fee shall be in addition to the fee paid for a marriage license and shall be paid by the applicants for the license. 31810
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~~(F)~~(G) The clerk of a court of common pleas shall be paid a fee of one dollar for each certificate of divorce, dissolution, and annulment of marriage prepared and forwarded by the clerk to the department pursuant to section 3705.21 of the Revised Code. The fee for the certified abstract of divorce, dissolution, or annulment of marriage shall be added to the court costs allowed in these cases. 31816
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~~(G)~~(H) The fee for an heirloom certification of birth issued pursuant to division (B)(2) of section 3705.23 of the Revised Code shall be an amount prescribed by rule by the director of health plus any fee required by section 3109.14 of the Revised Code. In setting the amount of the fee, the director shall establish a surcharge in addition to an amount necessary to offset the expense of processing heirloom certifications of birth. The fee prescribed by the director of health pursuant to this division shall be deposited into the state treasury to the credit of the heirloom certification of birth fund which is hereby created. Money credited to the fund shall be used by the office of vital statistics to offset the expense of processing heirloom certifications of birth. However, the money collected for the surcharge, subject to the approval of the controlling board, shall be used for the purposes specified by the family and children first council pursuant to section 121.37 of the Revised Code. 31823
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Sec. 3709.09. (A) The board of health of a city or general health district may, by rule, establish a uniform system of fees to pay the costs of any services provided by the board. ~~Fees~~

The fee for issuance of a certified copy of a vital record or a certification of birth shall not be less than the fee prescribed for the same service under division (A)(1) of section 3705.24 of the Revised Code and shall include the fees required by division (B) of section 3705.24 and section 3109.14 of the Revised Code.

Fees for services provided by the board for purposes specified in sections 3701.344, 3711.05, 3730.03, 3733.04, 3733.25, and 3749.04 of the Revised Code shall be established in accordance with rules adopted under division (B) of this section. The district advisory council, in the case of a general health district, and the legislative authority of the city, in the case of a city health district, may disapprove any fee established by the board of health under this division, and any such fee, as disapproved, shall not be charged by the board of health.

(B) The public health council shall adopt rules under section 111.15 of the Revised Code that establish fee categories and uniform methodologies for use in calculating the costs of services provided for purposes specified in sections 3701.344, 3711.05, 3730.03, 3733.04, 3733.25, and 3749.04 of the Revised Code. In adopting the rules, the public health council shall consider recommendations it receives from advisory boards established either by statute or the director of health for entities subject to the fees.

(C) At least thirty days prior to establishing a fee for a service provided by the board for a purpose specified in section 3701.344, 3711.05, 3730.03, 3733.04, 3733.25, or 3749.04 of the Revised Code, a board of health shall notify any entity that would be affected by the proposed fee of the amount of the proposed fee.

Sec. 3710.05. (A) Except as otherwise provided in this 31870
chapter, no person shall engage in any asbestos hazard abatement 31871
activities in this state unless licensed or certified pursuant to 31872
this chapter. 31873

(B) To apply for licensure as an asbestos abatement 31874
contractor or certification as an asbestos hazard abatement 31875
specialist, an asbestos hazard evaluation specialist, an asbestos 31876
hazard abatement project designer, or an asbestos hazard abatement 31877
air-monitoring technician, a person shall do all of the following: 31878

(1) Submit a completed application to the department of 31879
health, on a form provided by the department; 31880

(2) Pay the requisite fee as provided in division (D) of this 31881
section; 31882

(3) Submit any other information the public health council by 31883
rule requires. 31884

(C) The application form for a business entity or public 31885
entity applying for an asbestos hazard abatement contractor's 31886
license shall include all of the following: 31887

(1) A description of the protective clothing and respirators 31888
that the public entity will use to comply with rules adopted by 31889
the public health council and that the business entity will use to 31890
comply with requirements of the United States occupational safety 31891
and health administration; 31892

(2) A description of procedures the business entity or public 31893
entity will use for the selection, utilization, handling, removal, 31894
and disposal of clothing to prevent contamination or 31895
recontamination of the environment and to protect the public 31896
health from the hazards associated with exposure to asbestos; 31897

(3) The name and address of each asbestos disposal site that 31898
the business entity or public entity might use during the year; 31899

(4) A description of the site decontamination procedures that the business entity or public entity will use;	31900 31901
(5) A description of the asbestos hazard abatement procedures that the business entity or public entity will use;	31902 31903
(6) A description of the procedures that the business entity or public entity will use for handling waste containing asbestos;	31904 31905
(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;	31906 31907 31908 31909
(8) A description of the final clean-up procedures that the business entity or public entity will use;	31910 31911
(9) A list of all partners, owners, and officers of the business entity along with their social security numbers;	31912 31913
(10) The federal tax identification number of the business entity or the public entity.	31914 31915
(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:	31916 31917 31918 31919 31920
(1) Five <u>Seven</u> hundred <u>fifty</u> dollars for asbestos hazard abatement contractors;	31921 31922
(2) One <u>Two</u> hundred twenty-five dollars for asbestos hazard abatement project designers;	31923 31924
(3) Twenty-five <u>Fifty</u> dollars for asbestos hazard abatement workers;	31925 31926
(4) One <u>Two</u> hundred twenty-five dollars for asbestos hazard abatement specialists;	31927 31928

(5) ~~One~~ Two hundred ~~twenty-five~~ dollars for asbestos hazard evaluation specialists; and

(6) ~~Seven~~ Nine hundred ~~fifty~~ dollars for approval or renewal of asbestos hazard training providers.

(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.

Sec. 3710.07. (A) Prior to engaging in any asbestos hazard abatement project, an asbestos hazard abatement contractor shall do all of the following:

(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;

(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;

(3) Ensure that each of ~~his~~ the contractor's employees or agents who will come in contact with asbestos-containing materials or will be responsible for an asbestos hazard abatement project

receives the appropriate certification or licensure required by 31959
this chapter and the following training: 31960

(a) An initial course approved by the department pursuant to 31961
section 3710.10 of the Revised Code, completed before engaging in 31962
any asbestos hazard abatement project; and 31963

(b) An annual review course approved by the department 31964
pursuant to section 3710.10 of the Revised Code. 31965

(B) After obtaining or renewing a license, an asbestos hazard 31966
abatement contractor shall notify the department, on a form 31967
approved by the director of health, at least ten days before 31968
beginning each asbestos hazard abatement project conducted during 31969
the term of ~~his~~ the contractor's license. 31970

(C) In addition to any other fee imposed under this chapter, 31971
an asbestos hazard abatement contractor shall pay, at the time of 31972
providing notice under division (B) of this section, the 31973
department a fee of ~~twenty-five~~ sixty-five dollars for each 31974
asbestos hazard abatement project conducted. 31975

Sec. 3711.021. For the purposes of this chapter, a maternity 31976
hospital or lying-in hospital includes a limited maternity unit, 31977
which is a unit in a hospital that contains no other maternity 31978
unit, in which care is provided during all or part of the 31979
maternity cycle and newborns receive care in a private room 31980
serving all antepartum, labor, delivery, recovery, postpartum, and 31981
nursery needs. 31982

The director of health may charge a maternity hospital or 31983
lying-in hospital seeking an initial or renewal license under this 31984
chapter a fee not exceeding the following: 31985

(A) ~~Three~~ Four thousand ~~eight hundred fifty~~ forty-two dollars 31986
for a hospital in which not less than two thousand births occurred 31987
the previous calendar year; 31988

(B) Three thousand ~~three~~ five hundred ~~fifty~~ seventeen dollars 31989
for a hospital in which not more than one thousand nine hundred 31990
ninety-nine and not less than one thousand births occurred the 31991
previous calendar year; 31992

(C) Two thousand ~~eight~~ nine hundred ~~fifty~~ ninety-two dollars 31993
for a hospital in which not more than nine hundred ninety-nine and 31994
not less than six hundred fifty births occurred the previous 31995
calendar year; 31996

(D) Two thousand ~~three~~ four hundred ~~fifty~~ sixty-seven dollars 31997
for a hospital in which not more than six hundred forty-nine and 31998
not less than four hundred fifty births occurred the previous 31999
calendar year; 32000

(E) One thousand ~~eight~~ nine hundred ~~fifty~~ forty-two dollars 32001
for a hospital in which not more than four hundred forty-nine 32002
births and not less than one hundred births occurred the previous 32003
calendar year; 32004

(F) One thousand ~~three~~ four hundred ~~fifty~~ seventeen dollars 32005
for a hospital in which not more than ninety-nine births occurred 32006
the previous calendar year. 32007

The director shall deposit all fees collected under this 32008
section into the general operations fund created under section 32009
3701.83 of the Revised Code. Money generated by the fees shall be 32010
used only for administration and enforcement of this chapter and 32011
rules adopted under it. 32012

Sec. 3721.02. (A) The director of health shall license homes 32013
and establish procedures to be followed in inspecting and 32014
licensing homes. The director may inspect a home at any time. Each 32015
home shall be inspected by the director at least once prior to the 32016
issuance of a license and at least once every fifteen months 32017
thereafter. The state fire marshal or a township, municipal, or 32018

other legally constituted fire department approved by the marshal 32019
shall also inspect a home prior to issuance of a license, at least 32020
once every fifteen months thereafter, and at any other time 32021
requested by the director. A home does not have to be inspected 32022
prior to issuance of a license by the director, state fire 32023
marshal, or a fire department if ownership of the home is assigned 32024
or transferred to a different person and the home was licensed 32025
under this chapter immediately prior to the assignment or 32026
transfer. The director may enter at any time, for the purposes of 32027
investigation, any institution, residence, facility, or other 32028
structure that has been reported to the director or that the 32029
director has reasonable cause to believe is operating as a nursing 32030
home, residential care facility, or home for the aging without a 32031
valid license required by section 3721.05 of the Revised Code or, 32032
in the case of a county home or district home, is operating 32033
despite the revocation of its residential care facility license. 32034
The director may delegate the director's authority and duties 32035
under this chapter to any division, bureau, agency, or official of 32036
the department of health. 32037

(B) A single facility may be licensed both as a nursing home 32038
pursuant to this chapter and as an adult care facility pursuant to 32039
Chapter 3722. of the Revised Code if the director determines that 32040
the part or unit to be licensed as a nursing home can be 32041
maintained separate and discrete from the part or unit to be 32042
licensed as an adult care facility. 32043

(C) In determining the number of residents in a home for the 32044
purpose of licensing, the director shall consider all the 32045
individuals for whom the home provides accommodations as one group 32046
unless one of the following is the case: 32047

(1) The home is a home for the aging, in which case all the 32048
individuals in the part or unit licensed as a nursing home shall 32049
be considered as one group, and all the individuals in the part or 32050

unit licensed as a rest home shall be considered as another group. 32051

(2) The home is both a nursing home and an adult care 32052
facility. In that case, all the individuals in the part or unit 32053
licensed as a nursing home shall be considered as one group, and 32054
all the individuals in the part or unit licensed as an adult care 32055
facility shall be considered as another group. 32056

(3) The home maintains, in addition to a nursing home or 32057
residential care facility, a separate and discrete part or unit 32058
that provides accommodations to individuals who do not require or 32059
receive skilled nursing care and do not receive personal care 32060
services from the home, in which case the individuals in the 32061
separate and discrete part or unit shall not be considered in 32062
determining the number of residents in the home if the separate 32063
and discrete part or unit is in compliance with the Ohio basic 32064
building code established by the board of building standards under 32065
Chapters 3781. and 3791. of the Revised Code and the home permits 32066
the director, on request, to inspect the separate and discrete 32067
part or unit and speak with the individuals residing there, if 32068
they consent, to determine whether the separate and discrete part 32069
or unit meets the requirements of this division. 32070

(D) The director of health shall charge an application fee 32071
and an annual renewal licensing and inspection fee of one hundred 32072
five dollars for each fifty persons or part thereof of a home's 32073
licensed capacity. All fees collected by the director for the 32074
issuance or renewal of licenses shall be deposited into the state 32075
treasury to the credit of the general operations fund created in 32076
section 3701.83 of the Revised Code for use only in administering 32077
and enforcing this chapter and rules adopted under it. 32078

(E)(1) Except as otherwise provided in this section, the 32079
results of an inspection or investigation of a home that is 32080
conducted under this section, including any statement of 32081
deficiencies and all findings and deficiencies cited in the 32082

statement on the basis of the inspection or investigation, shall 32083
be used solely to determine the home's compliance with this 32084
chapter or another chapter of the Revised Code in any action or 32085
proceeding other than an action commenced under division (I) of 32086
section 3721.17 of the Revised Code. Those results of an 32087
inspection or investigation, that statement of deficiencies, and 32088
the findings and deficiencies cited in that statement shall not be 32089
used in any court or in any action or proceeding that is pending 32090
in any court and are not admissible in evidence in any action or 32091
proceeding unless that action or proceeding is an appeal of an 32092
action by the department of health under this chapter or is an 32093
action by any department or agency of the state to enforce this 32094
chapter or another chapter of the Revised Code. 32095

(2) Nothing in division (E)(1) of this section prohibits the 32096
results of an inspection or investigation conducted under this 32097
section from being used in a criminal investigation or 32098
prosecution. 32099

Sec. 3721.121. (A) As used in this section: 32100

(1) "Adult day-care program" means a program operated 32101
pursuant to rules adopted by the public health council under 32102
section 3721.04 of the Revised Code and provided by and on the 32103
same site as homes licensed under this chapter. 32104

(2) "Applicant" means a person who is under final 32105
consideration for employment with a home or adult day-care program 32106
in a full-time, part-time, or temporary position that involves 32107
providing direct care to an older adult. "Applicant" does not 32108
include a person who provides direct care as a volunteer without 32109
receiving or expecting to receive any form of remuneration other 32110
than reimbursement for actual expenses. 32111

(3) "Criminal records check" and "older adult" have the same 32112
meanings as in section 109.572 of the Revised Code. 32113

(4) "Home" means a home as defined in section 3721.10 of the Revised Code. 32114
32115

(B)(1) Except as provided in division (I) of this section, 32116
the chief administrator of a home or adult day-care program shall 32117
request that the superintendent of the bureau of criminal 32118
identification and investigation conduct a criminal records check 32119
with respect to each applicant. If an applicant for whom a 32120
criminal records check request is required under this division 32121
does not present proof of having been a resident of this state for 32122
the five-year period immediately prior to the date the criminal 32123
records check is requested or provide evidence that within that 32124
five-year period the superintendent has requested information 32125
about the applicant from the federal bureau of investigation in a 32126
criminal records check, the chief administrator shall request that 32127
the superintendent obtain information from the federal bureau of 32128
investigation as part of the criminal records check of the 32129
applicant. Even if an applicant for whom a criminal records check 32130
request is required under this division presents proof of having 32131
been a resident of this state for the five-year period, the chief 32132
administrator may request that the superintendent include 32133
information from the federal bureau of investigation in the 32134
criminal records check. 32135

(2) A person required by division (B)(1) of this section to 32136
request a criminal records check shall do both of the following: 32137

(a) Provide to each applicant for whom a criminal records 32138
check request is required under that division a copy of the form 32139
prescribed pursuant to division (C)(1) of section 109.572 of the 32140
Revised Code and a standard fingerprint impression sheet 32141
prescribed pursuant to division (C)(2) of that section, and obtain 32142
the completed form and impression sheet from the applicant; 32143

(b) Forward the completed form and impression sheet to the 32144

superintendent of the bureau of criminal identification and 32145
investigation. 32146

(3) An applicant provided the form and fingerprint impression 32147
sheet under division (B)(2)(a) of this section who fails to 32148
complete the form or provide fingerprint impressions shall not be 32149
employed in any position for which a criminal records check is 32150
required by this section. 32151

(C)(1) Except as provided in rules adopted by the director of 32152
health in accordance with division (F) of this section and subject 32153
to division (C)(2) of this section, no home or adult day-care 32154
program shall employ a person in a position that involves 32155
providing direct care to an older adult if the person has been 32156
convicted of or pleaded guilty to any of the following: 32157

(a) A violation of section 2903.01, 2903.02, 2903.03, 32158
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 32159
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 32160
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 32161
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 32162
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 32163
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 32164
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 32165
2925.22, 2925.23, or 3716.11 of the Revised Code. 32166

(b) A violation of an existing or former law of this state, 32167
any other state, or the United States that is substantially 32168
equivalent to any of the offenses listed in division (C)(1)(a) of 32169
this section. 32170

(2)(a) A home or an adult day-care program may employ 32171
conditionally an applicant for whom a criminal records check 32172
request is required under division (B) of this section prior to 32173
obtaining the results of a criminal records check regarding the 32174
individual, provided that the home or program shall request a 32175

criminal records check regarding the individual in accordance with 32176
division (B)(1) of this section not later than five business days 32177
after the individual begins conditional employment. In the 32178
circumstances described in division (I)(2) of this section, a home 32179
or adult day-care program may employ conditionally an applicant 32180
who has been referred to the home or adult day-care program by an 32181
employment service that supplies full-time, part-time, or 32182
temporary staff for positions involving the direct care of older 32183
adults and for whom, pursuant to that division, a criminal records 32184
check is not required under division (B) of this section. 32185

(b) A home or adult day-care program that employs an 32186
individual conditionally under authority of division (C)(2)(a) of 32187
this section shall terminate the individual's employment if the 32188
results of the criminal records check requested under division (B) 32189
of this section or described in division (I)(2) of this section, 32190
other than the results of any request for information from the 32191
federal bureau of investigation, are not obtained within the 32192
period ending ~~sixty~~ thirty days after the date the request is 32193
made. Regardless of when the results of the criminal records check 32194
are obtained, if the results indicate that the individual has been 32195
convicted of or pleaded guilty to any of the offenses listed or 32196
described in division (C)(1) of this section, the home or program 32197
shall terminate the individual's employment unless the home or 32198
program chooses to employ the individual pursuant to division (F) 32199
of this section. Termination of employment under this division 32200
shall be considered just cause for discharge for purposes of 32201
division (D)(2) of section 4141.29 of the Revised Code if the 32202
individual makes any attempt to deceive the home or program about 32203
the individual's criminal record. 32204

(D)(1) Each home or adult day-care program shall pay to the 32205
bureau of criminal identification and investigation the fee 32206
prescribed pursuant to division (C)(3) of section 109.572 of the 32207

Revised Code for each criminal records check conducted pursuant to 32208
a request made under division (B) of this section. 32209

(2) A home or adult day-care program may charge an applicant 32210
a fee not exceeding the amount the home or program pays under 32211
division (D)(1) of this section. A home or program may collect a 32212
fee only if both of the following apply: 32213

(a) The home or program notifies the person at the time of 32214
initial application for employment of the amount of the fee and 32215
that, unless the fee is paid, the person will not be considered 32216
for employment; 32217

(b) The medical assistance program established under Chapter 32218
5111. of the Revised Code does not reimburse the home or program 32219
the fee it pays under division (D)(1) of this section. 32220

(E) The report of any criminal records check conducted 32221
pursuant to a request made under this section is not a public 32222
record for the purposes of section 149.43 of the Revised Code and 32223
shall not be made available to any person other than the 32224
following: 32225

(1) The individual who is the subject of the criminal records 32226
check or the individual's representative; 32227

(2) The chief administrator of the home or program requesting 32228
the criminal records check or the administrator's representative; 32229

(3) The administrator of any other facility, agency, or 32230
program that provides direct care to older adults that is owned or 32231
operated by the same entity that owns or operates the home or 32232
program; 32233

(4) A court, hearing officer, or other necessary individual 32234
involved in a case dealing with a denial of employment of the 32235
applicant or dealing with employment or unemployment benefits of 32236
the applicant; 32237

(5) Any person to whom the report is provided pursuant to, 32238
and in accordance with, division (I)(1) or (2) of this section. 32239

(F) In accordance with section 3721.11 of the Revised Code, 32240
the director of health shall adopt rules to implement this 32241
section. The rules shall specify circumstances under which a home 32242
or adult day-care program may employ a person who has been 32243
convicted of or pleaded guilty to an offense listed or described 32244
in division (C)(1) of this section but meets personal character 32245
standards set by the director. 32246

(G) The chief administrator of a home or adult day-care 32247
program shall inform each individual, at the time of initial 32248
application for a position that involves providing direct care to 32249
an older adult, that the individual is required to provide a set 32250
of fingerprint impressions and that a criminal records check is 32251
required to be conducted if the individual comes under final 32252
consideration for employment. 32253

(H) In a tort or other civil action for damages that is 32254
brought as the result of an injury, death, or loss to person or 32255
property caused by an individual who a home or adult day-care 32256
program employs in a position that involves providing direct care 32257
to older adults, all of the following shall apply: 32258

(1) If the home or program employed the individual in good 32259
faith and reasonable reliance on the report of a criminal records 32260
check requested under this section, the home or program shall not 32261
be found negligent solely because of its reliance on the report, 32262
even if the information in the report is determined later to have 32263
been incomplete or inaccurate; 32264

(2) If the home or program employed the individual in good 32265
faith on a conditional basis pursuant to division (C)(2) of this 32266
section, the home or program shall not be found negligent solely 32267
because it employed the individual prior to receiving the report 32268

of a criminal records check requested under this section; 32269

(3) If the home or program in good faith employed the 32270
individual according to the personal character standards 32271
established in rules adopted under division (F) of this section, 32272
the home or program shall not be found negligent solely because 32273
the individual prior to being employed had been convicted of or 32274
pleaded guilty to an offense listed or described in division 32275
(C)(1) of this section. 32276

(I)(1) The chief administrator of a home or adult day-care 32277
program is not required to request that the superintendent of the 32278
bureau of criminal identification and investigation conduct a 32279
criminal records check of an applicant if the applicant has been 32280
referred to the home or program by an employment service that 32281
supplies full-time, part-time, or temporary staff for positions 32282
involving the direct care of older adults and both of the 32283
following apply: 32284

(a) The chief administrator receives from the employment 32285
service or the applicant a report of the results of a criminal 32286
records check regarding the applicant that has been conducted by 32287
the superintendent within the one-year period immediately 32288
preceding the applicant's referral; 32289

(b) The report of the criminal records check demonstrates 32290
that the person has not been convicted of or pleaded guilty to an 32291
offense listed or described in division (C)(1) of this section, or 32292
the report demonstrates that the person has been convicted of or 32293
pleaded guilty to one or more of those offenses, but the home or 32294
adult day-care program chooses to employ the individual pursuant 32295
to division (F) of this section. 32296

(2) The chief administrator of a home or adult day-care 32297
program is not required to request that the superintendent of the 32298
bureau of criminal identification and investigation conduct a 32299

criminal records check of an applicant and may employ the 32300
applicant conditionally as described in this division, if the 32301
applicant has been referred to the home or program by an 32302
employment service that supplies full-time, part-time, or 32303
temporary staff for positions involving the direct care of older 32304
adults and if the chief administrator receives from the employment 32305
service or the applicant a letter from the employment service that 32306
is on the letterhead of the employment service, dated, and signed 32307
by a supervisor or another designated official of the employment 32308
service and that states that the employment service has requested 32309
the superintendent to conduct a criminal records check regarding 32310
the applicant, that the requested criminal records check will 32311
include a determination of whether the applicant has been 32312
convicted of or pleaded guilty to any offense listed or described 32313
in division (C)(1) of this section, that, as of the date set forth 32314
on the letter, the employment service had not received the results 32315
of the criminal records check, and that, when the employment 32316
service receives the results of the criminal records check, it 32317
promptly will send a copy of the results to the home or adult-care 32318
program. If a home or adult day-care program employs an applicant 32319
conditionally in accordance with this division, the employment 32320
service, upon its receipt of the results of the criminal records 32321
check, promptly shall send a copy of the results to the home or 32322
adult day-care program, and division (C)(2)(b) of this section 32323
applies regarding the conditional employment. 32324

Sec. 3721.19. (A) As used in this section: 32325

(1) "Home" and "residential care facility" have the same 32326
meanings as in section 3721.01 of the Revised Code; 32327

(2) "Sponsor" and "residents' rights advocate" have the same 32328
meanings as in section 3721.10 of the Revised Code. 32329

A home licensed under this chapter that is not a party to a 32330

provider agreement, as defined in section 5111.20 of the Revised Code, shall provide each prospective resident, before admission, with the following information, orally and in a separate written notice on which is printed in a conspicuous manner: "This home is not a participant in the medical assistance program administered by the Ohio department of job and family services. Consequently, you may be discharged from this home if you are unable to pay for the services provided by this home."

If the prospective resident has a sponsor whose identity is made known to the home, the home shall also inform the sponsor, before admission of the resident, of the home's status relative to the medical assistance program. Written acknowledgement of the receipt of the information shall be provided by the resident and, if the prospective resident has a sponsor who has been identified to the home, by the sponsor. The written acknowledgement shall be made part of the resident's record by the home.

No home shall terminate its status as a provider under the medical assistance program unless it has complied with section 5111.66 of the Revised Code and, at least ninety days prior to such termination, provided written notice to the ~~department of job and family services~~ and residents of the home and their sponsors of such action. This requirement shall not apply in cases where the department of job and family services terminates a home's provider agreement or provider status.

(B) A home licensed under this chapter as a residential care facility shall provide notice to each prospective resident or the individual's sponsor of the services offered by the facility and the types of skilled nursing care that the facility may provide. A residential care facility that, pursuant to section 3721.012 of the Revised Code, has a policy of entering into risk agreements with residents or their sponsors shall provide each prospective resident or the individual's sponsor a written explanation of the

policy and the provisions that may be contained in a risk 32363
agreement. At the time the information is provided, the facility 32364
shall obtain a statement signed by the individual receiving the 32365
information acknowledging that the individual received the 32366
information. The facility shall maintain on file the individual's 32367
signed statement. 32368

(C) A resident has a cause of action against a home for 32369
breach of any duty imposed by this section. The action may be 32370
commenced by the resident, or on the resident's behalf by the 32371
resident's sponsor or a residents' rights advocate, by the filing 32372
of a civil action in the court of common pleas of the county in 32373
which the home is located, or in the court of common pleas of 32374
Franklin county. 32375

If the court finds that a breach of any duty imposed by this 32376
section has occurred, the court shall enjoin the home from 32377
discharging the resident from the home until arrangements 32378
satisfactory to the court are made for the orderly transfer of the 32379
resident to another mode of health care including, but not limited 32380
to, another home, and may award the resident and a person or 32381
public agency that brings an action on behalf of a resident 32382
reasonable attorney's fees. If a home discharges a resident to 32383
whom or to whose sponsor information concerning its status 32384
relative to the medical assistance program was not provided as 32385
required under this section, the court shall grant any appropriate 32386
relief including, but not limited to, actual damages, reasonable 32387
attorney's fees, and costs. 32388

Sec. 3721.51. The department of job and family services 32389
shall: 32390

(A) For the purposes specified in section 3721.56 of the 32391
Revised Code, determine an annual franchise permit fee on each 32392
nursing home in an amount equal to three dollars and thirty cents 32393

for fiscal year 2002, four dollars and thirty cents for fiscal 32394
~~years year 2003 through, four dollars and seventy-five cents for~~ 32395
fiscal year 2004, four dollars and ninety-five cents for fiscal 32396
year 2005, and one dollar for each fiscal year thereafter, 32397
multiplied by the product of the following: 32398

(1) The number of beds licensed as nursing home beds, plus 32399
any other beds certified as skilled nursing facility beds under 32400
Title XVIII or nursing facility beds under Title XIX of the 32401
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 32402
amended, on July 1, 1993, and, for each subsequent year, the first 32403
day of May of the calendar year in which the fee is determined 32404
pursuant to division (A) of section 3721.53 of the Revised Code; 32405

(2) The number of days in fiscal year 1994 and, for each 32406
subsequent year, the number of days in the fiscal year beginning 32407
on the first day of July of the calendar year in which the fee is 32408
determined pursuant to division (A) of section 3721.53 of the 32409
Revised Code. 32410

(B) For the purposes specified in section 3721.56 of the 32411
Revised Code, determine an annual franchise permit fee on each 32412
hospital in an amount equal to three dollars and thirty cents for 32413
fiscal year 2002, four dollars and thirty cents for fiscal ~~years~~ 32414
year 2003 through, four dollars and seventy-five cents for fiscal 32415
year 2004, four dollars and ninety-five cents for fiscal year 32416
2005, and one dollar for each fiscal year thereafter, multiplied 32417
by the product of the following: 32418

(1) The number of beds registered pursuant to section 3701.07 32419
of the Revised Code as skilled nursing facility beds or long-term 32420
care beds, plus any other beds licensed as nursing home beds under 32421
section 3721.02 or 3721.09 of the Revised Code, on July 1, 1993, 32422
and, for each subsequent year, the first day of May of the 32423
calendar year in which the fee is determined pursuant to division 32424
(A) of section 3721.53 of the Revised Code; 32425

(2) The number of days in fiscal year 1994 and, for each 32426
subsequent year, the number of days in the fiscal year beginning 32427
on the first day of July of the calendar year in which the fee is 32428
determined pursuant to division (A) of section 3721.53 of the 32429
Revised Code. 32430

If the United States centers for medicare and medicaid 32431
services determines that the franchise permit fee established by 32432
sections 3721.50 to 3721.58 of the Revised Code would be an 32433
impermissible health care related tax under section 1903(w) of the 32434
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as 32435
amended, the department of job and family services shall take all 32436
necessary actions to cease implementation of those sections in 32437
accordance with rules adopted under section 3721.58 of the Revised 32438
Code. 32439

Sec. 3721.56. (A) Thirty and three-tenths per cent of all 32440
payments and penalties paid by nursing homes and hospitals under 32441
sections 3721.53 and 3721.54 of the Revised Code for fiscal year 32442
2002, twenty-three and twenty-six-hundredths per cent of such 32443
payments and penalties paid for fiscal ~~years~~ year 2003 ~~through,~~ 32444
twenty-one and five-hundredths per cent of such payments and 32445
penalties paid for fiscal year 2004, twenty and two-tenths per 32446
cent of such payments and penalties paid for fiscal year 2005, and 32447
all such payments and penalties paid for subsequent fiscal years, 32448
shall be deposited into the "home and community-based services for 32449
the aged fund," which is hereby created in the state treasury. The 32450
departments of job and family services and aging shall use the 32451
moneys in the fund to fund the following in accordance with rules 32452
adopted under section 3721.58 of the Revised Code: 32453

(1) The ~~medical assistance~~ medicaid program established under 32454
Chapter 5111. of the Revised Code; 32455

(2) The PASSPORT program established under section 173.40 of 32456

the Revised Code; 32457

(3) The residential state supplement program established 32458
under section 173.35 of the Revised Code. 32459

(B) Sixty-nine and seven-tenths per cent of all payments and 32460
penalties paid by nursing homes and hospitals under sections 32461
3721.53 and 3721.54 of the Revised Code for fiscal year 2002, ~~and~~ 32462
seventy-six and seventy-four-hundredths per cent of such payments 32463
and penalties paid for fiscal ~~years~~ year 2003 ~~through,~~ 32464
seventy-eight and ninety-five hundredths per cent of such payments 32465
and penalties paid for fiscal year 2004, and seventy-nine and 32466
eight-tenths per cent of such payments and penalties paid for 32467
fiscal year 2005, shall be deposited into the nursing facility 32468
stabilization fund, which is hereby created in the state treasury. 32469
The department of job and family services shall use the money in 32470
the fund ~~in the manner provided by Am. Sub. H.B. 94 and Am. Sub-~~ 32471
~~S.B. 261 of the 124th general assembly to make payments to nursing~~ 32472
facilities under the medicaid program. 32473

Sec. 3721.561. Any money remaining in the nursing facility 32474
stabilization fund created under section 3721.56 of the Revised 32475
Code after payments specified in division (B) of that section are 32476
made for fiscal years 2002 through 2005 shall be retained in the 32477
fund. Any interest or other investment proceeds earned on money in 32478
the fund shall be credited to the fund and used to make payments 32479
in accordance with division (B) of section 3721.56 of the Revised 32480
Code. 32481

Sec. 3722.151. (A) As used in this section: 32482

(1) "Adult care facility" has the same meaning as in section 32483
3722.01 of the Revised Code. 32484

(2) "Applicant" means a person who is under final 32485
consideration for employment with an adult care facility in a 32486

full-time, part-time, or temporary position that involves 32487
providing direct care to an older adult. "Applicant" does not 32488
include a person who provides direct care as a volunteer without 32489
receiving or expecting to receive any form of remuneration other 32490
than reimbursement for actual expenses. 32491

(3) "Criminal records check" and "older adult" have the same 32492
meanings as in section 109.572 of the Revised Code. 32493

(B)(1) Except as provided in division (I) of this section, 32494
the chief administrator of an adult care facility shall request 32495
that the superintendent of the bureau of criminal identification 32496
and investigation conduct a criminal records check with respect to 32497
each applicant. If an applicant for whom a criminal records check 32498
request is required under this division does not present proof of 32499
having been a resident of this state for the five-year period 32500
immediately prior to the date the criminal records check is 32501
requested or provide evidence that within that five-year period 32502
the superintendent has requested information about the applicant 32503
from the federal bureau of investigation in a criminal records 32504
check, the chief administrator shall request that the 32505
superintendent obtain information from the federal bureau of 32506
investigation as part of the criminal records check of the 32507
applicant. Even if an applicant for whom a criminal records check 32508
request is required under this division presents proof of having 32509
been a resident of this state for the five-year period, the chief 32510
administrator may request that the superintendent include 32511
information from the federal bureau of investigation in the 32512
criminal records check. 32513

(2) A person required by division (B)(1) of this section to 32514
request a criminal records check shall do both of the following: 32515

(a) Provide to each applicant for whom a criminal records 32516
check request is required under that division a copy of the form 32517
prescribed pursuant to division (C)(1) of section 109.572 of the 32518

Revised Code and a standard fingerprint impression sheet 32519
prescribed pursuant to division (C)(2) of that section, and obtain 32520
the completed form and impression sheet from the applicant; 32521

(b) Forward the completed form and impression sheet to the 32522
superintendent of the bureau of criminal identification and 32523
investigation. 32524

(3) An applicant provided the form and fingerprint impression 32525
sheet under division (B)(2)(a) of this section who fails to 32526
complete the form or provide fingerprint impressions shall not be 32527
employed in any position for which a criminal records check is 32528
required by this section. 32529

(C)(1) Except as provided in rules adopted by the public 32530
health council in accordance with division (F) of this section and 32531
subject to division (C)(2) of this section, no adult care facility 32532
shall employ a person in a position that involves providing direct 32533
care to an older adult if the person has been convicted of or 32534
pleaded guilty to any of the following: 32535

(a) A violation of section 2903.01, 2903.02, 2903.03, 32536
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 32537
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 32538
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 32539
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 32540
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 32541
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 32542
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 32543
2925.22, 2925.23, or 3716.11 of the Revised Code. 32544

(b) A violation of an existing or former law of this state, 32545
any other state, or the United States that is substantially 32546
equivalent to any of the offenses listed in division (C)(1)(a) of 32547
this section. 32548

(2)(a) An adult care facility may employ conditionally an 32549

applicant for whom a criminal records check request is required 32550
under division (B) of this section prior to obtaining the results 32551
of a criminal records check regarding the individual, provided 32552
that the facility shall request a criminal records check regarding 32553
the individual in accordance with division (B)(1) of this section 32554
not later than five business days after the individual begins 32555
conditional employment. In the circumstances described in division 32556
(I)(2) of this section, an adult care facility may employ 32557
conditionally an applicant who has been referred to the adult care 32558
facility by an employment service that supplies full-time, 32559
part-time, or temporary staff for positions involving the direct 32560
care of older adults and for whom, pursuant to that division, a 32561
criminal records check is not required under division (B) of this 32562
section. 32563

(b) An adult care facility that employs an individual 32564
conditionally under authority of division (C)(2)(a) of this 32565
section shall terminate the individual's employment if the results 32566
of the criminal records check requested under division (B) of this 32567
section or described in division (I)(2) of this section, other 32568
than the results of any request for information from the federal 32569
bureau of investigation, are not obtained within the period ending 32570
~~sixty~~ thirty days after the date the request is made. Regardless 32571
of when the results of the criminal records check are obtained, if 32572
the results indicate that the individual has been convicted of or 32573
pleaded guilty to any of the offenses listed or described in 32574
division (C)(1) of this section, the facility shall terminate the 32575
individual's employment unless the facility chooses to employ the 32576
individual pursuant to division (F) of this section. Termination 32577
of employment under this division shall be considered just cause 32578
for discharge for purposes of division (D)(2) of section 4141.29 32579
of the Revised Code if the individual makes any attempt to deceive 32580
the facility about the individual's criminal record. 32581

(D)(1) Each adult care facility shall pay to the bureau of 32582
criminal identification and investigation the fee prescribed 32583
pursuant to division (C)(3) of section 109.572 of the Revised Code 32584
for each criminal records check conducted pursuant to a request 32585
made under division (B) of this section. 32586

(2) An adult care facility may charge an applicant a fee not 32587
exceeding the amount the facility pays under division (D)(1) of 32588
this section. A facility may collect a fee only if it notifies the 32589
person at the time of initial application for employment of the 32590
amount of the fee and that, unless the fee is paid, the person 32591
will not be considered for employment. 32592

(E) The report of any criminal records check conducted 32593
pursuant to a request made under this section is not a public 32594
record for the purposes of section 149.43 of the Revised Code and 32595
shall not be made available to any person other than the 32596
following: 32597

(1) The individual who is the subject of the criminal records 32598
check or the individual's representative; 32599

(2) The chief administrator of the facility requesting the 32600
criminal records check or the administrator's representative; 32601

(3) The administrator of any other facility, agency, or 32602
program that provides direct care to older adults that is owned or 32603
operated by the same entity that owns or operates the adult care 32604
facility; 32605

(4) A court, hearing officer, or other necessary individual 32606
involved in a case dealing with a denial of employment of the 32607
applicant or dealing with employment or unemployment benefits of 32608
the applicant; 32609

(5) Any person to whom the report is provided pursuant to, 32610
and in accordance with, division (I)(1) or (2) of this section. 32611

(F) The public health council shall adopt rules in accordance 32612
with Chapter 119. of the Revised Code to implement this section. 32613
The rules shall specify circumstances under which an adult care 32614
facility may employ a person who has been convicted of or pleaded 32615
guilty to an offense listed or described in division (C)(1) of 32616
this section but meets personal character standards set by the 32617
council. 32618

(G) The chief administrator of an adult care facility shall 32619
inform each individual, at the time of initial application for a 32620
position that involves providing direct care to an older adult, 32621
that the individual is required to provide a set of fingerprint 32622
impressions and that a criminal records check is required to be 32623
conducted if the individual comes under final consideration for 32624
employment. 32625

(H) In a tort or other civil action for damages that is 32626
brought as the result of an injury, death, or loss to person or 32627
property caused by an individual who an adult care facility 32628
employs in a position that involves providing direct care to older 32629
adults, all of the following shall apply: 32630

(1) If the facility employed the individual in good faith and 32631
reasonable reliance on the report of a criminal records check 32632
requested under this section, the facility shall not be found 32633
negligent solely because of its reliance on the report, even if 32634
the information in the report is determined later to have been 32635
incomplete or inaccurate; 32636

(2) If the facility employed the individual in good faith on 32637
a conditional basis pursuant to division (C)(2) of this section, 32638
the facility shall not be found negligent solely because it 32639
employed the individual prior to receiving the report of a 32640
criminal records check requested under this section; 32641

(3) If the facility in good faith employed the individual 32642

according to the personal character standards established in rules 32643
adopted under division (F) of this section, the facility shall not 32644
be found negligent solely because the individual prior to being 32645
employed had been convicted of or pleaded guilty to an offense 32646
listed or described in division (C)(1) of this section. 32647

(I)(1) The chief administrator of an adult care facility is 32648
not required to request that the superintendent of the bureau of 32649
criminal identification and investigation conduct a criminal 32650
records check of an applicant if the applicant has been referred 32651
to the facility by an employment service that supplies full-time, 32652
part-time, or temporary staff for positions involving the direct 32653
care of older adults and both of the following apply: 32654

(a) The chief administrator receives from the employment 32655
service or the applicant a report of the results of a criminal 32656
records check regarding the applicant that has been conducted by 32657
the superintendent within the one-year period immediately 32658
preceding the applicant's referral; 32659

(b) The report of the criminal records check demonstrates 32660
that the person has not been convicted of or pleaded guilty to an 32661
offense listed or described in division (C)(1) of this section, or 32662
the report demonstrates that the person has been convicted of or 32663
pleaded guilty to one or more of those offenses, but the adult 32664
care facility chooses to employ the individual pursuant to 32665
division (F) of this section. 32666

(2) The chief administrator of an adult care facility is not 32667
required to request that the superintendent of the bureau of 32668
criminal identification and investigation conduct a criminal 32669
records check of an applicant and may employ the applicant 32670
conditionally as described in this division, if the applicant has 32671
been referred to the facility by an employment service that 32672
supplies full-time, part-time, or temporary staff for positions 32673
involving the direct care of older adults and if the chief 32674

administrator receives from the employment service or the 32675
applicant a letter from the employment service that is on the 32676
letterhead of the employment service, dated, and signed by a 32677
supervisor or another designated official of the employment 32678
service and that states that the employment service has requested 32679
the superintendent to conduct a criminal records check regarding 32680
the applicant, that the requested criminal records check will 32681
include a determination of whether the applicant has been 32682
convicted of or pleaded guilty to any offense listed or described 32683
in division (C)(1) of this section, that, as of the date set forth 32684
on the letter, the employment service had not received the results 32685
of the criminal records check, and that, when the employment 32686
service receives the results of the criminal records check, it 32687
promptly will send a copy of the results to the adult care 32688
facility. If an adult care facility employs an applicant 32689
conditionally in accordance with this division, the employment 32690
service, upon its receipt of the results of the criminal records 32691
check, promptly shall send a copy of the results to the adult care 32692
facility, and division (C)(2)(b) of this section applies regarding 32693
the conditional employment. 32694

Sec. 3733.43. (A) Except as otherwise provided in this 32695
division, prior to the fifteenth day of April in each year, every 32696
person who intends to operate an agricultural labor camp shall 32697
make application to the licenser for a license to operate such 32698
camp, effective for the calendar year in which it is issued. The 32699
licenser may accept an application on or after the fifteenth day 32700
of April. The license fees specified in this division shall be 32701
submitted to the licenser with the application for a license. No 32702
agricultural labor camp shall be operated in this state without a 32703
license. Any person operating an agricultural labor camp without a 32704
current and valid agricultural labor camp license is not excepted 32705
from compliance with sections 3733.41 to 3733.49 of the Revised 32706

Code by holding a valid and current hotel license. Each person 32707
proposing to open an agricultural labor camp shall submit with the 32708
application for a license any plans required by any rule adopted 32709
under section 3733.42 of the Revised Code. The annual license fee 32710
is ~~twenty~~ seventy-five dollars, unless the application for a 32711
license is made on or after the fifteenth day of April, in which 32712
case the annual license fee is ~~forty~~ one hundred dollars. An 32713
additional fee of ~~three~~ ten dollars per housing unit per year 32714
shall be assessed to defray the costs of enforcing sections 32715
3733.41 to 3733.49 of the Revised Code, unless the application for 32716
a license is made on or after the fifteenth day of April, in which 32717
case an additional fee of ~~six~~ fifteen dollars per housing unit 32718
shall be assessed. All fees collected under this division shall be 32719
deposited in the state treasury to the credit of the general 32720
operations fund created in section 3701.83 of the Revised Code and 32721
shall be used for the administration and enforcement of sections 32722
3733.41 to 3733.49 of the Revised Code and rules adopted 32723
thereunder. 32724

(B) Any license under this section may be denied, suspended, 32725
or revoked by the licensor for violation of sections 3733.41 to 32726
3733.49 of the Revised Code or the rules adopted thereunder. 32727
Unless there is an immediate serious public health hazard, no 32728
denial, suspension, or revocation of a license shall be made 32729
effective until the person operating the agricultural labor camp 32730
has been given notice in writing of the specific violations and a 32731
reasonable time to make corrections. When the licensor determines 32732
that an immediate serious public health hazard exists, ~~he~~ the 32733
licensor shall issue an order denying or suspending the license 32734
without a prior hearing. 32735

(C) All proceedings under this section are subject to Chapter 32736
119. of the Revised Code except as provided in section 3733.431 of 32737
the Revised Code. 32738

(D) Every occupant of an agricultural labor camp shall keep 32739
that part of the dwelling unit, and premises thereof, that ~~he~~ the 32740
occupant occupies and controls in a clean and sanitary condition. 32741

Sec. 3733.45. (A) The licensor shall inspect all agricultural 32742
labor camps and shall require compliance with sections 3733.41 to 32743
3733.49 of the Revised Code and the rules adopted thereunder prior 32744
to the issuance of a license. Upon receipt of a complaint from the 32745
migrant agricultural ~~ombudsman~~ ombudsperson or upon the basis of a 32746
licensor's own information that an agricultural labor camp is 32747
operating without a license, the licensor shall inspect the camp. 32748
If the camp is operating without a license, the licensor shall 32749
require the camp to comply with sections 3733.41 to 3733.49 of the 32750
Revised Code and the rules adopted under those sections. No 32751
license shall be issued unless results of water supply tests 32752
indicate that the water supply meets required standards or if any 32753
violations exist concerning sanitation, drainage, or habitability 32754
of housing units. 32755

(B) The licensor shall, upon issuance of each license, 32756
distribute posters containing the toll-free telephone number of 32757
the migrant agricultural ~~ombudsman~~ ombudsperson established in 32758
section 3733.49 of the Revised Code and information in English and 32759
Spanish describing the purpose of the ~~ombudsman's~~ ombudsperson's 32760
office, as provided in that section. The licensor shall provide at 32761
least two posters to the licensee, one for ~~his~~ the licensee's 32762
personal use and at least one that shall be posted in a 32763
conspicuous place within the camp. 32764

(C) The licensor may, upon proper identification to the 32765
operator or ~~his~~ the operator's agent, enter on any property or 32766
into any structure at any reasonable time for the purpose of 32767
making inspections required by this section. 32768

The licensor shall make at least one inspection prior to 32769

~~licensing, and at least two inspections during occupancy of the~~ 32770
~~camp, at least one of which shall be an unannounced evening~~ 32771
~~inspection conducted after five p.m. The licensor shall determine~~ 32772
~~and record housing unit occupancy during each evening inspection.~~ 32773
The licensor shall make such other inspections as ~~he~~ the licensor 32774
considers necessary to enforce sections 3733.41 to 3733.49 of the 32775
Revised Code adequately. 32776

(D) Any plans submitted to the licensor shall be in 32777
compliance with rules adopted pursuant to section 3733.42 of the 32778
Revised Code and shall be approved or disapproved within thirty 32779
days after they are filed. 32780

~~(E) All designees of the licensor who conduct inspections in~~ 32781
~~the evening in accordance with this section shall speak both~~ 32782
~~English and Spanish fluently. At least one member of the permanent~~ 32783
~~staff assigned to conduct inspections in accordance with this~~ 32784
~~section shall speak both English and Spanish fluently.~~ 32785

~~(F)~~ The licensor shall issue an annual report that shall 32786
accurately reflect the results of that year's inspections, 32787
including, but not limited to, numbers of ~~pre and post occupancy~~ 32788
inspections, number of violations found, and action taken in 32789
regard to violations. The report shall also include an assessment 32790
of any problems found in that year and proposed solutions for 32791
them. 32792

Sec. 3734.02. (A) The director of environmental protection, 32793
in accordance with Chapter 119. of the Revised Code, shall adopt 32794
and may amend, suspend, or rescind rules having uniform 32795
application throughout the state governing solid waste facilities 32796
and the inspections of and issuance of permits and licenses for 32797
all solid waste facilities in order to ensure that the facilities 32798
will be located, maintained, and operated, and will undergo 32799
closure and post-closure care, in a sanitary manner so as not to 32800

create a nuisance, cause or contribute to water pollution, create 32801
a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 32802
257.3-8, as amended. The rules may include, without limitation, 32803
financial assurance requirements for closure and post-closure care 32804
and corrective action and requirements for taking corrective 32805
action in the event of the surface or subsurface discharge or 32806
migration of explosive gases or leachate from a solid waste 32807
facility, or of ground water contamination resulting from the 32808
transfer or disposal of solid wastes at a facility, beyond the 32809
boundaries of any area within a facility that is operating or is 32810
undergoing closure or post-closure care where solid wastes were 32811
disposed of or are being disposed of. The rules shall not concern 32812
or relate to personnel policies, salaries, wages, fringe benefits, 32813
or other conditions of employment of employees of persons owning 32814
or operating solid waste facilities. The director, in accordance 32815
with Chapter 119. of the Revised Code, shall adopt and may amend, 32816
suspend, or rescind rules governing the issuance, modification, 32817
revocation, suspension, or denial of variances from the director's 32818
solid waste rules, including, without limitation, rules adopted 32819
under this chapter governing the management of scrap tires. 32820

Variances shall be issued, modified, revoked, suspended, or 32821
rescinded in accordance with this division, rules adopted under 32822
it, and Chapter 3745. of the Revised Code. The director may order 32823
the person to whom a variance is issued to take such action within 32824
such time as the director may determine to be appropriate and 32825
reasonable to prevent the creation of a nuisance or a hazard to 32826
the public health or safety or the environment. Applications for 32827
variances shall contain such detail plans, specifications, and 32828
information regarding objectives, procedures, controls, and other 32829
pertinent data as the director may require. The director shall 32830
grant a variance only if the applicant demonstrates to the 32831
director's satisfaction that construction and operation of the 32832
solid waste facility in the manner allowed by the variance and any 32833

terms or conditions imposed as part of the variance will not 32834
create a nuisance or a hazard to the public health or safety or 32835
the environment. In granting any variance, the director shall 32836
state the specific provision or provisions whose terms are to be 32837
varied and also shall state specific terms or conditions imposed 32838
upon the applicant in place of the provision or provisions. The 32839
director may hold a public hearing on an application for a 32840
variance or renewal of a variance at a location in the county 32841
where the operations that are the subject of the application for 32842
the variance are conducted. The director shall give not less than 32843
twenty days' notice of the hearing to the applicant by certified 32844
mail and shall publish at least one notice of the hearing in a 32845
newspaper with general circulation in the county where the hearing 32846
is to be held. The director shall make available for public 32847
inspection at the principal office of the environmental protection 32848
agency a current list of pending applications for variances and a 32849
current schedule of pending variance hearings. The director shall 32850
make a complete stenographic record of testimony and other 32851
evidence submitted at the hearing. Within ten days after the 32852
hearing, the director shall make a written determination to issue, 32853
renew, or deny the variance and shall enter the determination and 32854
the basis for it into the record of the hearing. The director 32855
shall issue, renew, or deny an application for a variance or 32856
renewal of a variance within six months of the date upon which the 32857
director receives a complete application with all pertinent 32858
information and data required. No variance shall be issued, 32859
revoked, modified, or denied until the director has considered the 32860
relative interests of the applicant, other persons and property 32861
affected by the variance, and the general public. Any variance 32862
granted under this division shall be for a period specified by the 32863
director and may be renewed from time to time on such terms and 32864
for such periods as the director determines to be appropriate. No 32865
application shall be denied and no variance shall be revoked or 32866

modified without a written order stating the findings upon which 32867
the denial, revocation, or modification is based. A copy of the 32868
order shall be sent to the applicant or variance holder by 32869
certified mail. 32870

(B) The director shall prescribe and furnish the forms 32871
necessary to administer and enforce this chapter. The director may 32872
cooperate with and enter into agreements with other state, local, 32873
or federal agencies to carry out the purposes of this chapter. The 32874
director may exercise all incidental powers necessary to carry out 32875
the purposes of this chapter. 32876

The director may use moneys in the infectious waste 32877
management fund created in section 3734.021 of the Revised Code 32878
exclusively for administering and enforcing the provisions of this 32879
chapter governing the management of infectious wastes. Of each 32880
registration and renewal fee collected under rules adopted under 32881
division (A)(2)(a) of section 3734.021 or under section 3734.022 32882
of the Revised Code, the director, within forty-five days of its 32883
receipt, shall remit from the fund one-half of the fee received to 32884
the board of health of the health district in which the registered 32885
premises is located, or, in the instance of an infectious wastes 32886
transporter, to the board of health of the health district in 32887
which the transporter's principal place of business is located. 32888
However, if the board of health having jurisdiction over a 32889
registrant's premises or principal place of business is not on the 32890
approved list under section 3734.08 of the Revised Code, the 32891
director shall not make that payment to the board of health. 32892

(C) Except as provided in this division and divisions (N)(2) 32893
and (3) of this section, no person shall establish a new solid 32894
waste facility or infectious waste treatment facility, or modify 32895
an existing solid waste facility or infectious waste treatment 32896
facility, without submitting an application for a permit with 32897
accompanying detail plans, specifications, and information 32898

regarding the facility and method of operation and receiving a 32899
permit issued by the director, except that no permit shall be 32900
required under this division to install or operate a solid waste 32901
facility for sewage sludge treatment or disposal when the 32902
treatment or disposal is authorized by a current permit issued 32903
under Chapter 3704. or 6111. of the Revised Code. 32904

No person shall continue to operate a solid waste facility 32905
for which the director has denied a permit for which an 32906
application was required under division (A)(3) of section 3734.05 32907
of the Revised Code, or for which the director has disapproved 32908
plans and specifications required to be filed by an order issued 32909
under division (A)(5) of that section, after the date prescribed 32910
for commencement of closure of the facility in the order issued 32911
under division (A)(6) of section 3734.05 of the Revised Code 32912
denying the permit application or approval. 32913

On and after the effective date of the rules adopted under 32914
division (A) of this section and division (D) of section 3734.12 32915
of the Revised Code governing solid waste transfer facilities, no 32916
person shall establish a new, or modify an existing, solid waste 32917
transfer facility without first submitting an application for a 32918
permit with accompanying engineering detail plans, specifications, 32919
and information regarding the facility and its method of operation 32920
to the director and receiving a permit issued by the director. 32921

No person shall establish a new compost facility or continue 32922
to operate an existing compost facility that accepts exclusively 32923
source separated yard wastes without submitting a completed 32924
registration for the facility to the director in accordance with 32925
rules adopted under divisions (A) and (N)(3) of this section. 32926

This division does not apply to an infectious waste treatment 32927
facility that meets any of the following conditions: 32928

(1) Is owned or operated by the generator of the wastes and 32929

exclusively treats, by methods, techniques, and practices 32930
established by rules adopted under division (C)(1) or (3) of 32931
section 3734.021 of the Revised Code, wastes that are generated at 32932
any premises owned or operated by that generator regardless of 32933
whether the wastes are generated on the premises where the 32934
generator's treatment facility is located or, if the generator is 32935
a hospital as defined in section 3727.01 of the Revised Code, 32936
infectious wastes that are described in division (A)(1)(g), (h), 32937
or (i) of section 3734.021 of the Revised Code; 32938

(2) Holds a license or renewal of a license to operate a 32939
crematory facility issued under Chapter 4717. and a permit issued 32940
under Chapter 3704. of the Revised Code; 32941

(3) Treats or disposes of dead animals or parts thereof, or 32942
the blood of animals, and is subject to any of the following: 32943

(a) Inspection under the "Federal Meat Inspection Act," 81 32944
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 32945

(b) Chapter 918. of the Revised Code; 32946

(c) Chapter 953. of the Revised Code. 32947

(D) Neither this chapter nor any rules adopted under it apply 32948
to single-family residential premises; to infectious wastes 32949
generated by individuals for purposes of their own care or 32950
treatment that are disposed of with solid wastes from the 32951
individual's residence; to the temporary storage of solid wastes, 32952
other than scrap tires, prior to their collection for disposal; to 32953
the storage of one hundred or fewer scrap tires unless they are 32954
stored in such a manner that, in the judgment of the director or 32955
the board of health of the health district in which the scrap 32956
tires are stored, the storage causes a nuisance, a hazard to 32957
public health or safety, or a fire hazard; or to the collection of 32958
solid wastes, other than scrap tires, by a political subdivision 32959
or a person holding a franchise or license from a political 32960

subdivision of the state; to composting, as defined in section 32961
1511.01 of the Revised Code, conducted in accordance with section 32962
1511.022 of the Revised Code; or to any person who is licensed to 32963
transport raw rendering material to a compost facility pursuant to 32964
section 953.23 of the Revised Code. 32965

(E)(1) As used in this division and section 3734.18 of the 32966
Revised Code: 32967

(a) "On-site facility" means a facility that stores, treats, 32968
or disposes of hazardous waste that is generated on the premises 32969
of the facility. 32970

(b) "Off-site facility" means a facility that stores, treats, 32971
or disposes of hazardous waste that is generated off the premises 32972
of the facility and includes such a facility that is also an 32973
on-site facility. 32974

(c) "Satellite facility" means any of the following: 32975

(i) An on-site facility that also receives hazardous waste 32976
from other premises owned by the same person who generates the 32977
waste on the facility premises; 32978

(ii) An off-site facility operated so that all of the 32979
hazardous waste it receives is generated on one or more premises 32980
owned by the person who owns the facility; 32981

(iii) An on-site facility that also receives hazardous waste 32982
that is transported uninterruptedly and directly to the facility 32983
through a pipeline from a generator who is not the owner of the 32984
facility. 32985

(2) Except as provided in division (E)(3) of this section, no 32986
person shall establish or operate a hazardous waste facility, or 32987
use a solid waste facility for the storage, treatment, or disposal 32988
of any hazardous waste, without a hazardous waste facility 32989
installation and operation permit ~~from the hazardous waste~~ 32990

~~facility board~~ issued in accordance with section 3734.05 of the Revised Code and subject to the payment of an application fee not to exceed one thousand five hundred dollars, payable upon application for a hazardous waste facility installation and operation permit and upon application for a renewal permit issued under division (H) of section 3734.05 of the Revised Code, to be credited to the hazardous waste facility management fund created in section 3734.18 of the Revised Code. The term of a hazardous waste facility installation and operation permit shall not exceed five years.

In addition to the application fee, there is hereby levied an annual permit fee to be paid by the permit holder upon the anniversaries of the date of issuance of the hazardous waste facility installation and operation permit and of any subsequent renewal permits and to be credited to the hazardous waste facility management fund. Annual permit fees totaling forty thousand dollars or more for any one facility may be paid on a quarterly basis with the first quarterly payment each year being due on the anniversary of the date of issuance of the hazardous waste facility installation and operation permit and of any subsequent renewal permits. The annual permit fee shall be determined for each permit holder by the director in accordance with the following schedule:

TYPE OF BASIC				
MANAGEMENT UNIT	TYPE OF FACILITY		FEE	
Storage facility using:				
Containers	On-site, off-site, and satellite		\$ 500	
Tanks	On-site, off-site, and satellite		500	
Waste pile	On-site, off-site, and satellite		3,000	
Surface impoundment	On-site and satellite		8,000	

	Off-site	10,000	33024
Disposal facility using:			33025
Deep well injection	On-site and satellite	15,000	33026
	Off-site	25,000	33027
Landfill	On-site and satellite	25,000	33028
	Off-site	40,000	33029
Land application	On-site and satellite	2,500	33030
	Off-site	5,000	33031
Surface impoundment	On-site and satellite	10,000	33032
	Off-site	20,000	33033
Treatment facility using:			33034
Tanks	On-site, off-site, and		33035
	satellite	700	33036
Surface impoundment	On-site and satellite	8,000	33037
	Off-site	10,000	33038
Incinerator	On-site and satellite	5,000	33039
	Off-site	<u>10,000</u>	33040
Other forms			33041
of treatment	On-site, off-site, and		33042
	satellite	1,000	33043

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 construction has commenced, the director shall require the payment

of a part of the appropriate fee indicated by the schedule that 33056
bears the same relationship to the total fee that the number of 33057
days remaining until the next anniversary date at which payment of 33058
the annual permit fee is due bears to three hundred sixty-five. 33059

The director, by rules adopted in accordance with Chapters 33060
119. and 3745. of the Revised Code, shall prescribe procedures for 33061
collecting the annual permit fee established by this division and 33062
may prescribe other requirements necessary to carry out this 33063
division. 33064

(3) The prohibition against establishing or operating a 33065
hazardous waste facility without a hazardous waste facility 33066
installation and operation permit ~~from the board~~ does not apply to 33067
either of the following: 33068

(a) A facility that is operating in accordance with a permit 33069
renewal issued under division (H) of section 3734.05 of the 33070
Revised Code, a revision issued under division (I) of that section 33071
as it existed prior to August 20, 1996, or a modification issued 33072
by the director under division (I) of that section on and after 33073
August 20, 1996; 33074

(b) Except as provided in division (J) of section 3734.05 of 33075
the Revised Code, a facility that will operate or is operating in 33076
accordance with a permit by rule, or that is not subject to permit 33077
requirements, under rules adopted by the director. In accordance 33078
with Chapter 119. of the Revised Code, the director shall adopt, 33079
and subsequently may amend, suspend, or rescind, rules for the 33080
purposes of division (E)(3)(b) of this section. Any rules so 33081
adopted shall be consistent with and equivalent to regulations 33082
pertaining to interim status adopted under the "Resource 33083
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 33084
6921, as amended, except as otherwise provided in this chapter. 33085

If a modification is requested or proposed for a facility 33086

described in division (E)(3)(a) or (b) of this section, division 33087
(I)~~(8)~~(7) of section 3734.05 of the Revised Code applies. 33088

(F) No person shall store, treat, or dispose of hazardous 33089
waste identified or listed under this chapter and rules adopted 33090
under it, regardless of whether generated on or off the premises 33091
where the waste is stored, treated, or disposed of, or transport 33092
or cause to be transported any hazardous waste identified or 33093
listed under this chapter and rules adopted under it to any other 33094
premises, except at or to any of the following: 33095

(1) A hazardous waste facility operating under a permit 33096
issued in accordance with this chapter; 33097

(2) A facility in another state operating under a license or 33098
permit issued in accordance with the "Resource Conservation and 33099
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 33100
amended; 33101

(3) A facility in another nation operating in accordance with 33102
the laws of that nation; 33103

(4) A facility holding a permit issued pursuant to Title I of 33104
the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 33105
Stat. 1052, 33 U.S.C.A. 1401, as amended; 33106

(5) A hazardous waste facility as described in division 33107
(E)(3)(a) or (b) of this section. 33108

(G) The director, by order, may exempt any person generating, 33109
collecting, storing, treating, disposing of, or transporting solid 33110
wastes or hazardous waste, or processing solid wastes that consist 33111
of scrap tires, in such quantities or under such circumstances 33112
that, in the determination of the director, are unlikely to 33113
adversely affect the public health or safety or the environment 33114
from any requirement to obtain a registration certificate, permit, 33115
or license or comply with the manifest system or other 33116
requirements of this chapter. Such an exemption shall be 33117

consistent with and equivalent to any regulations adopted by the 33118
administrator of the United States environmental protection agency 33119
under the "Resource Conservation and Recovery Act of 1976," 90 33120
Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise 33121
provided in this chapter. 33122

(H) No person shall engage in filling, grading, excavating, 33123
building, drilling, or mining on land where a hazardous waste 33124
facility, or a solid waste facility, was operated without prior 33125
authorization from the director, who shall establish the procedure 33126
for granting such authorization by rules adopted in accordance 33127
with Chapter 119. of the Revised Code. 33128

A public utility that has main or distribution lines above or 33129
below the land surface located on an easement or right-of-way 33130
across land where a solid waste facility was operated may engage 33131
in any such activity within the easement or right-of-way without 33132
prior authorization from the director for purposes of performing 33133
emergency repair or emergency replacement of its lines; of the 33134
poles, towers, foundations, or other structures supporting or 33135
sustaining any such lines; or of the appurtenances to those 33136
structures, necessary to restore or maintain existing public 33137
utility service. A public utility may enter upon any such easement 33138
or right-of-way without prior authorization from the director for 33139
purposes of performing necessary or routine maintenance of those 33140
portions of its existing lines; of the existing poles, towers, 33141
foundations, or other structures sustaining or supporting its 33142
lines; or of the appurtenances to any such supporting or 33143
sustaining structure, located on or above the land surface on any 33144
such easement or right-of-way. Within twenty-four hours after 33145
commencing any such emergency repair, replacement, or maintenance 33146
work, the public utility shall notify the director or the 33147
director's authorized representative of those activities and shall 33148
provide such information regarding those activities as the 33149

director or the director's representative may request. Upon 33150
completion of the emergency repair, replacement, or maintenance 33151
activities, the public utility shall restore any land of the solid 33152
waste facility disturbed by those activities to the condition 33153
existing prior to the commencement of those activities. 33154

(I) No owner or operator of a hazardous waste facility, in 33155
the operation of the facility, shall cause, permit, or allow the 33156
emission therefrom of any particulate matter, dust, fumes, gas, 33157
mist, smoke, vapor, or odorous substance that, in the opinion of 33158
the director, unreasonably interferes with the comfortable 33159
enjoyment of life or property by persons living or working in the 33160
vicinity of the facility, or that is injurious to public health. 33161
Any such action is hereby declared to be a public nuisance. 33162

(J) Notwithstanding any other provision of this chapter, in 33163
the event the director finds an imminent and substantial danger to 33164
public health or safety or the environment that creates an 33165
emergency situation requiring the immediate treatment, storage, or 33166
disposal of hazardous waste, the director may issue a temporary 33167
emergency permit to allow the treatment, storage, or disposal of 33168
the hazardous waste at a facility that is not otherwise authorized 33169
by a hazardous waste facility installation and operation permit to 33170
treat, store, or dispose of the waste. The emergency permit shall 33171
not exceed ninety days in duration and shall not be renewed. The 33172
director shall adopt, and may amend, suspend, or rescind, rules in 33173
accordance with Chapter 119. of the Revised Code governing the 33174
issuance, modification, revocation, and denial of emergency 33175
permits. 33176

(K) No owner or operator of a sanitary landfill shall 33177
knowingly accept for disposal, or dispose of, any infectious 33178
wastes, other than those subject to division (A)(1)(c) of section 33179
3734.021 of the Revised Code, that have not been treated to render 33180
them noninfectious. For the purposes of this division, 33181

certification by the owner or operator of the treatment facility 33182
where the wastes were treated on the shipping paper required by 33183
rules adopted under division (D)(2) of that section creates a 33184
rebuttable presumption that the wastes have been so treated. 33185

(L) The director, in accordance with Chapter 119. of the 33186
Revised Code, shall adopt, and may amend, suspend, or rescind, 33187
rules having uniform application throughout the state establishing 33188
a training and certification program that shall be required for 33189
employees of boards of health who are responsible for enforcing 33190
the solid waste and infectious waste provisions of this chapter 33191
and rules adopted under them and for persons who are responsible 33192
for the operation of solid waste facilities or infectious waste 33193
treatment facilities. The rules shall provide all of the 33194
following, without limitation: 33195

(1) The program shall be administered by the director and 33196
shall consist of a course on new solid waste and infectious waste 33197
technologies, enforcement procedures, and rules; 33198

(2) The course shall be offered on an annual basis; 33199

(3) Those persons who are required to take the course under 33200
division (L) of this section shall do so triennially; 33201

(4) Persons who successfully complete the course shall be 33202
certified by the director; 33203

(5) Certification shall be required for all employees of 33204
boards of health who are responsible for enforcing the solid waste 33205
or infectious waste provisions of this chapter and rules adopted 33206
under them and for all persons who are responsible for the 33207
operation of solid waste facilities or infectious waste treatment 33208
facilities; 33209

(6)(a) All employees of a board of health who, on the 33210
effective date of the rules adopted under this division, are 33211
responsible for enforcing the solid waste or infectious waste 33212

provisions of this chapter and the rules adopted under them shall 33213
complete the course and be certified by the director not later 33214
than January 1, 1995; 33215

(b) All employees of a board of health who, after the 33216
effective date of the rules adopted under division (L) of this 33217
section, become responsible for enforcing the solid waste or 33218
infectious waste provisions of this chapter and rules adopted 33219
under them and who do not hold a current and valid certification 33220
from the director at that time shall complete the course and be 33221
certified by the director within two years after becoming 33222
responsible for performing those activities. 33223

No person shall fail to obtain the certification required 33224
under this division. 33225

(M) The director shall not issue a permit under section 33226
3734.05 of the Revised Code to establish a solid waste facility, 33227
or to modify a solid waste facility operating on December 21, 33228
1988, in a manner that expands the disposal capacity or geographic 33229
area covered by the facility, that is or is to be located within 33230
the boundaries of a state park established or dedicated under 33231
Chapter 1541. of the Revised Code, a state park purchase area 33232
established under section 1541.02 of the Revised Code, any unit of 33233
the national park system, or any property that lies within the 33234
boundaries of a national park or recreation area, but that has not 33235
been acquired or is not administered by the secretary of the 33236
United States department of the interior, located in this state, 33237
or any candidate area located in this state and identified for 33238
potential inclusion in the national park system in the edition of 33239
the "national park system plan" submitted under paragraph (b) of 33240
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 33241
U.S.C.A. 1a-5, as amended, current at the time of filing of the 33242
application for the permit, unless the facility or proposed 33243
facility is or is to be used exclusively for the disposal of solid 33244

wastes generated within the park or recreation area and the 33245
director determines that the facility or proposed facility will 33246
not degrade any of the natural or cultural resources of the park 33247
or recreation area. The director shall not issue a variance under 33248
division (A) of this section and rules adopted under it, or issue 33249
an exemption order under division (G) of this section, that would 33250
authorize any such establishment or expansion of a solid waste 33251
facility within the boundaries of any such park or recreation 33252
area, state park purchase area, or candidate area, other than a 33253
solid waste facility exclusively for the disposal of solid wastes 33254
generated within the park or recreation area when the director 33255
determines that the facility will not degrade any of the natural 33256
or cultural resources of the park or recreation area. 33257

(N)(1) The rules adopted under division (A) of this section, 33258
other than those governing variances, do not apply to scrap tire 33259
collection, storage, monocell, monofill, and recovery facilities. 33260
Those facilities are subject to and governed by rules adopted 33261
under sections 3734.70 to 3734.73 of the Revised Code, as 33262
applicable. 33263

(2) Division (C) of this section does not apply to scrap tire 33264
collection, storage, monocell, monofill, and recovery facilities. 33265
The establishment and modification of those facilities are subject 33266
to sections 3734.75 to 3734.78 and section 3734.81 of the Revised 33267
Code, as applicable. 33268

(3) The director may adopt, amend, suspend, or rescind rules 33269
under division (A) of this section creating an alternative system 33270
for authorizing the establishment, operation, or modification of a 33271
solid waste compost facility in lieu of the requirement that a 33272
person seeking to establish, operate, or modify a solid waste 33273
compost facility apply for and receive a permit under division (C) 33274
of this section and section 3734.05 of the Revised Code and a 33275
license under division (A)(1) of that section. The rules may 33276

include requirements governing, without limitation, the 33277
classification of solid waste compost facilities, the submittal of 33278
operating records for solid waste compost facilities, and the 33279
creation of a registration or notification system in lieu of the 33280
issuance of permits and licenses for solid waste compost 33281
facilities. The rules shall specify the applicability of divisions 33282
(A)(1), (2)(a), (3), and (4) of section 3734.05 of the Revised 33283
Code to a solid waste compost facility. 33284

Sec. 3734.05. (A)(1) Except as provided in divisions (A)(4), 33285
(8), and (9) of this section, no person shall operate or maintain 33286
a solid waste facility without a license issued under this 33287
division by the board of health of the health district in which 33288
the facility is located or by the director of environmental 33289
protection when the health district in which the facility is 33290
located is not on the approved list under section 3734.08 of the 33291
Revised Code. 33292

During the month of December, but before the first day of 33293
January of the next year, every person proposing to continue to 33294
operate an existing solid waste facility shall procure a license 33295
under this division to operate the facility for that year from the 33296
board of health of the health district in which the facility is 33297
located or, if the health district is not on the approved list 33298
under section 3734.08 of the Revised Code, from the director. The 33299
application for such a license shall be submitted to the board of 33300
health or to the director, as appropriate, on or before the last 33301
day of September of the year preceding that for which the license 33302
is sought. In addition to the application fee prescribed in 33303
division (A)(2) of this section, a person who submits an 33304
application after that date shall pay an additional ten per cent 33305
of the amount of the application fee for each week that the 33306
application is late. Late payment fees accompanying an application 33307
submitted to the board of health shall be credited to the special 33308

fund of the health district created in division (B) of section 33309
3734.06 of the Revised Code, and late payment fees accompanying an 33310
application submitted to the director shall be credited to the 33311
general revenue fund. A person who has received a license, upon 33312
sale or disposition of a solid waste facility, and upon consent of 33313
the board of health and the director, may have the license 33314
transferred to another person. The board of health or the director 33315
may include such terms and conditions in a license or revision to 33316
a license as are appropriate to ensure compliance with this 33317
chapter and rules adopted under it. The terms and conditions may 33318
establish the authorized maximum daily waste receipts for the 33319
facility. Limitations on maximum daily waste receipts shall be 33320
specified in cubic yards of volume for the purpose of regulating 33321
the design, construction, and operation of solid waste facilities. 33322
Terms and conditions included in a license or revision to a 33323
license by a board of health shall be consistent with, and pertain 33324
only to the subjects addressed in, the rules adopted under 33325
division (A) of section 3734.02 and division (D) of section 33326
3734.12 of the Revised Code. 33327

(2)(a) Except as provided in divisions (A)(2)(b), (8), and 33328
(9) of this section, each person proposing to open a new solid 33329
waste facility or to modify an existing solid waste facility shall 33330
submit an application for a permit with accompanying detail plans 33331
and specifications to the environmental protection agency for 33332
required approval under the rules adopted by the director pursuant 33333
to division (A) of section 3734.02 of the Revised Code and 33334
applicable rules adopted under division (D) of section 3734.12 of 33335
the Revised Code at least two hundred seventy days before proposed 33336
operation of the facility and shall concurrently make application 33337
for the issuance of a license under division (A)(1) of this 33338
section with the board of health of the health district in which 33339
the proposed facility is to be located. 33340

(b) On and after the effective date of the rules adopted 33341
under division (A) of section 3734.02 of the Revised Code and 33342
division (D) of section 3734.12 of the Revised Code governing 33343
solid waste transfer facilities, each person proposing to open a 33344
new solid waste transfer facility or to modify an existing solid 33345
waste transfer facility shall submit an application for a permit 33346
with accompanying engineering detail plans, specifications, and 33347
information regarding the facility and its method of operation to 33348
the environmental protection agency for required approval under 33349
those rules at least two hundred seventy days before commencing 33350
proposed operation of the facility and concurrently shall make 33351
application for the issuance of a license under division (A)(1) of 33352
this section with the board of health of the health district in 33353
which the facility is located or proposed. 33354

(c) Each application for a permit under division (A)(2)(a) or 33355
(b) of this section shall be accompanied by a nonrefundable 33356
application fee of four hundred dollars that shall be credited to 33357
the general revenue fund. Each application for an annual license 33358
under division (A)(1) or (2) of this section shall be accompanied 33359
by a nonrefundable application fee of one hundred dollars. If the 33360
application for an annual license is submitted to a board of 33361
health on the approved list under section 3734.08 of the Revised 33362
Code, the application fee shall be credited to the special fund of 33363
the health district created in division (B) of section 3734.06 of 33364
the Revised Code. If the application for an annual license is 33365
submitted to the director, the application fee shall be credited 33366
to the general revenue fund. If a permit or license is issued, the 33367
amount of the application fee paid shall be deducted from the 33368
amount of the permit fee due under division (Q) of section 3745.11 33369
of the Revised Code or the amount of the license fee due under 33370
division (A)(1), (2), (3), or (4) of section 3734.06 of the 33371
Revised Code. 33372

(d) As used in divisions (A)(2)(d), (e), and (f) of this section, "modify" means any of the following:

(i) Any increase of more than ten per cent in the total capacity of a solid waste facility;

(ii) Any expansion of the limits of solid waste placement at a solid waste facility;

(iii) Any increase in the depth of excavation at a solid waste facility;

(iv) Any change in the technique of waste receipt or type of waste received at a solid waste facility that may endanger human health, as determined by the director by rules adopted in accordance with Chapter 119. of the Revised Code.

Not later than thirty-five days after submitting an application under division (A)(2)(a) or (b) of this section for a permit to open a new or modify an existing solid waste facility, 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 notice was published to the director and the legislative authority

of each municipal corporation, township, and county, and to the 33404
chief executive officer of each municipal corporation, in which 33405
the facility is or is proposed to be located. At the public 33406
meeting, the applicant shall provide information and describe the 33407
application and respond to comments or questions concerning the 33408
application, and the officer or employee of the agency shall 33409
describe the permit application process. At the public meeting, 33410
any person may submit written or oral comments on or objections to 33411
the application. Not more than thirty days after the public 33412
meeting, the applicant shall provide the director with a copy of a 33413
transcript of the full meeting, copies of any exhibits, displays, 33414
or other materials presented by the applicant at the meeting, and 33415
the original copy of any written comments submitted at the 33416
meeting. 33417

(e) Except as provided in division (A)(2)(f) of this section, 33418
prior to taking an action, other than a proposed or final denial, 33419
upon an application submitted under division (A)(2)(a) of this 33420
section for a permit to open a new or modify an existing solid 33421
waste facility, the director shall hold a public information 33422
session and a public hearing on the application within the county 33423
in which the new or modified solid waste facility is or is 33424
proposed to be located or within a contiguous county. If the 33425
application is for a permit to open a new solid waste facility, 33426
the director shall hold the hearing not less than fourteen days 33427
after the information session. If the application is for a permit 33428
to modify an existing solid waste facility, the director may hold 33429
both the information session and the hearing on the same day 33430
unless any individual affected by the application requests in 33431
writing that the information session and the hearing not be held 33432
on the same day, in which case the director shall hold the hearing 33433
not less than fourteen days after the information session. The 33434
director shall publish notice of the public information session or 33435
public hearing not less than thirty days before holding the 33436

information session or hearing, as applicable. The notice shall be 33437
published in each newspaper of general circulation that is 33438
published in the county in which the facility is or is proposed to 33439
be located. If no newspaper of general circulation is published in 33440
the county, the director shall publish the notice in a newspaper 33441
of general circulation in the county. The notice shall contain the 33442
date, time, and location of the information session or hearing, as 33443
applicable, and a general description of the proposed new or 33444
modified facility. At the public information session, an officer 33445
or employee of the environmental protection agency shall describe 33446
the status of the permit application and be available to respond 33447
to comments or questions concerning the application. At the public 33448
hearing, any person may submit written or oral comments on or 33449
objections to the approval of the application. The applicant, or a 33450
representative of the applicant who has knowledge of the location, 33451
construction, and operation of the facility, shall attend the 33452
information session and public hearing to respond to comments or 33453
questions concerning the facility directed to the applicant or 33454
representative by the officer or employee of the environmental 33455
protection agency presiding at the information session and 33456
hearing. 33457

(f) The solid waste management policy committee of a county 33458
or joint solid waste management district may adopt a resolution 33459
requesting expeditious consideration of a specific application 33460
submitted under division (A)(2)(a) of this section for a permit to 33461
modify an existing solid waste facility within the district. The 33462
resolution shall make the finding that expedited consideration of 33463
the application without the public information session and public 33464
hearing under division (A)(2)(e) of this section is in the public 33465
interest and will not endanger human health, as determined by the 33466
director by rules adopted in accordance with Chapter 119. of the 33467
Revised Code. Upon receiving such a resolution, the director, at 33468
the director's discretion, may issue a final action upon the 33469

application without holding a public information session or public hearing pursuant to division (A)(2)(e) of this section. 33470
33471

(3) Except as provided in division (A)(10) of this section, 33472
and unless the owner or operator of any solid waste facility, 33473
other than a solid waste transfer facility or a compost facility 33474
that accepts exclusively source separated yard wastes, that 33475
commenced operation on or before July 1, 1968, has obtained an 33476
exemption from the requirements of division (A)(3) of this section 33477
in accordance with division (G) of section 3734.02 of the Revised 33478
Code, the owner or operator shall submit to the director an 33479
application for a permit with accompanying engineering detail 33480
plans, specifications, and information regarding the facility and 33481
its method of operation for approval under rules adopted under 33482
division (A) of section 3734.02 of the Revised Code and applicable 33483
rules adopted under division (D) of section 3734.12 of the Revised 33484
Code in accordance with the following schedule: 33485

(a) Not later than September 24, 1988, if the facility is 33486
located in the city of Garfield Heights or Parma in Cuyahoga 33487
county; 33488

(b) Not later than December 24, 1988, if the facility is 33489
located in Delaware, Greene, Guernsey, Hamilton, Madison, 33490
Mahoning, Ottawa, or Vinton county; 33491

(c) Not later than March 24, 1989, if the facility is located 33492
in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or 33493
Washington county, or is located in the city of Brooklyn or 33494
Cuyahoga Heights in Cuyahoga county; 33495

(d) Not later than June 24, 1989, if the facility is located 33496
in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or 33497
Summit county or is located in Cuyahoga county outside the cities 33498
of Garfield Heights, Parma, Brooklyn, and Cuyahoga Heights; 33499

(e) Not later than September 24, 1989, if the facility is 33500

located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross 33501
county; 33502

(f) Not later than December 24, 1989, if the facility is 33503
located in a county not listed in divisions (A)(3)(a) to (e) of 33504
this section; 33505

(g) Notwithstanding divisions (A)(3)(a) to (f) of this 33506
section, not later than December 31, 1990, if the facility is a 33507
solid waste facility owned by a generator of solid wastes when the 33508
solid waste facility exclusively disposes of solid wastes 33509
generated at one or more premises owned by the generator 33510
regardless of whether the facility is located on a premises where 33511
the wastes are generated and if the facility disposes of more than 33512
one hundred thousand tons of solid wastes per year, provided that 33513
any such facility shall be subject to division (A)(5) of this 33514
section. 33515

(4) Except as provided in divisions (A)(8), (9), and (10) of 33516
this section, unless the owner or operator of any solid waste 33517
facility for which a permit was issued after July 1, 1968, but 33518
before January 1, 1980, has obtained an exemption from the 33519
requirements of division (A)(4) of this section under division (G) 33520
of section 3734.02 of the Revised Code, the owner or operator 33521
shall submit to the director an application for a permit with 33522
accompanying engineering detail plans, specifications, and 33523
information regarding the facility and its method of operation for 33524
approval under those rules. 33525

(5) The director may issue an order in accordance with 33526
Chapter 3745. of the Revised Code to the owner or operator of a 33527
solid waste facility requiring the person to submit to the 33528
director updated engineering detail plans, specifications, and 33529
information regarding the facility and its method of operation for 33530
approval under rules adopted under division (A) of section 3734.02 33531
of the Revised Code and applicable rules adopted under division 33532

(D) of section 3734.12 of the Revised Code if, in the director's judgment, conditions at the facility constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination. Any person who receives such an order shall submit the updated engineering detail plans, specifications, and information to the director within one hundred eighty days after the effective date of the order.

(6) The director shall act upon an application submitted under division (A)(3) or (4) of this section and any updated engineering plans, specifications, and information submitted under division (A)(5) of this section within one hundred eighty days after receiving them. If the director denies any such permit application, the order denying the application or disapproving the plans shall include the requirements that the owner or operator submit a plan for closure and post-closure care of the facility to the director for approval within six months after issuance of the order, cease accepting solid wastes for disposal or transfer at the facility, and commence closure of the facility not later than one year after issuance of the order. If the director determines that closure of the facility within that one-year period would result in the unavailability of sufficient solid waste management facility capacity within the county or joint solid waste management district in which the facility is located to dispose of or transfer the solid waste generated within the district, the director in the order of denial or disapproval may postpone commencement of closure of the facility for such period of time as the director finds necessary for the board of county commissioners or directors of the district to secure access to or for there to be constructed within the district sufficient solid waste management facility capacity to meet the needs of the district, provided that the director shall certify in the director's order that postponing the date for commencement of closure will not

endanger ground water or any property surrounding the facility, 33566
allow methane gas migration to occur, or cause or contribute to 33567
any other type of environmental damage. 33568

If an emergency need for disposal capacity that may affect 33569
public health and safety exists as a result of closure of a 33570
facility under division (A)(6) of this section, the director may 33571
issue an order designating another solid waste facility to accept 33572
the wastes that would have been disposed of at the facility to be 33573
closed. 33574

(7) If the director determines that standards more stringent 33575
than those applicable in rules adopted under division (A) of 33576
section 3734.02 of the Revised Code and division (D) of section 33577
3734.12 of the Revised Code, or standards pertaining to subjects 33578
not specifically addressed by those rules, are necessary to ensure 33579
that a solid waste facility constructed at the proposed location 33580
will not cause a nuisance, cause or contribute to water pollution, 33581
or endanger public health or safety, the director may issue a 33582
permit for the facility with such terms and conditions as the 33583
director finds necessary to protect public health and safety and 33584
the environment. If a permit is issued, the director shall state 33585
in the order issuing it the specific findings supporting each such 33586
term or condition. 33587

(8) Divisions (A)(1), (2)(a), (3), and (4) of this section do 33588
not apply to a solid waste compost facility that accepts 33589
exclusively source separated yard wastes and that is registered 33590
under division (C) of section 3734.02 of the Revised Code or, 33591
unless otherwise provided in rules adopted under division (N)(3) 33592
of section 3734.02 of the Revised Code, to a solid waste compost 33593
facility if the director has adopted rules establishing an 33594
alternative system for authorizing the establishment, operation, 33595
or modification of a solid waste compost facility under that 33596
division. 33597

(9) Divisions (A)(1) to (7) of this section do not apply to 33598
scrap tire collection, storage, monocell, monofill, and recovery 33599
facilities. The approval of plans and specifications, as 33600
applicable, and the issuance of registration certificates, 33601
permits, and licenses for those facilities are subject to sections 33602
3734.75 to 3734.78 of the Revised Code, as applicable, and section 33603
3734.81 of the Revised Code. 33604

(10) Divisions (A)(3) and (4) of this section do not apply to 33605
a solid waste incinerator that was placed into operation on or 33606
before October 12, 1994, and that is not authorized to accept and 33607
treat infectious wastes pursuant to division (B) of this section. 33608

(B)(1) Each person who is engaged in the business of treating 33609
infectious wastes for profit at a treatment facility located off 33610
the premises where the wastes are generated that is in operation 33611
on August 10, 1988, and who proposes to continue operating the 33612
facility shall submit to the board of health of the health 33613
district in which the facility is located an application for a 33614
license to operate the facility. 33615

Thereafter, no person shall operate or maintain an infectious 33616
waste treatment facility without a license issued by the board of 33617
health of the health district in which the facility is located or 33618
by the director when the health district in which the facility is 33619
located is not on the approved list under section 3734.08 of the 33620
Revised Code. 33621

(2)(a) During the month of December, but before the first day 33622
of January of the next year, every person proposing to continue to 33623
operate an existing infectious waste treatment facility shall 33624
procure a license to operate the facility for that year from the 33625
board of health of the health district in which the facility is 33626
located or, if the health district is not on the approved list 33627
under section 3734.08 of the Revised Code, from the director. The 33628

application for such a license shall be submitted to the board of 33629
health or to the director, as appropriate, on or before the last 33630
day of September of the year preceding that for which the license 33631
is sought. In addition to the application fee prescribed in 33632
division (B)(2)(c) of this section, a person who submits an 33633
application after that date shall pay an additional ten per cent 33634
of the amount of the application fee for each week that the 33635
application is late. Late payment fees accompanying an application 33636
submitted to the board of health shall be credited to the special 33637
infectious waste fund of the health district created in division 33638
(C) of section 3734.06 of the Revised Code, and late payment fees 33639
accompanying an application submitted to the director shall be 33640
credited to the general revenue fund. A person who has received a 33641
license, upon sale or disposition of an infectious waste treatment 33642
facility and upon consent of the board of health and the director, 33643
may have the license transferred to another person. The board of 33644
health or the director may include such terms and conditions in a 33645
license or revision to a license as are appropriate to ensure 33646
compliance with the infectious waste provisions of this chapter 33647
and rules adopted under them. 33648

(b) Each person proposing to open a new infectious waste 33649
treatment facility or to modify an existing infectious waste 33650
treatment facility shall submit an application for a permit with 33651
accompanying detail plans and specifications to the environmental 33652
protection agency for required approval under the rules adopted by 33653
the director pursuant to section 3734.021 of the Revised Code two 33654
hundred seventy days before proposed operation of the facility and 33655
concurrently shall make application for a license with the board 33656
of health of the health district in which the facility is or is 33657
proposed to be located. Not later than ninety days after receiving 33658
a completed application under division (B)(2)(b) of this section 33659
for a permit to open a new infectious waste treatment facility or 33660
modify an existing infectious waste treatment facility to expand 33661

its treatment capacity, or receiving a completed application under 33662
division (A)(2)(a) of this section for a permit to open a new 33663
solid waste incineration facility, or modify an existing solid 33664
waste incineration facility to also treat infectious wastes or to 33665
increase its infectious waste treatment capacity, that pertains to 33666
a facility for which a notation authorizing infectious waste 33667
treatment is included or proposed to be included in the solid 33668
waste incineration facility's license pursuant to division (B)(3) 33669
of this section, the director shall hold a public hearing on the 33670
application within the county in which the new or modified 33671
infectious waste or solid waste facility is or is proposed to be 33672
located or within a contiguous county. Not less than thirty days 33673
before holding the public hearing on the application, the director 33674
shall publish notice of the hearing in each newspaper that has 33675
general circulation and that is published in the county in which 33676
the facility is or is proposed to be located. If there is no 33677
newspaper that has general circulation and that is published in 33678
the county, the director shall publish the notice in a newspaper 33679
of general circulation in the county. The notice shall contain the 33680
date, time, and location of the public hearing and a general 33681
description of the proposed new or modified facility. At the 33682
public hearing, any person may submit written or oral comments on 33683
or objections to the approval or disapproval of the application. 33684
The applicant, or a representative of the applicant who has 33685
knowledge of the location, construction, and operation of the 33686
facility, shall attend the public hearing to respond to comments 33687
or questions concerning the facility directed to the applicant or 33688
representative by the officer or employee of the environmental 33689
protection agency presiding at the hearing. 33690

(c) Each application for a permit under division (B)(2)(b) of 33691
this section shall be accompanied by a nonrefundable application 33692
fee of four hundred dollars that shall be credited to the general 33693
revenue fund. Each application for an annual license under 33694

division (B)(2)(a) of this section shall be accompanied by a 33695
nonrefundable application fee of one hundred dollars. If the 33696
application for an annual license is submitted to a board of 33697
health on the approved list under section 3734.08 of the Revised 33698
Code, the application fee shall be credited to the special 33699
infectious waste fund of the health district created in division 33700
(C) of section 3734.06 of the Revised Code. If the application for 33701
an annual license is submitted to the director, the application 33702
fee shall be credited to the general revenue fund. If a permit or 33703
license is issued, the amount of the application fee paid shall be 33704
deducted from the amount of the permit fee due under division (Q) 33705
of section 3745.11 of the Revised Code or the amount of the 33706
license fee due under division (C) of section 3734.06 of the 33707
Revised Code. 33708

(d) The owner or operator of any infectious waste treatment 33709
facility that commenced operation on or before July 1, 1968, shall 33710
submit to the director an application for a permit with 33711
accompanying engineering detail plans, specifications, and 33712
information regarding the facility and its method of operation for 33713
approval under rules adopted under section 3734.021 of the Revised 33714
Code in accordance with the following schedule: 33715

(i) Not later than December 24, 1988, if the facility is 33716
located in Delaware, Greene, Guernsey, Hamilton, Madison, 33717
Mahoning, Ottawa, or Vinton county; 33718

(ii) Not later than March 24, 1989, if the facility is 33719
located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, 33720
or Washington county, or is located in the city of Brooklyn, 33721
Cuyahoga Heights, or Parma in Cuyahoga county; 33722

(iii) Not later than June 24, 1989, if the facility is 33723
located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, 33724
Lucas, or Summit county or is located in Cuyahoga county outside 33725
the cities of Brooklyn, Cuyahoga Heights, and Parma; 33726

(iv) Not later than September 24, 1989, if the facility is 33727
located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross 33728
county; 33729

(v) Not later than December 24, 1989, if the facility is 33730
located in a county not listed in divisions (B)(2)(d)(i) to (iv) 33731
of this section. 33732

The owner or operator of an infectious waste treatment 33733
facility required to submit a permit application under division 33734
(B)(2)(d) of this section is not required to pay any permit 33735
application fee under division (B)(2)(c) of this section, or 33736
permit fee under division (Q) of section 3745.11 of the Revised 33737
Code, with respect thereto unless the owner or operator also 33738
proposes to modify the facility. 33739

(e) The director may issue an order in accordance with 33740
Chapter 3745. of the Revised Code to the owner or operator of an 33741
infectious waste treatment facility requiring the person to submit 33742
to the director updated engineering detail plans, specifications, 33743
and information regarding the facility and its method of operation 33744
for approval under rules adopted under section 3734.021 of the 33745
Revised Code if, in the director's judgment, conditions at the 33746
facility constitute a substantial threat to public health or 33747
safety or are causing or contributing to or threatening to cause 33748
or contribute to air or water pollution or soil contamination. Any 33749
person who receives such an order shall submit the updated 33750
engineering detail plans, specifications, and information to the 33751
director within one hundred eighty days after the effective date 33752
of the order. 33753

(f) The director shall act upon an application submitted 33754
under division (B)(2)(d) of this section and any updated 33755
engineering plans, specifications, and information submitted under 33756
division (B)(2)(e) of this section within one hundred eighty days 33757

after receiving them. If the director denies any such permit 33758
application or disapproves any such updated engineering plans, 33759
specifications, and information, the director shall include in the 33760
order denying the application or disapproving the plans the 33761
requirement that the owner or operator cease accepting infectious 33762
wastes for treatment at the facility. 33763

(3) Division (B) of this section does not apply to an 33764
infectious waste treatment facility that meets any of the 33765
following conditions: 33766

(a) Is owned or operated by the generator of the wastes and 33767
exclusively treats, by methods, techniques, and practices 33768
established by rules adopted under division (C)(1) or (3) of 33769
section 3734.021 of the Revised Code, wastes that are generated at 33770
any premises owned or operated by that generator regardless of 33771
whether the wastes are generated on the same premises where the 33772
generator's treatment facility is located or, if the generator is 33773
a hospital as defined in section 3727.01 of the Revised Code, 33774
infectious wastes that are described in division (A)(1)(g), (h), 33775
or (i) of section 3734.021 of the Revised Code; 33776

(b) Holds a license or renewal of a license to operate a 33777
crematory facility issued under Chapter 4717. and a permit issued 33778
under Chapter 3704. of the Revised Code; 33779

(c) Treats or disposes of dead animals or parts thereof, or 33780
the blood of animals, and is subject to any of the following: 33781

(i) Inspection under the "Federal Meat Inspection Act," 81 33782
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 33783

(ii) Chapter 918. of the Revised Code; 33784

(iii) Chapter 953. of the Revised Code. 33785

Nothing in division (B) of this section requires a facility 33786
that holds a license issued under division (A) of this section as 33787

a solid waste facility and that also treats infectious wastes by 33788
the same method, technique, or process to obtain a license under 33789
division (B) of this section as an infectious waste treatment 33790
facility. However, the solid waste facility license for the 33791
facility shall include the notation that the facility also treats 33792
infectious wastes. 33793

On and after the effective date of the amendments to the 33794
rules adopted under division (C)(2) of section 3734.021 of the 33795
Revised Code that are required by Section 6 of Substitute House 33796
Bill No. 98 of the 120th General Assembly, the director shall not 33797
issue a permit to open a new solid waste incineration facility 33798
unless the proposed facility complies with the requirements for 33799
the location of new infectious waste incineration facilities 33800
established in the required amendments to those rules. 33801

(C) Except for a facility or activity described in division 33802
(E)(3) of section 3734.02 of the Revised Code, a person who 33803
proposes to establish or operate a hazardous waste facility shall 33804
submit ~~an~~ a complete application for a hazardous waste facility 33805
installation and operation permit and accompanying detail plans, 33806
specifications, and such information as the director may require 33807
to the environmental protection agency, ~~except as provided in~~ 33808
~~division (E)(2) of this section,~~ at least one hundred eighty days 33809
before the proposed beginning of operation of the facility. The 33810
applicant shall notify by certified mail the legislative authority 33811
of each municipal corporation, township, and county in which the 33812
facility is proposed to be located of the submission of the 33813
application within ten days after the submission or at such 33814
earlier time as the director may establish by rule. If the 33815
application is for a proposed new hazardous waste disposal or 33816
thermal treatment facility, the applicant also shall give actual 33817
notice of the general design and purpose of the facility to the 33818
legislative authority of each municipal corporation, township, and 33819

county in which the facility is proposed to be located at least 33820
ninety days before the permit application is submitted to the 33821
environmental protection agency. 33822

In accordance with rules adopted under section 3734.12 of the 33823
Revised Code, prior to the submission of a complete application 33824
for a hazardous waste facility installation and operation permit, 33825
the applicant shall hold at least one meeting in the township or 33826
municipal corporation in which the facility is proposed to be 33827
located, whichever is geographically closer to the proposed 33828
location of the facility. The meeting shall be open to the public 33829
and shall be held to inform the community of the proposed 33830
hazardous waste management activities and to solicit questions 33831
from the community concerning the activities. 33832

~~(D)(1) There is hereby created the hazardous waste facility 33833~~
~~board, composed of the director of environmental protection who 33834~~
~~shall serve as chairperson, the director of natural resources, and 33835~~
~~the chairperson of the Ohio water development authority, or their 33836~~
~~respective designees, and one chemical engineer and one geologist 33837~~
~~who each shall be employed by a state university as defined in 33838~~
~~section 3345.011 of the Revised Code. The chemical engineer and 33839~~
~~geologist each shall be appointed by the governor, with the advice 33840~~
~~and consent of the senate, for a term of two years. The chemical 33841~~
~~engineer and geologist each shall receive as compensation five 33842~~
~~thousand dollars per year, plus expenses necessarily incurred in 33843~~
~~the performance of their duties. 33844~~

~~The board shall not issue any final order without the consent 33845~~
~~of at least three members. 33846~~

~~(2) The hazardous waste facility board shall do both of the 33847~~
~~following: 33848~~

~~(a) Pursuant to Chapter 119. of the Revised Code, adopt rules 33849~~
~~governing procedure to be followed in hearings before the board: 33850~~

~~(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.~~ 33851
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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:~~ 33857
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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.~~ 33866
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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, and location of the public hearing and shall include the location and street address of, or the nearest intersection to, the proposed facility, a description of the proposed facility, and the~~ 33876
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~~location where copies of the application, a short statement by the applicant of the anticipated environmental impact of the facility, and a map of the facility are available for inspection.~~

~~(c) Promptly fix a date for an adjudication hearing, not fewer than ninety nor more than one hundred twenty days after receipt of the completed application, at which hearing the board shall hear and decide all disputed issues between the parties respecting the approval or disapproval of the application.~~

~~(4) The parties to any adjudication hearing before the board upon a completed application shall be the following:~~

~~(a) The applicant;~~

~~(b) The staff of the environmental protection agency;~~

~~(c) The board of county commissioners of the county, the board of township trustees of the township, and the chief executive officer of the municipal corporation in which the facility is proposed to be located;~~

~~(d) Any other person who would be aggrieved or adversely affected by the proposed facility and who files a petition to intervene in the adjudication hearing not later than thirty days after the date of publication of the notice required in division (D)(3)(b) of this section if the petition is granted by the board for good cause shown. The board may allow intervention by other aggrieved or adversely affected persons up to fifteen days prior to the date of the adjudication hearing for good cause shown when the intervention would not be unduly burdensome to or cause a delay in the permitting process.~~

~~(5) The hazardous waste facility board shall conduct any adjudication hearing upon disputed issues in accordance with Chapter 119. of the Revised Code and the rules of the board governing the procedure of such hearings. Each party may call and examine witnesses and submit other evidence respecting the~~

~~disputed issues presented by an application. A written record~~ 33914
~~shall be made of the hearing and of all testimony and evidence~~ 33915
~~submitted to the board upon receipt of a complete application for~~ 33916
~~a hazardous waste facility installation and operation permit under~~ 33917
~~division (C) of this section, the director shall consider the~~ 33918
~~application and accompanying information to determine whether the~~ 33919
~~application complies with agency rules and the requirements of~~ 33920
~~division (D)(2) of this section. After making a determination, the~~ 33921
~~director shall issue either a draft permit or a notice of intent~~ 33922
~~to deny the permit. The director, in accordance with rules adopted~~ 33923
~~under section 3734.12 of the Revised Code or with rules adopted to~~ 33924
~~implement Chapter 3745. of the Revised Code, shall provide public~~ 33925
~~notice of the application and the draft permit or the notice of~~ 33926
~~intent to deny the permit, provide an opportunity for public~~ 33927
~~comments, and, if significant interest is shown, schedule a public~~ 33928
~~meeting in the county in which the facility is proposed to be~~ 33929
~~located and give public notice of the date, time, and location of~~ 33930
~~the public meeting in a newspaper of general circulation in that~~ 33931
~~county.~~ 33932

~~(6)(2)~~ The ~~board~~ director shall not approve an application 33933
for a hazardous waste facility installation and operation permit 33934
or an application for a modification under division (I)(3) of this 33935
section unless ~~it~~ the director finds and determines as follows: 33936

(a) The nature and volume of the waste to be treated, stored, 33937
or disposed of at the facility; 33938

(b) That the facility complies with the director's hazardous 33939
waste standards adopted pursuant to section 3734.12 of the Revised 33940
Code; 33941

(c) That the facility represents the minimum adverse 33942
environmental impact, considering the state of available 33943
technology and the nature and economics of various alternatives, 33944
and other pertinent considerations; 33945

(d) That the facility represents the minimum risk of all of 33946
the following: 33947

(i) ~~Contamination of ground and surface waters;~~ 33948

~~(ii)~~ Fires or explosions from treatment, storage, or disposal 33949
methods; 33950

~~(iii)~~ ~~Accident~~ (ii) Release of hazardous waste during 33951
transportation of hazardous waste to or from the facility; 33952

~~(iv)~~ ~~Impact~~ (iii) Adverse impact on the public health and 33953
safety; 33954

~~(v)~~ ~~Air pollution;~~ 33955

~~(vi)~~ ~~Soil contamination.~~ 33956

(e) That the facility will comply with this chapter and 33957
Chapters 3704., ~~3734.~~, and 6111. of the Revised Code and all rules 33958
and standards adopted under ~~those chapters~~ them; 33959

(f) That if the owner of the facility, the operator of the 33960
facility, or any other person in a position with the facility from 33961
which the person may influence the installation and operation of 33962
the facility has been involved in any prior activity involving 33963
transportation, treatment, storage, or disposal of hazardous 33964
waste, that person has a history of compliance with this chapter 33965
and Chapters 3704., ~~3734.~~, and 6111. of the Revised Code and all 33966
rules and standards adopted under ~~those chapters~~ them, the 33967
"Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 33968
42 U.S.C.A. 6921, as amended, and all regulations adopted under 33969
it, and similar laws and rules of other states if any such prior 33970
operation was located in another state that demonstrates 33971
sufficient reliability, expertise, and competency to operate a 33972
hazardous waste facility under the applicable provisions of this 33973
chapter and Chapters 3704., ~~3734.~~, and 6111. of the Revised Code, 33974
the applicable rules and standards adopted under ~~those chapters~~ 33975

them, and terms and conditions of a hazardous waste facility 33976
installation and operation permit, given the potential for harm to 33977
the public health and safety and the environment that could result 33978
from the irresponsible operation of the facility~~†~~. For off-site 33979
facilities, as defined in section 3734.41 of the Revised Code, the 33980
director may use the investigative reports of the attorney general 33981
prepared pursuant to section 3734.42 of the Revised Code as a 33982
basis for making a finding and determination under division 33983
(D)(2)(f) of this section. 33984

(g) That the active areas within a new hazardous waste 33985
facility where acute hazardous waste as listed in 40 C.F.R. 261.33 33986
(e), as amended, or organic waste that is toxic and is listed 33987
under 40 C.F.R. 261, as amended, is being stored, treated, or 33988
disposed of and where the aggregate of the storage design capacity 33989
and the disposal design capacity of all hazardous waste in those 33990
areas is greater than two hundred fifty thousand gallons, are not 33991
located or operated within any of the following: 33992

(i) Two thousand feet of any residence, school, hospital, 33993
jail, or prison; 33994

(ii) Any naturally occurring wetland; 33995

(iii) Any flood hazard area if the applicant cannot show that 33996
the facility will be designed, constructed, operated, and 33997
maintained to prevent washout by a one-hundred-year flood ~~or that~~ 33998
~~procedures will be in effect to remove the waste before flood~~ 33999
~~waters can reach it.~~ 34000

Division (D)~~(6)~~(2)(g) of this section does not apply to the 34001
facility of any applicant who demonstrates to the ~~board~~ director 34002
that the limitations specified in that division are not necessary 34003
because of the nature or volume of the waste and the manner of 34004
management applied, the facility will impose no substantial danger 34005
to the health and safety of persons occupying the structures 34006

listed in division (D)~~(6)~~(2)(g)(i) of this section, and the 34007
facility is to be located or operated in an area where the 34008
proposed hazardous waste activities will not be incompatible with 34009
existing land uses in the area. 34010

(h) That the facility will not be located within the 34011
boundaries of a state park established or dedicated under Chapter 34012
1541. of the Revised Code, a state park purchase area established 34013
under section 1541.02 of the Revised Code, any unit of the 34014
national park system, or any property that lies within the 34015
boundaries of a national park or recreation area, but that has not 34016
been acquired or is not administered by the secretary of the 34017
United States department of the interior, located in this state, 34018
or any candidate area located in this state identified for 34019
potential inclusion in the national park system in the edition of 34020
the "national park system plan" submitted under paragraph (b) of 34021
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 34022
U.S.C.A. 1a-5, as amended, current at the time of filing of the 34023
application for the permit, unless the facility will be used 34024
exclusively for the storage of hazardous waste generated within 34025
the park or recreation area in conjunction with the operation of 34026
the park or recreation area. Division (D)~~(6)~~(2)(h) of this section 34027
does not apply to the facility of any applicant for modification 34028
of a permit unless the modification application proposes to 34029
increase the land area included in the facility or to increase the 34030
quantity of hazardous waste that will be treated, stored, or 34031
disposed of at the facility. 34032

~~In rendering a decision upon an application for a hazardous 34033
waste facility installation and operation permit, the board shall 34034
issue a written order and opinion, which shall include the 34035
specific findings of fact and conclusions of law that support the 34036
board's approval or disapproval of the application. 34037~~

(3) Not later than one hundred eighty days after the end of 34038

the public comment period, the director, without prior hearing, 34039
shall issue or deny the permit in accordance with Chapter 3745. of 34040
the Revised Code. If the ~~board~~ director approves an application 34041
for a hazardous waste facility installation and operation permit, 34042
~~as a part of its written order, it~~ the director shall issue the 34043
permit, upon such terms and conditions as the ~~board~~ director finds 34044
are necessary to ensure the construction and operation of the 34045
hazardous waste facility in accordance with the standards of this 34046
section. 34047

~~(7) Any party adversely affected by an order of the hazardous~~ 34048
~~waste facility board may appeal the order and decision of the~~ 34049
~~board to the court of appeals of Franklin county. An appellant~~ 34050
~~shall file with the board a notice of appeal, which shall~~ 34051
~~designate the order appealed from. A copy of the notice also shall~~ 34052
~~be filed by the appellant with the court, and a copy shall be sent~~ 34053
~~by certified mail to each party to the adjudication hearing before~~ 34054
~~the board. Such notices shall be filed and mailed within thirty~~ 34055
~~days after the date upon which the appellant received notice from~~ 34056
~~the board by certified mail of the making of the order appealed~~ 34057
~~from. No appeal bond shall be required to make an appeal~~ 34058
~~effective.~~ 34059

~~The filing of a notice of appeal shall not operate~~ 34060
~~automatically as a suspension of the order of the board. If it~~ 34061
~~appears to the court that an unjust hardship to the appellant will~~ 34062
~~result from the execution of the board's order pending~~ 34063
~~determination of the appeal, the court may grant a suspension of~~ 34064
~~the order and fix its terms.~~ 34065

~~Within twenty days after receipt of the notice of appeal, the~~ 34066
~~board shall prepare and file in the court the complete record of~~ 34067
~~proceedings out of which the appeal arises, including any~~ 34068
~~transcript of the testimony and any other evidence that has been~~ 34069
~~submitted before the board. The expense of preparing and~~ 34070

~~transcribing the record shall be taxed as a part of the costs of 34071
the appeal. The appellant, other than the state or a political 34072
subdivision, an agency of either, or any officer of the appellant 34073
acting in the officer's representative capacity, shall provide 34074
security for costs satisfactory to the court considering the 34075
respective interests of the parties and the public interest. Upon 34076
demand by a party, the board shall furnish, at the cost of the 34077
party requesting it, a copy of the record. If the complete record 34078
is not filed within the time provided for in this section, any 34079
party may apply to the court to have the case docketed, and the 34080
court shall order the record filed. 34081~~

~~In hearing the appeal, the court is confined to the record as 34082
certified to it by the board. The court may grant a request for 34083
the admission of additional evidence when satisfied that the 34084
additional evidence is newly discovered and could not with 34085
reasonable diligence have been ascertained prior to the hearing 34086
before the board. 34087~~

~~The court shall affirm the order complained of in the appeal 34088
if it finds, upon consideration of the entire record and such 34089
additional evidence as the court has admitted, that the order is 34090
supported by reliable, probative, and substantial evidence and is 34091
in accordance with law. In the absence of such findings, it shall 34092
reverse, vacate, or modify the order or make such other ruling as 34093
is supported by reliable, probative, and substantial evidence and 34094
is in accordance with law. The judgment of the court shall be 34095
final and conclusive unless reversed, vacated, or modified on 34096
appeal. Such appeals may be taken by any party to the appeal 34097
pursuant to the Rules of Practice of the Supreme Court and, to the 34098
extent not in conflict with those rules, Chapter 2505. of the 34099
Revised Code. 34100~~

~~(E)(1) Upon receipt of a completed application, the board 34101
shall issue a hazardous waste facility installation and operation 34102~~

permit for a hazardous waste facility subject to the requirements	34103
of divisions (D)(6) and (7) of this section and all applicable	34104
federal regulations if the facility for which the permit is	34105
requested satisfies all of the following:	34106
(a) Was in operation immediately prior to October 9, 1980;	34107
(b) Was in substantial compliance with applicable statutes	34108
and rules in effect immediately prior to October 9, 1980, as	34109
determined by the director;	34110
(c) Demonstrates to the board that its operations after	34111
October 9, 1980, comply with applicable performance standards	34112
adopted by the director pursuant to division (D) of section	34113
3734.12 of the Revised Code;	34114
(d) Submits a completed application for a permit under	34115
division (C) of this section within six months after October 9,	34116
1980.	34117
The board shall act on the application within twelve months	34118
after October 9, 1980.	34119
(2) A hazardous waste facility that was in operation	34120
immediately prior to October 9, 1980, may continue to operate	34121
after that date if it does all of the following:	34122
(a) Complies with performance standards adopted by the	34123
director pursuant to division (D) of section 3734.12 of the	34124
Revised Code;	34125
(b) Submits a completed application for a hazardous waste	34126
installation and operation permit under division (C) of this	34127
section within six months after October 9, 1980;	34128
(c) Obtains the permit under division (D) of this section	34129
within twelve months after October 9, 1980.	34130
(3) No political subdivision of this state shall require any	34131
additional zoning or other approval, consent, permit, certificate,	34132

or condition for the construction or operation of a hazardous waste facility authorized by a hazardous waste facility installation and operation permit issued pursuant to this chapter, nor shall any political subdivision adopt or enforce any law, ordinance, or rule that in any way alters, impairs, or limits the authority granted in the permit.

~~(4) After the issuance of a hazardous waste facility installation and operation permit by the board, each hazardous waste facility shall be subject to the rules and supervision of the director during the period of its operation, closure, and post closure care, if applicable.~~

~~(F) Upon approval of the board in accordance with divisions (D) and (E) of this section, the board~~ The director may issue a single hazardous waste facility installation and operation permit to a person who operates two or more adjoining facilities where hazardous waste is stored, treated, or disposed of if the application includes detail plans, specifications, and information on all facilities. For the purposes of this section, "adjoining" means sharing a common boundary, separated only by a public road, or in such proximity that the director determines that the issuance of a single permit will not create a hazard to the public health or safety or the environment.

(G) No person shall falsify or fail to keep or submit any plans, specifications, data, reports, records, manifests, or other information required to be kept or submitted to the director ~~or to the hazardous waste facility board~~ by this chapter or the rules adopted under it.

(H)(1) Each person who holds an installation and operation permit issued under this section and who wishes to obtain a permit renewal shall submit a completed application for an installation and operation permit renewal and any necessary accompanying general plans, detail plans, specifications, and such information

as the director may require to the director no later than one 34165
hundred eighty days prior to the expiration date of the existing 34166
permit or upon a later date prior to the expiration of the 34167
existing permit if the permittee can demonstrate good cause for 34168
the late submittal. The director shall consider the application 34169
and accompanying information, inspection reports of the facility, 34170
results of performance tests, a report regarding the facility's 34171
compliance or noncompliance with the terms and conditions of its 34172
permit and rules adopted by the director under this chapter, and 34173
such other information as is relevant to the operation of the 34174
facility and shall issue a draft renewal permit or a notice of 34175
intent to deny the renewal permit. The director, in accordance 34176
with rules adopted under this section or with rules adopted to 34177
implement Chapter 3745. of the Revised Code, shall give public 34178
notice of the application and draft renewal permit or notice of 34179
intent to deny the renewal permit, provide for the opportunity for 34180
public comments within a specified time period, schedule a public 34181
meeting in the county in which the facility is located if 34182
significant interest is shown, and give public notice of the 34183
public meeting. 34184

(2) Within sixty days after the public meeting or close of 34185
the public comment period, the director, without prior hearing, 34186
shall issue or deny the renewal permit in accordance with Chapter 34187
3745. of the Revised Code. The director shall not issue a renewal 34188
permit unless the director determines that the facility under the 34189
existing permit has a history of compliance with this chapter, 34190
rules adopted under it, the existing permit, or orders entered to 34191
enforce such requirements that demonstrates sufficient 34192
reliability, expertise, and competency to operate the facility 34193
henceforth under this chapter, rules adopted under it, and the 34194
renewal permit. If the director approves an application for a 34195
renewal permit, the director shall issue the permit subject to the 34196
payment of the annual permit fee required under division (E) of 34197

section 3734.02 of the Revised Code and upon such terms and 34198
conditions as the director finds are reasonable to ensure that 34199
continued operation, maintenance, closure, and post-closure care 34200
of the hazardous waste facility are in accordance with the rules 34201
adopted under section 3734.12 of the Revised Code. 34202

(3) An installation and operation permit renewal application 34203
submitted to the director that also contains or would constitute 34204
an application for a modification shall be acted upon by the 34205
director in accordance with division (I) of this section in the 34206
same manner as an application for a modification. In approving or 34207
disapproving the renewal portion of a permit renewal application 34208
containing an application for a modification, the director shall 34209
apply the criteria established under division (H)(2) of this 34210
section. 34211

(4) An application for renewal or modification of a permit 34212
that does not contain an application for a modification as 34213
described in divisions (I)(3)(a) to (d) of this section shall not 34214
be subject to division (D)(2) of this section. 34215

(I)(1) As used in this section, "modification" means a change 34216
or alteration to a hazardous waste facility or its operations that 34217
is inconsistent with or not authorized by its existing permit or 34218
authorization to operate. Modifications shall be classified as 34219
Class 1, 2, or 3 modifications in accordance with rules adopted 34220
under division (K) of this section. Modifications classified as 34221
Class 3 modifications, in accordance with rules adopted under that 34222
division, shall be further classified by the director as either 34223
Class 3 modifications that are to be approved or disapproved by 34224
the ~~hazardous waste facility board as described in~~ director under 34225
divisions (I)(3)(a) to (d) of this section or as Class 3 34226
modifications that are to be approved or disapproved by the 34227
director under division (I)(5) of this section. Not later than 34228
thirty days after receiving a request for a modification under 34229

division (I)(4) of this section that is not listed in Appendix I 34230
to 40 C.F.R. 270.42 or in rules adopted under division (K) of this 34231
section, the director shall classify the modification and shall 34232
notify the owner or operator of the facility requesting the 34233
modification of the classification. Notwithstanding any other law 34234
to the contrary, any modification that involves the transfer of a 34235
hazardous waste facility installation and operation permit to a 34236
new owner or operator shall be classified as a Class 3 34237
modification. 34238

(2) Except as provided in section 3734.123 of the Revised 34239
Code, a hazardous waste facility installation and operation permit 34240
may be modified at the request of the director or upon the written 34241
request of the permittee only if any of the following applies: 34242

(a) The permittee desires to accomplish alterations, 34243
additions, or deletions to the permitted facility or to undertake 34244
alterations, additions, deletions, or activities that are 34245
inconsistent with or not authorized by the existing permit; 34246

(b) New information or data justify permit conditions in 34247
addition to or different from those in the existing permit; 34248

(c) The standards, criteria, or rules upon which the existing 34249
permit is based have been changed by new, amended, or rescinded 34250
standards, criteria, or rules, or by judicial decision after the 34251
existing permit was issued, and the change justifies permit 34252
conditions in addition to or different from those in the existing 34253
permit; 34254

(d) The permittee proposes to transfer the permit to another 34255
person. 34256

(3) The director ~~has jurisdiction to~~ shall approve or 34257
disapprove ~~applications~~ an application for ~~Class 1 modifications,~~ 34258
~~Class 2 modifications, and Class 3 modifications not otherwise~~ 34259
~~described in divisions (I)(3)(a) to (d) of this section. The~~ 34260

~~hazardous waste facility board has jurisdiction to approve or~~ 34261
~~disapprove applications for any~~ a modification in accordance with 34262
division (D)(2) of this section and rules adopted under division 34263
(K) of this section for all of the following categories of Class 3 34264
modifications: 34265

(a) Authority to conduct treatment, storage, or disposal at a 34266
site, location, or tract of land that has not been authorized for 34267
the proposed category of treatment, storage, or disposal activity 34268
by the facility's permit; 34269

(b) Modification or addition of a hazardous waste management 34270
unit, as defined in rules adopted under section 3734.12 of the 34271
Revised Code, that results in an increase in a facility's storage 34272
capacity of more than twenty-five per cent over the capacity 34273
authorized by the facility's permit, an increase in a facility's 34274
treatment rate of more than twenty-five per cent over the rate so 34275
authorized, or an increase in a facility's disposal capacity over 34276
the capacity so authorized. The authorized disposal capacity for a 34277
facility shall be calculated from the approved design plans for 34278
the disposal units at that facility. In no case during a five-year 34279
period shall a facility's storage capacity or treatment rate be 34280
modified to increase by more than twenty-five per cent in the 34281
aggregate without ~~board~~ the director's approval in accordance with 34282
division (D)(2) of this section. Notwithstanding any provision of 34283
division (I) of this section to the contrary, a request for 34284
modification of a facility's annual total waste receipt limit 34285
shall be classified and approved or disapproved by the director 34286
under division (I)(5) of this section. 34287

(c) Authority to add any of the following categories of 34288
regulated activities not previously authorized at a facility by 34289
the facility's permit: storage at a facility not previously 34290
authorized to store hazardous waste, treatment at a facility not 34291
previously authorized to treat hazardous waste, or disposal at a 34292

facility not previously authorized to dispose of hazardous waste; 34293
or authority to add a category of hazardous waste management unit 34294
not previously authorized at the facility by the facility's 34295
permit. Notwithstanding any provision of division (I) of this 34296
section to the contrary, a request for authority to add or to 34297
modify an activity or a hazardous waste management unit for the 34298
purposes of performing a corrective action shall be classified and 34299
approved or disapproved by the director under division (I)(5) of 34300
this section. 34301

(d) Authority to treat, store, or dispose of waste types 34302
listed or characterized as reactive or explosive, in rules adopted 34303
under section 3734.12 of the Revised Code, or any acute hazardous 34304
waste listed in 40 C.F.R. 261.33(e), as amended, at a facility not 34305
previously authorized to treat, store, or dispose of those types 34306
of wastes by the facility's permit unless the requested authority 34307
is limited to wastes that no longer exhibit characteristics 34308
meeting the criteria for listing or characterization as reactive 34309
or explosive wastes, or for listing as acute hazardous waste, but 34310
still are required to carry those waste codes as established in 34311
rules adopted under section 3734.12 of the Revised Code because of 34312
the requirements established in 40 C.F.R. 261(a) and (e), as 34313
amended, that is, the "mixture," "derived-from," or "contained-in" 34314
regulations. 34315

(4) A written request for a modification from the permittee 34316
shall be submitted to the director and shall contain such 34317
information as is necessary to support the request. ~~The director~~ 34318
~~shall transmit to the board requests for Class 3 modifications~~ 34319
~~described in divisions (I)(3)(a) to (d) of this section within two~~ 34320
~~hundred forty days after receiving the requests.~~ Requests for 34321
modifications shall be acted upon by the director ~~or the board, as~~ 34322
~~appropriate,~~ in accordance with this section and rules adopted 34323
under it. 34324

(5) Class 1 modification applications that require prior approval of the director, as determined in accordance with rules adopted under division (K) of this section, Class 2 modification applications, and Class 3 modification applications that are not described in divisions (I)(3)(a) to (d) of this section shall be approved or disapproved by the director in accordance with rules adopted under division (K) of this section. The board of county commissioners of the county, the board of township trustees of the township, and the city manager or mayor of the municipal corporation in which a hazardous waste facility is located shall receive notification of any application for a modification for that facility and shall be considered as interested persons with respect to the director's consideration of the application.

For those modification applications for a transfer of a permit to a new owner or operator of a facility, the director also shall determine that, if the transferee owner or operator has been involved in any prior activity involving the transportation, treatment, storage, or disposal of hazardous waste, the transferee owner or operator has a history of compliance with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them, the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and all regulations adopted under it, and similar laws and rules of another state if the transferee owner or operator owns or operates a facility in that state, that demonstrates sufficient reliability, expertise, and competency to operate a hazardous waste facility under this chapter and Chapters 3704. and 6111. of the Revised Code, all rules and standards adopted under them, and terms and conditions of a hazardous waste facility installation and operation permit, given the potential for harm to the public health and safety and the environment that could result from the irresponsible operation of the facility. A permit may be

transferred to a new owner or operator only pursuant to a Class 3 permit modification. 34357
34358

As used in division (I)(5) of this section: 34359

(a) "Owner" means the person who owns a majority or 34360
controlling interest in a facility. 34361

(b) "Operator" means the person who is responsible for the 34362
overall operation of a facility. 34363

The director shall approve or disapprove an application for a 34364
Class 1 modification that requires the director's approval within 34365
sixty days after receiving the request for modification. The 34366
director shall approve or disapprove an application for a Class 2 34367
modification within three hundred days after receiving the request 34368
for modification. The director shall approve or disapprove an 34369
application for a Class 3 modification ~~that is not described in~~ 34370
~~divisions (I)(3)(a) to (d) of this section~~ within three hundred 34371
sixty-five days after receiving the request for modification. 34372

(6) The approval or disapproval by the director of a Class 1 34373
modification application is not a final action that is appealable 34374
under Chapter 3745. of the Revised Code. The approval or 34375
disapproval by the director of a Class 2 modification or a Class 3 34376
modification ~~that is not described in divisions (I)(3)(a) to (d)~~ 34377
~~of this section~~ is a final action that is appealable under that 34378
chapter. In approving or disapproving a request for a 34379
modification, the director shall consider all comments pertaining 34380
to the request that are received during the public comment period 34381
and the public meetings. The administrative record for appeal of a 34382
final action by the director in approving or disapproving a 34383
request for a modification shall include all comments received 34384
during the public comment period relating to the request for 34385
modification, written materials submitted at the public meetings 34386
relating to the request, and any other documents related to the 34387

director's action. 34388

~~(7) The hazardous waste facility board shall approve or 34389
disapprove an application for a Class 3 modification transmitted 34390
to it under division (I)(4) of this section, or that portion of a 34391
permit renewal application that constitutes a Class 3 modification 34392
application so transmitted, of a hazardous waste facility 34393
installation and operation permit in accordance with division (D) 34394
of this section. No other request for a modification shall be 34395
subject to division (D)(6) of this section. No aspect of a 34396
permitted facility or its operations that is not being modified as 34397
described in division (I)(3)(a), (b), (c), or (d) of this section 34398
shall be subject to review by the board under division (D) of this 34399
section. 34400~~

~~(8) Notwithstanding any other provision of law to the 34401
contrary, a change or alteration to a hazardous waste facility 34402
described in division (E)(3)(a) or (b) of section 3734.02 of the 34403
Revised Code, or its operations, is a modification for the 34404
purposes of this section. An application for a modification at 34405
such a facility shall be submitted, classified, and approved or 34406
disapproved in accordance with divisions (I)(1) to ~~(7)(6)~~ of this 34407
section in the same manner as a modification to a hazardous waste 34408
facility installation and operation permit. 34409~~

(J)(1) Except as provided in division (J)(2) of this section, 34410
an owner or operator of a hazardous waste facility that is 34411
operating in accordance with a permit by rule under rules adopted 34412
by the director under division (E)(3)(b) of section 3734.02 of the 34413
Revised Code shall submit either a hazardous waste facility 34414
installation and operation permit application for the facility or 34415
a modification application, whichever is required under division 34416
(J)(1)(a) or (b) of this section, within one hundred eighty days 34417
after the director has requested the application or upon a later 34418
date if the owner or operator demonstrates to the director good 34419

cause for the late submittal. 34420

(a) If the owner or operator does not have a hazardous waste 34421
facility installation and operation permit for any hazardous waste 34422
treatment, storage, or disposal activities at the facility, the 34423
owner or operator shall submit an application for such a permit to 34424
the director for the activities authorized by the permit by rule. 34425
Notwithstanding any other provision of law to the contrary, the 34426
director shall approve or disapprove the application for the 34427
permit in accordance with the procedures governing the approval or 34428
disapproval of permit renewals under division (H) of this section. 34429

(b) If the owner or operator has a hazardous waste facility 34430
installation and operation permit for hazardous waste treatment, 34431
storage, or disposal activities at the facility other than those 34432
authorized by the permit by rule, the owner or operator shall 34433
submit to the director a request for modification in accordance 34434
with division (I) of this section. Notwithstanding any other 34435
provision of law to the contrary, the director shall approve or 34436
disapprove the modification application in accordance with ~~rules~~ 34437
~~adopted under~~ division ~~(K)~~(I)(5) of this section. 34438

(2) The owner or operator of a boiler or industrial furnace 34439
that is conducting thermal treatment activities in accordance with 34440
a permit by rule under rules adopted by the director under 34441
division (E)(3)(b) of section 3734.02 of the Revised Code shall 34442
submit a hazardous waste facility installation and operation 34443
permit application if the owner or operator does not have such a 34444
permit for any hazardous waste treatment, storage, or disposal 34445
activities at the facility or, if the owner or operator has such a 34446
permit for hazardous waste treatment, storage, or disposal 34447
activities at the facility other than thermal treatment activities 34448
authorized by the permit by rule, a modification application to 34449
add those activities authorized by the permit by rule, whichever 34450
is applicable, within one hundred eighty days after the director 34451

has requested the submission of the application or upon a later 34452
date if the owner or operator demonstrates to the director good 34453
cause for the late submittal. The application shall be accompanied 34454
by information necessary to support the request. The ~~hazardous~~ 34455
~~waste facility board~~ director shall approve or disapprove ~~the an~~ 34456
application for a hazardous waste facility installation and 34457
operation permit in accordance with division (D) of this section 34458
and approve or disapprove an application for a modification in 34459
accordance with division (I)(3) of this section, except that the 34460
~~board~~ director shall not disapprove an application for the thermal 34461
treatment activities on the basis of the criteria set forth in 34462
division (D)~~(6)~~(2)(g) or (h) of this section. 34463

(3) As used in division (J) of this section: 34464

(a) "Modification application" means a request for a 34465
modification submitted in accordance with division (I) of this 34466
section. 34467

(b) "Thermal treatment," "boiler," and "industrial furnace" 34468
have the same meanings as in rules adopted under section 3734.12 34469
of the Revised Code. 34470

(K) The director shall adopt, and may amend, suspend, or 34471
rescind, rules in accordance with Chapter 119. of the Revised Code 34472
in order to implement divisions (H) and (I) of this section. 34473
Except when in actual conflict with this section, rules governing 34474
the classification of and procedures for the modification of 34475
hazardous waste facility installation and operation permits shall 34476
be substantively and procedurally identical to the regulations 34477
governing hazardous waste facility permitting and permit 34478
modifications adopted under the "Resource Conservation and 34479
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 34480
amended. 34481

Sec. 3734.12. The director of environmental protection shall 34482

adopt and may amend, suspend, and rescind rules in accordance with 34483
Chapter 119. of the Revised Code, which shall be consistent with 34484
and equivalent to the regulations adopted under the "Resource 34485
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 34486
6921, as amended, except for rules adopted under divisions (D) and 34487
(F) of this section governing solid waste facilities and except as 34488
otherwise provided in this chapter, doing all of the following: 34489

(A) Adopting the criteria and procedures established under 34490
the "Resource Conservation and Recovery Act of 1976," 90 Stat. 34491
2806, 42 U.S.C.A. 6921, as amended, for identifying hazardous 34492
waste. The director shall prepare, revise when appropriate, and 34493
publish a list of substances or categories of substances 34494
identified to be hazardous using the criteria specified in 40 34495
C.F.R. 261, as amended, which shall be composed of at least those 34496
substances identified as hazardous pursuant to section 3001(B) of 34497
that act. The director shall not list any waste that the 34498
administrator of the United States environmental protection agency 34499
delisted or excluded by an amendment to the federal regulations, 34500
any waste that the administrator declined to list by publishing a 34501
denial of a rulemaking petition or by withdrawal of a proposed 34502
listing in the United States federal register after May 18, 1980, 34503
or any waste oil or polychlorinated biphenyl not listed by the 34504
administrator. 34505

(B) Establishing standards for generators of hazardous waste 34506
necessary to protect human health or safety or the environment in 34507
accordance with this chapter, including, but not limited to, 34508
requirements respecting all of the following: 34509

(1) Record-keeping practices that accurately identify the 34510
quantities of hazardous waste generated, the constituents that are 34511
significant in quantity or in potential harm to human health or 34512
safety or the environment, and the disposition of the waste; 34513

(2) Labeling of containers used for storage, transportation, 34514

or disposal of hazardous waste to identify the waste accurately;	34515
(3) Use of appropriate containers for hazardous waste;	34516
(4) Providing information on the general chemical composition of hazardous waste to persons transporting, treating, storing, or disposing of the waste;	34517 34518 34519
(5) A manifest system requiring a manifest consistent with that prescribed under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended, requiring a manifest for any hazardous waste transported off the premises where generated and assuring that all hazardous waste that is transported off the premises where generated is designated for treatment, storage, or disposal in facilities for which a permit has been issued or in the other facilities specified in division (F) of section 3734.02 of the Revised Code;	34520 34521 34522 34523 34524 34525 34526 34527 34528
(6) Submission of such reports to the director as the director determines necessary;	34529 34530
(7) Establishment of quality control and testing procedures that ensure compliance with the rules adopted under this section;	34531 34532
(8) Obtainment of a United States environmental protection agency identification number.	34533 34534
(C) Establishing standards for transporters of hazardous waste necessary to protect human health or safety or the environment in accordance with this chapter, including, but not limited to, requirements respecting all of the following:	34535 34536 34537 34538
(1) Record-keeping concerning hazardous waste transported, including source and delivery points;	34539 34540
(2) Submission of such reports to the director as the director determines necessary;	34541 34542
(3) Transportation of only properly labeled waste;	34543
(4) Compliance with the manifest system required by division	34544

(B) of this section;	34545
(5) Transportation of hazardous waste only to the treatment, storage, or disposal facility that the shipper designates on the manifest to be a facility holding a permit or another facility specified in division (F) of section 3734.02 of the Revised Code;	34546 34547 34548 34549
(6) Contingency plans to minimize unanticipated damage from transportation of hazardous waste;	34550 34551
(7) Financial responsibility, including, but not limited to, provisions requiring a financial mechanism to cover the costs of spill cleanup and liability for sudden accidental occurrences that result in damage to persons, property, or the environment;	34552 34553 34554 34555
(8) Obtainment of a United States environmental protection agency identification number.	34556 34557
In the case of any hazardous waste that is subject to the "Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49 U.S.C.A. 1801, as amended, the rules shall be consistent with that act and regulations adopted under it.	34558 34559 34560 34561
(D) Establishing performance standards for owners and operators of hazardous waste facilities and owners and operators of solid waste facilities, necessary to protect human health or safety or the environment in accordance with this chapter, including, but not limited to, requirements respecting all of the following:	34562 34563 34564 34565 34566 34567
(1) Maintaining records of all hazardous waste that is treated, stored, or disposed of and of the manner in which the waste was treated, stored, or disposed of or records of all solid wastes transferred or disposed of and of the manner in which the wastes were disposed of;	34568 34569 34570 34571 34572
(2) Submission of such reports to the director as the director determines necessary;	34573 34574

(3) Reporting, monitoring, inspection, and, except with respect to solid waste facilities, compliance with the manifest system referred to in division (B) of this section;	34575 34576 34577
(4) Treatment, storage, or disposal of all hazardous waste received by methods, techniques, and practices approved by the director and disposal or transfer of all solid wastes received by methods, techniques, and practices approved by the director;	34578 34579 34580 34581
(5) Location, design, and construction of hazardous waste facilities and location, design, and construction of solid waste facilities;	34582 34583 34584
(6) Contingency plans for effective action to minimize unanticipated damage from treatment, storage, or disposal of hazardous waste and the disposal or transfer of solid wastes;	34585 34586 34587
(7) Ownership, continuity of operation, training for personnel, and financial responsibility, including the filing of closure and post-closure financial assurance, if applicable. No private entity shall be precluded by reason of these requirements from the ownership or operation of facilities providing hazardous waste treatment, storage, or disposal services if the entity can provide assurances of financial responsibility and continuity of operation consistent with the degree and duration of risks associated with the treatment, storage, or disposal of specified hazardous waste.	34588 34589 34590 34591 34592 34593 34594 34595 34596 34597
(8) Closure and post-closure care of a hazardous waste facility where hazardous waste will no longer be treated, stored, or disposed of and of a solid waste facility where solid wastes will no longer be disposed of or transferred;	34598 34599 34600 34601
(9) Establishment of quality control and testing procedures that ensure compliance with the rules adopted under this section;	34602 34603
(10) Obtainment of a United States environmental protection	34604

agency identification number for each hazardous waste treatment, 34605
storage, or disposal facility; 34606

(11) Trial burns and land treatment demonstrations. 34607

The rules adopted under divisions (D) and (F) of this section 34608
pertaining to solid waste facilities do not apply to scrap tire 34609
collection, storage, monocell, monofill, and recovery facilities. 34610
Those facilities are subject to and governed by rules adopted 34611
under sections 3734.70 to 3734.73 of the Revised Code, as 34612
applicable. 34613

(E) Governing the issuance, modification, revocation, 34614
suspension, withdrawal, and denial of installation and operation 34615
permits, draft permits, and transportation certificates of 34616
registration; 34617

(F) Specifying information required to be included in 34618
applications for hazardous waste facility installation and 34619
operation permits and solid waste permits, including, but not 34620
limited to, detail plans, specifications, and information 34621
respecting all of the following: 34622

(1) The composition, quantities, and concentrations of 34623
hazardous waste and solid wastes to be stored, treated, 34624
transported, or disposed of and such other information as the 34625
director may require regarding the method of operation; 34626

(2) The facility to which the waste will be transported or 34627
where it will be stored, treated, or disposed of; 34628

(3) The closure and post-closure care of a facility where 34629
hazardous waste will no longer be treated, stored, or disposed of 34630
and of a solid waste facility where solid wastes will no longer be 34631
disposed of or transferred. 34632

(G) Establishing procedures ensuring that all information 34633
entitled to protection as trade secrets disclosed to the director 34634

or the director's authorized representative is not disclosed 34635
without the consent of the owner, except that such information may 34636
be disclosed, upon request, to authorized representatives of the 34637
United States environmental protection agency, or as required by 34638
law. As used in this section, "trade secrets" means any formula, 34639
plan, pattern, process, tool, mechanism, compound, procedure, 34640
production date, or compilation of information that is not 34641
patented, that is known only to certain individuals within a 34642
commercial concern who are using it to fabricate, produce, or 34643
compound an article, trade, or service having commercial value, 34644
and that gives its user an opportunity to obtain a business 34645
advantage over competitors who do not know or use it. 34646

(H) Prohibiting the disposal of specified hazardous wastes in 34647
this state if the director has determined both of the following: 34648

(1) The potential impacts on human health or safety or the 34649
environment are such that disposal of those wastes should not be 34650
allowed. 34651

(2) A technically feasible and environmentally sound 34652
alternative is reasonably available, either within or outside this 34653
state, for processing, recycling, fixation of, neutralization of, 34654
or other treatment of those wastes. Such reasonable availability 34655
shall not be determined without a consideration of the costs to 34656
the generator of implementing the alternatives. 34657

The director shall adopt, and may amend, suspend, or rescind, 34658
rules to specify hazardous wastes that shall not be disposed of in 34659
accordance with this division. Nothing in this division, either 34660
prior to or after adoption of those rules, shall preclude the 34661
director ~~or the hazardous waste facility board created in section~~ 34662
~~3734.05 of the Revised Code~~ from prohibiting the disposal of 34663
specified hazardous wastes at particular facilities under the 34664
terms or conditions of a permit or ~~preclude the director from~~ 34665
~~prohibiting that disposal~~ by order. 34666

(I)(1)(a) Governing the following that may be more stringent 34667
than the regulations adopted under the "Resource Conservation and 34668
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 34669
amended, when the director determines that such more stringent 34670
rules are reasonable in order to protect human health or safety or 34671
the environment: 34672

(i) Specific wastes that the director determines, because of 34673
their physical, chemical, or biological characteristics, are so 34674
extremely hazardous that the storage, treatment, or disposal of 34675
the wastes in compliance with those regulations would present an 34676
imminent danger to human health or safety or the environment; 34677

(ii) The use of only properly designed, operated, and 34678
approved transfer facilities; 34679

(iii) Preventing illegitimate activities relating to the 34680
reuse, recycling, or reclaiming of hazardous waste, including 34681
record-keeping, reporting, and manifest requirements. 34682

(b) In adopting such more stringent rules, the director shall 34683
give consideration to and base the rules on evidence concerning 34684
factors including, but not limited to, the following insofar as 34685
pertinent: 34686

(i) Geography of the state; 34687

(ii) Geology of the state; 34688

(iii) Hydrogeology of the state; 34689

(iv) Climate of the state; 34690

(v) Engineering and technical feasibility; 34691

(vi) Availability of alternative technologies or methods of 34692
storage, treatment, or disposal. 34693

(2) The director may require from generators and transporters 34694
of hazardous waste and from owners or operators of treatment, 34695

storage, or disposal facilities, the submission of reports in 34696
addition to those required under regulations adopted under the 34697
"Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 34698
42 U.S.C.A. 6921, as amended, to the extent that such reports 34699
contain information that the generator, transporter, or facility 34700
owner or operator is required to obtain in order to comply with 34701
the regulations adopted by the administrator of the United States 34702
environmental protection agency under the "Resource Conservation 34703
and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 34704
amended, or to the extent that such reports are required by the 34705
director to meet the requirements of division (B)(7), (D)(9), or 34706
(H) of this section or section 3734.121 of the Revised Code. 34707

(J) Governing the storage, treatment, or disposal of 34708
hazardous waste in, and the permitting, design, construction, 34709
operation, monitoring, inspection, closure, and post-closure care 34710
of, hazardous waste underground injection wells, surface 34711
impoundments, waste piles other than those composed of materials 34712
removed from the ground as part of coal or mineral extraction or 34713
cleaning processes, land treatment facilities, thermal treatment 34714
facilities, and landfills that may be more stringent than the 34715
regulations adopted under the "Resource Conservation and Recovery 34716
Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, 34717
whenever the director reasonably determines that federal 34718
regulations will not adequately protect the public health or 34719
safety or the environment of this state with respect to the 34720
subject matter of the more stringent rules. Such more stringent 34721
rules shall be developed to achieve a degree of protection, as 34722
determined by the director, consistent with the degree of hazard 34723
potentially posed by the various wastes or categories of wastes to 34724
be treated, stored, or disposed of and the types of facilities at 34725
which they are to be treated, stored, or disposed of. In adopting 34726
such more stringent rules, the director shall give consideration 34727
to and base the rules on evidence concerning factors including, 34728

but not limited to, the following insofar as pertinent:	34729
(1) Geography of the state;	34730
(2) Geology of the state;	34731
(3) Hydrogeology of the state;	34732
(4) Climate of the state;	34733
(5) Engineering and technical feasibility;	34734
(6) Availability of alternative technologies or methods of storage, treatment, or disposal.	34735 34736
(K) Establishing performance standards and other requirements necessary to protect public health and the environment from hazards associated with used oil, including, without limitation, standards and requirements respecting all of the following:	34737 34738 34739 34740
(1) Material that is subject to regulation as used oil;	34741
(2) Generation of used oil;	34742
(3) Used oil collection centers and aggregation points;	34743
(4) Transportation of used oil;	34744
(5) Processing and re-refining of used oil;	34745
(6) Burning of used oil;	34746
(7) Marketing of used oil;	34747
(8) Disposal of used oil;	34748
(9) Use of used oil as a dust suppressant.	34749
Sec. 3734.123. (A) As used in this section and section 3734.124 of the Revised Code, "commercial hazardous waste incinerator" means an enclosed device that treats hazardous waste by means of controlled flame combustion and that accepts for treatment hazardous waste that is generated off the premises on which the device is located by any person other than the one who	34750 34751 34752 34753 34754 34755

owns or operates the device or one who controls, is controlled by, 34756
or is under common control with the person who owns or operates 34757
the device. "Commercial hazardous waste incinerator" does not 34758
include any "boiler" or "industrial furnace" as those terms are 34759
defined in rules adopted under section 3734.12 of the Revised 34760
Code. 34761

(B) Not sooner than three years after April 15, 1993, and 34762
triennially thereafter, the director of environmental protection 34763
shall prepare, publish, and issue as a final action an assessment 34764
of commercial hazardous waste incinerator capacity in this state. 34765
However, after the issuance as a final action of a determination 34766
under division (A) of section 3734.124 of the Revised Code that 34767
terminates the restrictions established in division (C) of this 34768
section, the director shall cease preparing, publishing, and 34769
issuing the periodic assessments required under this division. The 34770
assessment shall determine the amount of commercial hazardous 34771
waste incinerator capacity needed to manage the hazardous waste 34772
expected to be generated in this state and imported into this 34773
state for incineration at commercial hazardous waste incinerators 34774
during the next succeeding twenty calendar years. The assessment 34775
shall include at least all of the following: 34776

(1) A determination of the aggregate treatment capacity 34777
authorized at commercial hazardous waste incinerators located in 34778
this state; 34779

(2) A determination of the quantity of hazardous waste 34780
generated in this state that is being treated at commercial 34781
hazardous waste incinerators located in this state and projections 34782
of the quantity of hazardous waste generated in this state that 34783
will be treated at those facilities; 34784

(3) A determination of the quantity of hazardous waste 34785
generated outside this state that is being treated at commercial 34786
hazardous waste incinerators located in this state and projections 34787

of the quantity of hazardous waste generated outside this state 34788
that will be treated at those facilities; 34789

(4) A determination of the quantity of hazardous waste 34790
generated in this state that is being treated at commercial 34791
hazardous waste incinerators located outside this state, and 34792
projections of the quantity of hazardous waste generated in this 34793
state that will be treated at those facilities; 34794

(5) The amount of commercial hazardous waste incinerator 34795
capacity that the director reasonably anticipates will be needed 34796
during the first three years of the planning period to treat 34797
hazardous waste generated from the remediation of sites in this 34798
state that are on the national priority list required under the 34799
"Comprehensive Environmental Response, Compensation, and Liability 34800
Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended; as a 34801
result of corrective actions implemented under the "Resource 34802
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 34803
6921, as amended; and as a result of clean-up activities conducted 34804
at sites listed on the master sites list prepared by the 34805
environmental protection agency; 34806

(6) Based upon available data, provided that the data are 34807
reliable and are compatible with the data base of the 34808
environmental protection agency, an identification of any 34809
hazardous waste first listed as a hazardous waste in regulations 34810
adopted under the "Resource Conservation and Recovery Act of 34811
1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, on or after 34812
April 15, 1993, and of any hazardous waste that has been proposed 34813
for such listing by publication of a notice in the federal 34814
register on or before December 1 of the year immediately preceding 34815
the triennial assessment; 34816

(7) An analysis of other factors that may result in capacity 34817
changes over the period addressed by the assessment. 34818

(C) Except as otherwise provided in section 3734.124 of the Revised Code, none of the following shall occur on or after April 15, 1993:

(1) The director shall not do any of the following:

~~(a) Pursuant to division (D)(3) or (I)(4) of section 3734.05 of the Revised Code, as applicable, transmit to the hazardous waste facility board created in that section any application for a~~
Issue any hazardous waste facility installation and operation permit under division (D) of section 3734.05 of the Revised Code for the establishment of a new commercial hazardous waste incinerator, or ~~any request for a modification, as described in divisions (I)(3)(a) to (d) of section 3734.05 of the Revised Code, of an existing commercial hazardous waste incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste authorized to be treated by it, for which the staff of the environmental protection agency has made a preliminary determination as to whether the application or request appears to comply with the rules and standards set forth under divisions (D), (I), and (J) of section 3734.12 of the Revised Code;~~

~~(b) Issue~~ issue any modified hazardous waste facility installation and operation permit under division ~~(I)(5)~~ of that section 3734.05 of the Revised Code that would authorize an increase in either the treatment capacity of a commercial hazardous waste incinerator or the quantity of hazardous waste authorized to be treated by it;

~~(e)~~(b) Issue any permit pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code, division (J) of section 6111.03 of the Revised Code, or the solid waste provisions of this chapter and rules adopted under those provisions, that is necessary for the establishment, modification,

or operation of any appurtenant facility or equipment that is 34850
necessary for the operation of a new commercial hazardous waste 34851
incinerator, or the modification of such an existing incinerator 34852
to increase either the treatment capacity of the incinerator or 34853
the quantity of hazardous waste that is authorized to be treated 34854
by it. Upon determining that an application for any permit 34855
pertains to the establishment, modification, or operation of any 34856
appurtenant facility or equipment, the director shall cease 34857
reviewing the application and return the application and 34858
accompanying materials to the applicant along with a written 34859
notice that division (C)(1)~~(e)~~(b) of this section precludes the 34860
director from reviewing and acting upon the application. 34861

~~(d)~~(c) Issue any exemption order under division (G) of 34862
section 3734.02 of the Revised Code exempting the establishment of 34863
a new commercial hazardous waste incinerator; the modification of 34864
an existing facility to increase either the treatment capacity of 34865
the incinerator or the quantity of hazardous waste that is 34866
authorized to be treated by it; or the establishment, 34867
modification, or operation of any facility or equipment 34868
appurtenant to a new or modified commercial hazardous waste 34869
incinerator, from divisions (C)(1)(a)~~7~~ or (b)~~7~~ ~~or~~ ~~(e)~~ or (C)(2) ~~or~~ 34870
~~(3)~~ of this section. 34871

~~(2) The staff of the environmental protection agency shall 34872
not take any action under division (D)(3) of section 3734.05 of 34873
the Revised Code to review, or to make a preliminary determination 34874
of compliance with the rules and standards set forth in divisions 34875
(D), (I), and (J) of section 3734.12 of the Revised Code 34876
regarding, any If the director determines that an application for 34877
a hazardous waste facility installation and operation permit 34878
submitted under division (D)~~(3)~~ of section 3734.05 of the Revised 34879
Code ~~that~~ pertains to the establishment of a new commercial 34880
hazardous waste incinerator, or ~~any~~ a request for a modification 34881~~

~~of an existing incinerator~~ submitted under division (I)(4) of that 34882
section ~~to modify an existing incinerator~~ pertains to an increase 34883
of either the treatment capacity of the incinerator or the 34884
quantity of hazardous waste that is authorized to be treated by 34885
it. ~~Upon determining that an application or request submitted~~ 34886
~~under those divisions~~ pertains to the establishment of a new 34887
~~commercial hazardous waste incinerator or the modification of an~~ 34888
~~existing incinerator,~~ the staff of the agency director shall cease 34889
reviewing the application or request and shall return it and the 34890
accompanying materials to the applicant along with a written 34891
notice that division (C)(2) of this section precludes the ~~staff~~ 34892
~~from reviewing or making any preliminary determination of~~ 34893
~~compliance regarding~~ review of the application or request. 34894

~~(3) The hazardous waste facility board created in section~~ 34895
~~3734.05 of the Revised Code shall not do either of the following:~~ 34896

~~(a) Approve any application for a hazardous waste facility~~ 34897
~~installation and operation permit, or issue any permit, under~~ 34898
~~divisions (D) and (F) of section 3734.05 of the Revised Code that~~ 34899
~~authorizes the establishment and operation of a new commercial~~ 34900
~~hazardous waste incinerator;~~ 34901

~~(b) Approve any request to modify an existing commercial~~ 34902
~~hazardous waste incinerator under divisions (D) and (I)(7) of~~ 34903
~~section 3734.05 of the Revised Code that authorizes an increase in~~ 34904
~~either the treatment capacity of the incinerator or the quantity~~ 34905
~~of hazardous waste authorized to be treated by it.~~ 34906

Sec. 3734.124. (A) Promptly after issuing a periodic 34907
assessment under division (B) of section 3734.123 of the Revised 34908
Code, the director of environmental protection shall make a 34909
determination as to whether it is necessary or appropriate to 34910
continue the restrictions established in division (C) of section 34911
3734.123 of the Revised Code during the period of time between the 34912

issuance of the assessment and the issuance of the next succeeding 34913
periodic assessment or as to whether it is necessary or 34914
appropriate to terminate the restrictions. The director shall 34915
consider all of the following when making a determination under 34916
this division: 34917

(1) The findings of the assessment; 34918

(2) The findings of an evaluation conducted by the director, 34919
in consultation with the chairperson of the state emergency 34920
response commission created in section 3750.02 of the Revised 34921
Code, regarding the capability of this state to respond to the 34922
types and frequencies of releases of hazardous waste that are 34923
likely to occur at commercial hazardous waste incinerators; 34924

(3) The effect that a new commercial hazardous waste 34925
incinerator may have on ambient air quality in this state; 34926

(4) The findings of a review of relevant information 34927
regarding the impacts of commercial hazardous waste incinerators 34928
on human health and the environment, such as health studies and 34929
risk assessments; 34930

(5) The findings of a review of the operational records of 34931
commercial hazardous waste incinerators operating in this state; 34932

(6) The findings of any review of relevant information 34933
concerning the following: 34934

(a) The cost of and access to commercial hazardous waste 34935
incinerator capacity; 34936

(b) The length of time and the regulatory review process 34937
necessary to fully permit a commercial hazardous waste 34938
incinerator; 34939

(c) Access to long-term capital investment to fund the 34940
building of a commercial hazardous waste incinerator in this 34941
state; 34942

(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 the following may occur:~~

~~(1) The the director may do any of the following:~~

~~(a) Pursuant to division (D)(3) or (I)(4) of section 3734.05 of the Revised Code, as applicable, transmit to the hazardous waste facility board created in that section an application for a hazardous waste facility installation and operation permit that pertains to the establishment of a new commercial hazardous waste incinerator, or a request for a modification, as described in divisions (I)(3)(a) to (d) of section 3734.05 of the Revised Code, of a commercial hazardous waste incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste authorized to be treated by it, for which the staff of the environmental protection agency has made a preliminary determination as to whether the application or request appears to comply with the rules and standards set forth under divisions (D), (I), and (K) of section 3734.05 of the Revised Code;~~ 34974
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~~(b) To the extent otherwise authorized in division (I)(5) of section 3734.05 of the Revised Code, issue a modified hazardous waste facility installation and operation permit under that division that authorizes an increase in either the treatment capacity of a commercial hazardous waste incinerator or the quantity of hazardous waste authorized to be treated by it;~~ 34988
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~~(e)(1) To the extent otherwise authorized thereunder, issue any permit pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code, division (J) of section 6111.03 of the Revised Code, or the solid waste provisions of this chapter and rules adopted under those provisions, that is necessary for the establishment, modification, or operation of any appurtenant facility or equipment that is necessary for the operation of a new commercial hazardous waste incinerator, or for the modification of an existing incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste authorized to be treated by it;~~ 34994
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~~(d)(2) To the extent otherwise authorized in division (G) of~~ 35005

section 3734.02 of the Revised Code, issue an order exempting the 35006
establishment of a new commercial hazardous waste incinerator; the 35007
modification of an existing incinerator to increase either the 35008
treatment capacity of the incinerator or the quantity of hazardous 35009
waste that is authorized to be treated by it; or the 35010
establishment, modification, or operation of any facility or 35011
equipment appurtenant to a new or modified commercial hazardous 35012
waste incinerator, from division (C)(1)(a), or (b), ~~or (c)~~ or 35013
(C)(2) ~~or (3)~~ of section 3734.123 of the Revised Code. 35014

~~(2) The staff of the environmental protection agency may do 35015
both of the following: 35016~~

~~(a) Pursuant to division (D)(3) or (I)(4) of section 3734.05 35017
of the Revised Code, review an application for a hazardous waste 35018
facility installation and operation permit to establish a new 35019
commercial hazardous waste incinerator or a request to modify an 35020
existing incinerator to increase either the treatment capacity of 35021
the incinerator or the quantity of hazardous waste authorized to 35022
be treated by it; 35023~~

~~(b) Pursuant to division (D)(3) or (I)(4) of section 3734.05 35024
of the Revised Code, make a preliminary determination as to 35025
whether an application for a hazardous waste facility permit to 35026
install and operate a new commercial hazardous waste incinerator 35027
or a request to modify an existing incinerator to increase either 35028
the treatment capacity of the incinerator or the quantity of 35029
hazardous waste authorized to be treated by it appears to comply 35030
with the rules and performance standards set forth under divisions 35031
(D), (I), and (J) of section 3734.12 of the Revised Code. 35032~~

~~(3) The hazardous waste facility board may do both of the 35033
following: 35034~~

~~(a) Approve or disapprove an application for a hazardous 35035
waste facility installation and operation permit, and issue a 35036~~

permit, under ~~divisions~~ division (D) and ~~(F)~~ of section 3734.05 of 35037
the Revised Code for a new commercial hazardous waste incinerator; 35038

~~(b) Under divisions (D) and (I)(7) of that section, approve~~ 35039
(4) Approve or disapprove under division (I) of section 3734.05 of 35040
the Revised Code a request to modify the permit of an existing 35041
commercial hazardous waste incinerator to increase either the 35042
treatment capacity of the incinerator or the quantity of hazardous 35043
waste authorized to be treated by it. 35044

Sec. 3734.18. (A) There are hereby levied fees on the 35045
disposal of hazardous waste to be collected according to the 35046
following schedule at each disposal facility to which ~~the~~ 35047
~~hazardous waste facility board has issued~~ a hazardous waste 35048
facility installation and operation permit or ~~the director of~~ 35049
~~environmental protection has issued a renewal of a permit pursuant~~ 35050
~~to section 3734.05 of the Revised Code~~ has been issued under this 35051
chapter: 35052

(1) For disposal facilities that are off-site facilities as 35053
defined in division (E) of section 3734.02 of the Revised Code, 35054
fees shall be levied at the rate of four dollars and fifty cents 35055
per ton for hazardous waste disposed of by deep well injection and 35056
nine dollars per ton for hazardous waste disposed of by land 35057
application or landfilling. The owner or operator of the facility, 35058
as a trustee for the state, shall collect the fees and forward 35059
them to the director in accordance with rules adopted under this 35060
section. 35061

(2) For disposal facilities that are on-site or satellite 35062
facilities, as defined in division (E) of section 3734.02 of the 35063
Revised Code, fees shall be levied at the rate of two dollars per 35064
ton for hazardous waste disposed of by deep well injection and 35065
four dollars per ton for hazardous waste disposed of by land 35066
application or landfilling. The maximum annual disposal fee for an 35067

on-site disposal facility that disposes of one hundred thousand 35068
tons or less of hazardous waste in a year is twenty-five thousand 35069
dollars. The maximum annual disposal fee for an on-site facility 35070
that disposes of more than one hundred thousand tons of hazardous 35071
waste in a year by land application or landfilling is fifty 35072
thousand dollars, and the maximum annual fee for an on-site 35073
facility that disposes of more than one hundred thousand tons of 35074
hazardous waste in a year by deep well injection is one hundred 35075
thousand dollars. The maximum annual disposal fee for a satellite 35076
facility that disposes of one hundred thousand tons or less of 35077
hazardous waste in a year is thirty-seven thousand five hundred 35078
dollars, and the maximum annual disposal fee for a satellite 35079
facility that disposes of more than one hundred thousand tons of 35080
hazardous waste in a year is seventy-five thousand dollars, except 35081
that a satellite facility defined under division (E)(3)(b) of 35082
section 3734.02 of the Revised Code that receives hazardous waste 35083
from a single generation site is subject to the same maximum 35084
annual disposal fees as an on-site disposal facility. The owner or 35085
operator shall pay the fee to the director each year upon the 35086
anniversary of the date of issuance of the owner's or operator's 35087
installation and operation permit during the term of that permit 35088
and any renewal permit issued under division (H) of section 35089
3734.05 of the Revised Code. If payment is late, the owner or 35090
operator shall pay an additional ten per cent of the amount of the 35091
fee for each month that it is late. 35092

(B) There are hereby levied fees at the rate of two dollars 35093
per ton on hazardous waste that is treated at treatment facilities 35094
that are not on-site or satellite facilities, as defined in 35095
division (E) of section 3734.02 of the Revised Code, to which ~~the~~ 35096
~~hazardous waste facility board has issued~~ a hazardous waste 35097
facility installation and operation permit or ~~the director~~ renewal 35098
of a permit has been issued ~~a renewal permit~~ under this chapter, 35099
or that are not subject to the hazardous waste facility 35100

installation and operation permit requirements under rules adopted 35101
by the director. 35102

(C) There are hereby levied additional fees on the treatment 35103
and disposal of hazardous waste at the rate of ten per cent of the 35104
applicable fees prescribed in division (A) or (B) of this section 35105
for the purposes of paying the costs of municipal corporations and 35106
counties for conducting reviews of applications for hazardous 35107
waste facility installation and operation permits for proposed new 35108
or modified hazardous waste landfills within their boundaries, 35109
emergency response actions with respect to releases of hazardous 35110
waste from hazardous waste facilities within their boundaries, 35111
monitoring the operation of such hazardous waste facilities, and 35112
local waste management planning programs. The owner or operator of 35113
a facility located within a municipal corporation, as a trustee 35114
for the municipal corporation, shall collect the fees levied by 35115
this division and forward them to the treasurer of the municipal 35116
corporation or such officer as, by virtue of the charter, has the 35117
duties of the treasurer in accordance with rules adopted under 35118
this section. The owner or operator of a facility located in an 35119
unincorporated area, as a trustee of the county in which the 35120
facility is located, shall collect the fees levied by this 35121
division and forward them to the county treasurer of that county 35122
in accordance with rules adopted under this section. The owner or 35123
operator shall pay the fees levied by this division to the 35124
treasurer or such other officer of the municipal corporation or to 35125
the county treasurer each year upon the anniversary of the date of 35126
issuance of the owner's or operator's installation and operation 35127
permit during the term of that permit and any renewal permit 35128
issued under division (H) of section 3734.05 of the Revised Code. 35129
If payment is late, the owner or operator shall pay an additional 35130
ten per cent of the amount of the fee for each month that the 35131
payment is late. 35132

Moneys received by a municipal corporation under this 35133
division shall be paid into a special fund of the municipal 35134
corporation and used exclusively for the purposes of conducting 35135
reviews of applications for hazardous waste facility installation 35136
and operation permits for new or modified hazardous waste 35137
landfills located or proposed within the municipal corporation, 35138
conducting emergency response actions with respect to releases of 35139
hazardous waste from facilities located within the municipal 35140
corporation, monitoring operation of such hazardous waste 35141
facilities, and conducting waste management planning programs 35142
within the municipal corporation through employees of the 35143
municipal corporation or pursuant to contracts entered into with 35144
persons or political subdivisions. Moneys received by a board of 35145
county commissioners under this division shall be paid into a 35146
special fund of the county and used exclusively for those purposes 35147
within the unincorporated area of the county through employees of 35148
the county or pursuant to contracts entered into with persons or 35149
political subdivisions. 35150

(D) As used in this section, "treatment" or "treated" does 35151
not include any method, technique, or process designed to recover 35152
energy or material resources from the waste or to render the waste 35153
amenable for recovery. The fees levied by division (B) of this 35154
section do not apply to hazardous waste that is treated and 35155
disposed of on the same premises or by the same person. 35156

(E) The director, by rules adopted in accordance with 35157
Chapters 119. and 3745. of the Revised Code, shall prescribe any 35158
dates not specified in this section and procedures for collecting 35159
and forwarding the fees prescribed by this section and may 35160
prescribe other requirements that are necessary to carry out this 35161
section. 35162

The director shall deposit the moneys collected under 35163
divisions (A) and (B) of this section into one or more minority 35164

banks, as "minority bank" is defined in division (F)(1) of section 35165
135.04 of the Revised Code, to the credit of the hazardous waste 35166
facility management fund, which is hereby created in the state 35167
treasury, except that the director shall deposit to the credit of 35168
the underground injection control fund created in section 6111.046 35169
of the Revised Code moneys in excess of fifty thousand dollars 35170
that are collected during a fiscal year under division (A)(2) of 35171
this section from the fee levied on the disposal of hazardous 35172
waste by deep well injection at an on-site disposal facility that 35173
disposes of more than one hundred thousand tons of hazardous waste 35174
in a year. 35175

The environmental protection agency ~~and the hazardous waste~~ 35176
~~facility board~~ may use moneys in the hazardous waste facility 35177
management fund for administration of the hazardous waste program 35178
established under this chapter and, in accordance with this 35179
section, may request approval by the controlling board for that 35180
use on an annual basis. In addition, the agency may use and pledge 35181
moneys in that fund for repayment of and for interest on any loans 35182
made by the Ohio water development authority to the agency for the 35183
hazardous waste program established under this chapter without the 35184
necessity of requesting approval by the controlling board, which 35185
use and pledge shall have priority over any other use of the 35186
moneys in the fund. 35187

Until September 28, 1996, the director also may use moneys in 35188
the fund to pay the start-up costs of administering Chapter 3746. 35189
of the Revised Code. 35190

If moneys in the fund that the agency uses in accordance with 35191
this chapter are reimbursed by grants or other moneys from the 35192
United States government, the grants or other moneys shall be 35193
placed in the fund. 35194

Before the agency makes any expenditure from the fund other 35195
than for repayment of and interest on any loan made by the Ohio 35196

water development authority to the agency in accordance with this 35197
section, the controlling board shall approve the expenditure. 35198

Sec. 3734.28. All moneys collected under sections 3734.122, 35199
3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised 35200
Code and natural resource damages collected by the state under the 35201
"Comprehensive Environmental Response, Compensation, and Liability 35202
Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, shall 35203
be paid into the state treasury to the credit of the hazardous 35204
waste clean-up fund, which is hereby created. The environmental 35205
protection agency shall use the moneys in the fund for the 35206
purposes set forth in division (D) of section 3734.122, sections 35207
3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 3734.26, and 3734.27, 35208
and, through ~~June 30, 2003~~ October 15, 2005, divisions (A)(1) and 35209
(2) of section 3745.12 and Chapter 3746. of the Revised Code, 35210
including any related enforcement expenses. In addition, the 35211
agency shall use the moneys in the fund to pay the state's 35212
long-term operation and maintenance costs or matching share for 35213
actions taken under the "Comprehensive Environmental Response, 35214
Compensation, and Liability Act of 1980," as amended. If those 35215
moneys are reimbursed by grants or other moneys from the United 35216
States or any other person, the moneys shall be placed in the fund 35217
and not in the general revenue fund. 35218

Sec. 3734.42. (A)(1) Except as otherwise provided in division 35219
(E)(2) of this section, every applicant for a permit other than a 35220
permit modification or renewal shall file a disclosure statement, 35221
on a form developed by the attorney general, with the director of 35222
environmental protection and the attorney general at the same time 35223
the applicant files an application for a permit other than a 35224
permit modification or renewal with the director. 35225

(2) Any individual required to be listed in the disclosure 35226
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statement shall be fingerprinted for identification and 35228
investigation purposes in accordance with procedures established 35229
by the attorney general. An individual required to be 35230
fingerprinted under this section shall not be required to be 35231
fingerprinted more than once under this section. 35232

(3) The attorney general, within one hundred eighty days 35233
after receipt of the disclosure statement from an applicant for a 35234
permit, shall prepare and transmit to the director an 35235
investigative report on the applicant, based in part upon the 35236
disclosure statement, except that this deadline may be extended 35237
for a reasonable period of time, for good cause, by the director 35238
or the attorney general. In preparing this report, the attorney 35239
general may request and receive criminal history information from 35240
the federal bureau of investigation and any other law enforcement 35241
agency or organization. The attorney general may provide such 35242
confidentiality regarding the information received from a law 35243
enforcement agency as may be imposed by that agency as a condition 35244
for providing that information to the attorney general. 35245

(4) The review of the application by the director ~~or the~~ 35246
~~hazardous waste facility board~~ shall include a review of the 35247
disclosure statement and investigative report. 35248

(B) All applicants and permittees shall provide any 35249
assistance or information requested by the director or the 35250
attorney general and shall cooperate in any inquiry or 35251
investigation conducted by the attorney general and any inquiry, 35252
investigation, or hearing conducted by the director ~~or the~~ 35253
~~hazardous waste facility board~~. If, upon issuance of a formal 35254
request to answer any inquiry or produce information, evidence, or 35255
testimony, any applicant or permittee, any officer, director, or 35256
partner of any business concern, or any key employee of the 35257
applicant or permittee refuses to comply, the permit of the 35258
applicant or permittee may be denied or revoked by the director ~~or~~ 35259

~~the board.~~ 35260

(C) The attorney general may charge and collect such fees 35261
from applicants and permittees as are necessary to cover the costs 35262
of administering and enforcing the investigative procedures 35263
authorized in sections 3734.41 to 3734.47 of the Revised Code. The 35264
attorney general shall transmit moneys collected under this 35265
division to the treasurer of state to be credited to the solid and 35266
hazardous waste background investigations fund, which is hereby 35267
created in the state treasury. Moneys in the fund shall be used 35268
solely for paying the attorney general's costs of administering 35269
and enforcing the investigative procedures authorized in sections 35270
3734.41 to 3734.47 of the Revised Code. 35271

(D) Annually on the anniversary date of the submission to the 35272
director by the attorney general of the investigative report for a 35273
specific facility, or annually on another date assigned by the 35274
attorney general, the appropriate applicant, permittee, or 35275
prospective owner shall submit to the attorney general, on a form 35276
provided by the attorney general, any and all information required 35277
to be included in a disclosure statement that has changed or been 35278
added in the immediately preceding year. If, in the immediately 35279
preceding year, there have been no changes in or additions to the 35280
information required to be included in a disclosure statement, the 35281
appropriate applicant, permittee, or prospective owner shall 35282
submit to the attorney general an affidavit stating that there 35283
have been no changes in or additions to that information during 35284
that time period. 35285

Notwithstanding the requirement for an annual submission of 35286
information, the following information shall be submitted within 35287
the periods specified: 35288

(1) Information required to be included in the disclosure 35289
statement for any new officer, director, partner, or key employee, 35290
to be submitted within ninety days from the addition of the 35291

officer, director, partner, or key employee;	35292
(2) Information required to be included in a disclosure statement for any new business concern, to be submitted within ninety days from the addition of the new business concern;	35293 35294 35295
(3) Information regarding any new criminal conviction, to be submitted within ninety days from the judgment entry of conviction.	35296 35297 35298
The failure to provide such information may constitute the basis for the revocation or denial of renewal of any permit or license issued in accordance with this chapter, provided that prior to any such denial or revocation, the director shall notify the applicant or permittee of the director's intention to do so and give the applicant or permittee fourteen days from the date of the notice to explain why the information was not provided. The director shall consider this information when determining whether to revoke or deny the permit or license.	35299 35300 35301 35302 35303 35304 35305 35306 35307
Nothing in this division affects the rights of the director or the attorney general granted under sections 3734.40 to 3734.47 of the Revised Code to request information from a person at any other time.	35308 35309 35310 35311
(E)(1) Except as otherwise provided in division (E)(2) of this section, every permittee who is not otherwise required to file a disclosure statement shall file a disclosure statement within five years after June 24, 1988, pursuant to a schedule for submissions of disclosure statements developed by the attorney general. The schedule shall provide all permittees and holders of a license with at least one hundred eighty days' notice prior to the date upon which the statement is to be submitted. All other terms of the schedule shall be established at the discretion of the attorney general and shall not be subject to judicial review.	35312 35313 35314 35315 35316 35317 35318 35319 35320 35321
(2) An applicant for a permit for an off-site solid waste	35322

facility that is a scrap tire storage, monocell, monofill, or 35323
recovery facility issued under section 3734.76, 3734.77, or 35324
3734.78 of the Revised Code, as applicable, shall file a 35325
disclosure statement within five years after October 29, 1993, 35326
pursuant to a schedule for submissions of disclosure statements 35327
developed by the attorney general. The schedule shall provide all 35328
such applicants with at least one hundred eighty days' notice 35329
prior to the date upon which the statement shall be submitted. All 35330
other terms of the schedule shall be established at the discretion 35331
of the attorney general and shall not be subject to judicial 35332
review. 35333

Beginning five years after October 29, 1993, an applicant for 35334
such a permit shall file a disclosure statement in accordance with 35335
division (A)(1) of this section. 35336

(3) When a permittee submits a disclosure statement at the 35337
time it submits an application for a renewal or modification of 35338
its permit, the attorney general shall remove the permittee from 35339
the submission schedule established pursuant to division (E)(1) or 35340
(2) of this section. 35341

(4) After receiving a disclosure statement under division 35342
(E)(1) or (2) of this section, the attorney general shall prepare 35343
an investigative report and transmit it to the director. The 35344
director shall review the disclosure statement and investigative 35345
report to determine whether the statement or report contains 35346
information that if submitted with a permit application would 35347
require a denial of the permit pursuant to section 3734.44 of the 35348
Revised Code. If the director determines that the statement or 35349
report contains such information, the director may revoke any 35350
previously issued permit pursuant to section 3734.45 of the 35351
Revised Code, or the director shall deny any application for a 35352
renewal of a permit or license. When the renewal of the license is 35353
being performed by a board of health, the director shall instruct 35354

the board of health about those circumstances under which the 35355
renewal is required to be denied by this section. 35356

(F)(1) Whenever there is a change in ownership of any 35357
off-site solid waste facility, including incinerators, any 35358
transfer facility, any off-site infectious waste treatment 35359
facility, or any off-site hazardous waste treatment, storage, or 35360
disposal facility, the prospective owner shall file a disclosure 35361
statement with the attorney general and the director at least one 35362
hundred eighty days prior to the proposed change in ownership. 35363
Upon receipt of the disclosure statement, the attorney general 35364
shall prepare an investigative report and transmit it to the 35365
director. The director shall review the disclosure statement and 35366
investigative report to determine whether the statement or report 35367
contains information that if submitted with a permit application 35368
would require a denial of the permit pursuant to section 3734.44 35369
of the Revised Code. If the director determines that the statement 35370
or report contains such information, the director shall disapprove 35371
the change in ownership. 35372

(2) If the parties to a change in ownership decide to proceed 35373
with the change prior to the action of the director on the 35374
disclosure statement and investigative report, the parties shall 35375
include in all contracts or other documents reflecting the change 35376
in ownership language expressly making the change in ownership 35377
subject to the approval of the director and expressly negating the 35378
change if it is disapproved by the director pursuant to division 35379
(F)(1) of this section. 35380

(3) As used in this section, "change in ownership" includes 35381
any change in the names, other than those of officers, directors, 35382
partners, or key employees, contained in the disclosure statement. 35383

Sec. 3734.44. Notwithstanding the provisions of any law to 35384
the contrary, no permit or license shall be issued or renewed by 35385

the director of environmental protection, ~~the hazardous waste facility board,~~ or a board of health: 35386
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(A) Unless the director, ~~the hazardous waste facility board,~~ or the board of health finds that the applicant, in any prior performance record in the transportation, transfer, treatment, storage, or disposal of solid wastes, infectious wastes, or hazardous waste, has exhibited sufficient reliability, expertise, and competency to operate the solid waste, infectious waste, or hazardous waste facility, given the potential for harm to human health and the environment that could result from the irresponsible operation of the facility, or, if no prior record exists, that the applicant is likely to exhibit that reliability, expertise, and competence; 35388
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(B) If 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, has been convicted of any of the following crimes under the laws of this state or equivalent laws of any other jurisdiction: 35399
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- (1) Murder; 35406
- (2) Kidnapping; 35407
- (3) Gambling; 35408
- (4) Robbery; 35409
- (5) Bribery; 35410
- (6) Extortion; 35411
- (7) Criminal usury; 35412
- (8) Arson; 35413
- (9) Burglary; 35414

(10) Theft and related crimes;	35415
(11) Forgery and fraudulent practices;	35416
(12) Fraud in the offering, sale, or purchase of securities;	35417
(13) Alteration of motor vehicle identification numbers;	35418
(14) Unlawful manufacture, purchase, use, or transfer of firearms;	35419 35420
(15) Unlawful possession or use of destructive devices or explosives;	35421 35422
(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;	35423 35424 35425 35426 35427 35428 35429
(17) Engaging in a pattern of corrupt activity under section 2923.32 of the Revised Code;	35430 35431
(18) Violation of criminal provisions of Chapter 1331. of the Revised Code;	35432 35433
(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;	35434 35435 35436 35437
(20) Violation of Chapter 2909. of the Revised Code;	35438
(21) Any offense specified in Chapter 2921. of the Revised Code.	35439 35440
(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	35441 35442 35443

concern required to be listed in the disclosure statement or shown 35444
to have a beneficial interest in the business of the applicant or 35445
the permittee, other than an equity interest or debt liability, by 35446
the investigation thereof for any of the offenses enumerated in 35447
that division as disqualification criteria if that applicant has 35448
affirmatively demonstrated rehabilitation of the individual or 35449
business concern by a preponderance of the evidence. If any such 35450
individual was convicted of any of the offenses so enumerated that 35451
are felonies, a permit shall be denied unless five years have 35452
elapsed since the individual was fully discharged from 35453
imprisonment and parole for the offense, from a post-release 35454
control sanction imposed under section 2967.28 of the Revised Code 35455
for the offense, or imprisonment, probation, and parole for an 35456
offense that was committed prior to the effective date of this 35457
amendment. In determining whether an applicant has affirmatively 35458
demonstrated rehabilitation, the director, ~~the hazardous waste~~ 35459
~~facility board,~~ or the board of health shall request a 35460
recommendation on the matter from the attorney general and shall 35461
consider and base the determination on the following factors: 35462

(1) The nature and responsibilities of the position a 35463
convicted individual would hold; 35464

(2) The nature and seriousness of the offense; 35465

(3) The circumstances under which the offense occurred; 35466

(4) The date of the offense; 35467

(5) The age of the individual when the offense was committed; 35468

(6) Whether the offense was an isolated or repeated incident; 35469

(7) Any social conditions that may have contributed to the 35470
offense; 35471

(8) Any evidence of rehabilitation, including good conduct in 35472
prison or in the community, counseling or psychiatric treatment 35473

received, acquisition of additional academic or vocational 35474
schooling, successful participation in correctional work release 35475
programs, or the recommendation of persons who have or have had 35476
the applicant under their supervision; 35477

(9) In the instance of an applicant that is a business 35478
concern, rehabilitation shall be established if the applicant has 35479
implemented formal management controls to minimize and prevent the 35480
occurrence of violations and activities that will or may result in 35481
permit or license denial or revocation or if the applicant has 35482
formalized those controls as a result of a revocation or denial of 35483
a permit or license. Those controls may include, but are not 35484
limited to, instituting environmental auditing programs to help 35485
ensure the adequacy of internal systems to achieve, maintain, and 35486
monitor compliance with applicable environmental laws and 35487
standards or instituting an antitrust compliance auditing program 35488
to help ensure full compliance with applicable antitrust laws. The 35489
business concern shall prove by a preponderance of the evidence 35490
that the management controls are effective in preventing the 35491
violations that are the subject of concern. 35492

(D) Unless the director, ~~the hazardous waste facility board,~~ 35493
or the board of health finds that the applicant has a history of 35494
compliance with environmental laws in this state and other 35495
jurisdictions and is presently in substantial compliance with, or 35496
on a legally enforceable schedule that will result in compliance 35497
with, environmental laws in this state and other jurisdictions; ~~i~~ 35498

(E) With respect to the approval of a permit, if the director 35499
~~or the hazardous waste facility board~~ determines that current 35500
prosecutions or pending charges in any jurisdiction for any of the 35501
offenses enumerated in division (B) of this section against any 35502
individual or business concern required to be listed in the 35503
disclosure statement or shown by the investigation to have a 35504
beneficial interest in the business of the applicant other than an 35505

equity interest or debt liability are of such magnitude that they 35506
prevent making the finding required under division (A) of this 35507
section, provided that at the request of the applicant or the 35508
individual or business concern charged, the director ~~or the~~ 35509
~~hazardous waste facility board~~ shall defer decision upon the 35510
application during the pendency of the charge. 35511

Sec. 3734.46. Notwithstanding the disqualification of the 35512
applicant or permittee pursuant to this chapter, the director of 35513
environmental protection, ~~hazardous waste facility board~~, or the 35514
board of health may issue or renew a permit or license if the 35515
applicant or permittee severs the interest of or affiliation with 35516
the individual or business concern that would otherwise cause that 35517
disqualification or may issue or renew a license on a temporary 35518
basis for a period not to exceed six months if the director or the 35519
board of health determines that the issuance or renewal of the 35520
permit or license is necessitated by the public interest. 35521

Sec. 3734.57. (A) For the purposes of paying the state's 35522
long-term operation costs or matching share for actions taken 35523
under the "Comprehensive Environmental Response, Compensation, and 35524
Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as 35525
amended; paying the costs of measures for proper clean-up of sites 35526
where polychlorinated biphenyls and substances, equipment, and 35527
devices containing or contaminated with polychlorinated biphenyls 35528
have been stored or disposed of; paying the costs of conducting 35529
surveys or investigations of solid waste facilities or other 35530
locations where it is believed that significant quantities of 35531
hazardous waste were disposed of and for conducting enforcement 35532
actions arising from the findings of such surveys or 35533
investigations; paying the costs of acquiring and cleaning up, or 35534
providing financial assistance for cleaning up, any hazardous 35535
waste facility or solid waste facility containing significant 35536

quantities of hazardous waste, that constitutes an imminent and 35537
substantial threat to public health or safety or the environment; 35538
and, from July 1, ~~2001~~ 2003, through June 30, ~~2004~~ 2006, for the 35539
purposes of paying the costs of administering and enforcing the 35540
laws pertaining to solid wastes, infectious wastes, and 35541
construction and demolition debris, including, without limitation, 35542
ground water evaluations related to solid wastes, infectious 35543
wastes, and construction and demolition debris, under this chapter 35544
and Chapter 3714. of the Revised Code and any rules adopted under 35545
them, and paying a share of the administrative costs of the 35546
environmental protection agency pursuant to section 3745.014 of 35547
the Revised Code, the following fees are hereby levied on the 35548
disposal of solid wastes in this state: 35549

(1) One dollar per ton on and after July 1, 1993; 35550

(2) An additional ~~seventy five cents~~ one dollar per ton on 35551
and after July 1, ~~2001~~ 2003, through June 30, ~~2004~~ 2006. 35552

The owner or operator of a solid waste disposal facility 35553
shall collect the fees levied under this division as a trustee for 35554
the state and shall prepare and file with the director of 35555
environmental protection monthly returns indicating the total 35556
tonnage of solid wastes received for disposal at the gate of the 35557
facility and the total amount of the fees collected under this 35558
division. Not later than thirty days after the last day of the 35559
month to which such a return applies, the owner or operator shall 35560
mail to the director the return for that month together with the 35561
fees collected during that month as indicated on the return. The 35562
owner or operator may request an extension of not more than thirty 35563
days for filing the return and remitting the fees, provided that 35564
the owner or operator has submitted such a request in writing to 35565
the director together with a detailed description of why the 35566
extension is requested, the director has received the request not 35567
later than the day on which the return is required to be filed, 35568

and the director has approved the request. If the fees are not 35569
remitted within sixty days after the last day of the month during 35570
which they were collected, the owner or operator shall pay an 35571
additional fifty per cent of the amount of the fees for each month 35572
that they are late. 35573

One-half of the moneys remitted to the director under 35574
division (A)(1) of this section shall be credited to the hazardous 35575
waste facility management fund created in section 3734.18 of the 35576
Revised Code, and one-half shall be credited to the hazardous 35577
waste clean-up fund created in section 3734.28 of the Revised 35578
Code. The moneys remitted to the director under division (A)(2) of 35579
this section shall be credited to the solid waste fund, which is 35580
hereby created in the state treasury. The environmental protection 35581
agency shall use moneys in the solid waste fund only to pay the 35582
costs of administering and enforcing the laws pertaining to solid 35583
wastes, infectious wastes, and construction and demolition debris, 35584
including, without limitation, ground water evaluations related to 35585
solid wastes, infectious wastes, and construction and demolition 35586
debris, under this chapter and Chapter 3714. of the Revised Code 35587
and rules adopted under them and to pay a share of the 35588
administrative costs of the environmental protection agency 35589
pursuant to section 3745.014 of the Revised Code. 35590

The fees levied under this division and divisions (B) and (C) 35591
of this section are in addition to all other applicable fees and 35592
taxes and shall be added to any other fee or amount specified in a 35593
contract that is charged by the owner or operator of a solid waste 35594
disposal facility or to any other fee or amount that is specified 35595
in a contract entered into on or after March 4, 1992, and that is 35596
charged by a transporter of solid wastes. 35597

(B) For the purpose of preparing, revising, and implementing 35598
the solid waste management plan of the county or joint solid waste 35599
management district, including, without limitation, the 35600

development and implementation of solid waste recycling or 35601
reduction programs; providing financial assistance to boards of 35602
health within the district, if solid waste facilities are located 35603
within the district, for the enforcement of this chapter and rules 35604
adopted and orders and terms and conditions of permits, licenses, 35605
and variances issued under it, other than the hazardous waste 35606
provisions of this chapter and rules adopted and orders and terms 35607
and conditions of permits issued under those provisions; providing 35608
financial assistance to the county to defray the added costs of 35609
maintaining roads and other public facilities and of providing 35610
emergency and other public services resulting from the location 35611
and operation of a solid waste facility within the county under 35612
the district's approved solid waste management plan; paying the 35613
costs incurred by boards of health for collecting and analyzing 35614
water samples from public or private wells on lands adjacent to 35615
solid waste facilities that are contained in the approved or 35616
amended plan of the district; paying the costs of developing and 35617
implementing a program for the inspection of solid wastes 35618
generated outside the boundaries of this state that are disposed 35619
of at solid waste facilities included in the district's approved 35620
solid waste management plan or amended plan; providing financial 35621
assistance to boards of health within the district for enforcing 35622
laws prohibiting open dumping; providing financial assistance to 35623
local law enforcement agencies within the district for enforcing 35624
laws and ordinances prohibiting littering; providing financial 35625
assistance to boards of health of health districts within the 35626
district that are on the approved list under section 3734.08 of 35627
the Revised Code for the training and certification required for 35628
their employees responsible for solid waste enforcement by rules 35629
adopted under division (L) of section 3734.02 of the Revised Code; 35630
providing financial assistance to individual municipal 35631
corporations and townships within the district to defray their 35632
added costs of maintaining roads and other public facilities and 35633

of providing emergency and other public services resulting from 35634
the location and operation within their boundaries of a 35635
composting, energy or resource recovery, incineration, or 35636
recycling facility that either is owned by the district or is 35637
furnishing solid waste management facility or recycling services 35638
to the district pursuant to a contract or agreement with the board 35639
of county commissioners or directors of the district; and payment 35640
of any expenses that are agreed to, awarded, or ordered to be paid 35641
under section 3734.35 of the Revised Code and of any 35642
administrative costs incurred pursuant to that section, the solid 35643
waste management policy committee of a county or joint solid waste 35644
management district may levy fees upon the following activities: 35645

(1) The disposal at a solid waste disposal facility located 35646
in the district of solid wastes generated within the district; 35647

(2) The disposal at a solid waste disposal facility within 35648
the district of solid wastes generated outside the boundaries of 35649
the district, but inside this state; 35650

(3) The disposal at a solid waste disposal facility within 35651
the district of solid wastes generated outside the boundaries of 35652
this state. 35653

If any such fees are levied prior to January 1, 1994, fees 35654
levied under division (B)(1) of this section always shall be equal 35655
to one-half of the fees levied under division (B)(2) of this 35656
section, and fees levied under division (B)(3) of this section, 35657
which shall be in addition to fees levied under division (B)(2) of 35658
this section, always shall be equal to fees levied under division 35659
(B)(1) of this section, except as otherwise provided in this 35660
division. The solid waste management plan of the county or joint 35661
district approved under section 3734.521 or 3734.55 of the Revised 35662
Code and any amendments to it, or the resolution adopted under 35663
this division, as appropriate, shall establish the rates of the 35664
fees levied under divisions (B)(1), (2), and (3) of this section, 35665

if any, and shall specify whether the fees are levied on the basis 35666
of tons or cubic yards as the unit of measurement. Although the 35667
fees under divisions (A)(1) and (2) of this section are levied on 35668
the basis of tons as the unit of measurement, the solid waste 35669
management plan of the district and any amendments to it or the 35670
solid waste management policy committee in its resolution levying 35671
fees under this division may direct that the fees levied under 35672
those divisions be levied on the basis of cubic yards as the unit 35673
of measurement based upon a conversion factor of three cubic yards 35674
per ton generally or one cubic yard per ton for baled wastes if 35675
the fees under divisions (B)(1) to (3) of this section are being 35676
levied on the basis of cubic yards as the unit of measurement 35677
under the plan, amended plan, or resolution. 35678

On and after January 1, 1994, the fee levied under division 35679
(B)(1) of this section shall be not less than one dollar per ton 35680
nor more than two dollars per ton, the fee levied under division 35681
(B)(2) of this section shall be not less than two dollars per ton 35682
nor more than four dollars per ton, and the fee levied under 35683
division (B)(3) of this section shall be not more than the fee 35684
levied under division (B)(1) of this section, except as otherwise 35685
provided in this division and notwithstanding any schedule of 35686
those fees established in the solid waste management plan of a 35687
county or joint district approved under section 3734.55 of the 35688
Revised Code or a resolution adopted and ratified under this 35689
division that is in effect on that date. If the fee that a 35690
district is levying under division (B)(1) of this section on that 35691
date under its approved plan or such a resolution is less than one 35692
dollar per ton, the fee shall be one dollar per ton on and after 35693
January 1, 1994, and if the fee that a district is so levying 35694
under that division exceeds two dollars per ton, the fee shall be 35695
two dollars per ton on and after that date. If the fee that a 35696
district is so levying under division (B)(2) of this section is 35697
less than two dollars per ton, the fee shall be two dollars per 35698

ton on and after that date, and if the fee that the district is so 35699
levying under that division exceeds four dollars per ton, the fee 35700
shall be four dollars per ton on and after that date. On that 35701
date, the fee levied by a district under division (B)(3) of this 35702
section shall be equal to the fee levied under division (B)(1) of 35703
this section. Except as otherwise provided in this division, the 35704
fees established by the operation of this amendment shall remain 35705
in effect until the district's resolution levying fees under this 35706
division is amended or repealed in accordance with this division 35707
to amend or abolish the schedule of fees, the schedule of fees is 35708
amended or abolished in an amended plan of the district approved 35709
under section 3734.521 or division (A) or (D) of section 3734.56 35710
of the Revised Code, or the schedule of fees is amended or 35711
abolished through an amendment to the district's plan under 35712
division (E) of section 3734.56 of the Revised Code; the 35713
notification of the amendment or abolishment of the fees has been 35714
given in accordance with this division; and collection of the 35715
amended fees so established commences, or collection of the fees 35716
ceases, in accordance with this division. 35717

The solid waste management policy committee of a district 35718
levying fees under divisions (B)(1) to (3) of this section on 35719
October 29, 1993, under its solid waste management plan approved 35720
under section 3734.55 of the Revised Code or a resolution adopted 35721
and ratified under this division that are within the ranges of 35722
rates prescribed by this amendment, by adoption of a resolution 35723
not later than December 1, 1993, and without the necessity for 35724
ratification of the resolution under this division, may amend 35725
those fees within the prescribed ranges, provided that the 35726
estimated revenues from the amended fees will not substantially 35727
exceed the estimated revenues set forth in the district's budget 35728
for calendar year 1994. Not later than seven days after the 35729
adoption of such a resolution, the committee shall notify by 35730
certified mail the owner or operator of each solid waste disposal 35731

facility that is required to collect the fees of the adoption of 35732
the resolution and of the amount of the amended fees. Collection 35733
of the amended fees shall take effect on the first day of the 35734
first month following the month in which the notification is sent 35735
to the owner or operator. The fees established in such a 35736
resolution shall remain in effect until the district's resolution 35737
levying fees that was adopted and ratified under this division is 35738
amended or repealed, and the amendment or repeal of the resolution 35739
is ratified, in accordance with this division, to amend or abolish 35740
the fees, the schedule of fees is amended or abolished in an 35741
amended plan of the district approved under section 3734.521 or 35742
division (A) or (D) of section 3734.56 of the Revised Code, or the 35743
schedule of fees is amended or abolished through an amendment to 35744
the district's plan under division (E) of section 3734.56 of the 35745
Revised Code; the notification of the amendment or abolishment of 35746
the fees has been given in accordance with this division; and 35747
collection of the amended fees so established commences, or 35748
collection of the fees ceases, in accordance with this division. 35749

Prior to the approval of the solid waste management plan of 35750
the district under section 3734.55 of the Revised Code, the solid 35751
waste management policy committee of a district may levy fees 35752
under this division by adopting a resolution establishing the 35753
proposed amount of the fees. Upon adopting the resolution, the 35754
committee shall deliver a copy of the resolution to the board of 35755
county commissioners of each county forming the district and to 35756
the legislative authority of each municipal corporation and 35757
township under the jurisdiction of the district and shall prepare 35758
and publish the resolution and a notice of the time and location 35759
where a public hearing on the fees will be held. Upon adopting the 35760
resolution, the committee shall deliver written notice of the 35761
adoption of the resolution; of the amount of the proposed fees; 35762
and of the date, time, and location of the public hearing to the 35763
director and to the fifty industrial, commercial, or institutional 35764

generators of solid wastes within the district that generate the 35765
largest quantities of solid wastes, as determined by the 35766
committee, and to their local trade associations. The committee 35767
shall make good faith efforts to identify those generators within 35768
the district and their local trade associations, but the 35769
nonprovision of notice under this division to a particular 35770
generator or local trade association does not invalidate the 35771
proceedings under this division. The publication shall occur at 35772
least thirty days before the hearing. After the hearing, the 35773
committee may make such revisions to the proposed fees as it 35774
considers appropriate and thereafter, by resolution, shall adopt 35775
the revised fee schedule. Upon adopting the revised fee schedule, 35776
the committee shall deliver a copy of the resolution doing so to 35777
the board of county commissioners of each county forming the 35778
district and to the legislative authority of each municipal 35779
corporation and township under the jurisdiction of the district. 35780
Within sixty days after the delivery of a copy of the resolution 35781
adopting the proposed revised fees by the policy committee, each 35782
such board and legislative authority, by ordinance or resolution, 35783
shall approve or disapprove the revised fees and deliver a copy of 35784
the ordinance or resolution to the committee. If any such board or 35785
legislative authority fails to adopt and deliver to the policy 35786
committee an ordinance or resolution approving or disapproving the 35787
revised fees within sixty days after the policy committee 35788
delivered its resolution adopting the proposed revised fees, it 35789
shall be conclusively presumed that the board or legislative 35790
authority has approved the proposed revised fees. 35791

In the case of a county district or a joint district formed 35792
by two or three counties, the committee shall declare the proposed 35793
revised fees to be ratified as the fee schedule of the district 35794
upon determining that the board of county commissioners of each 35795
county forming the district has approved the proposed revised fees 35796
and that the legislative authorities of a combination of municipal 35797

corporations and townships with a combined population within the 35798
district comprising at least sixty per cent of the total 35799
population of the district have approved the proposed revised 35800
fees, provided that in the case of a county district, that 35801
combination shall include the municipal corporation having the 35802
largest population within the boundaries of the district, and 35803
provided further that in the case of a joint district formed by 35804
two or three counties, that combination shall include for each 35805
county forming the joint district the municipal corporation having 35806
the largest population within the boundaries of both the county in 35807
which the municipal corporation is located and the joint district. 35808
In the case of a joint district formed by four or more counties, 35809
the committee shall declare the proposed revised fees to be 35810
ratified as the fee schedule of the joint district upon 35811
determining that the boards of county commissioners of a majority 35812
of the counties forming the district have approved the proposed 35813
revised fees; that, in each of a majority of the counties forming 35814
the joint district, the proposed revised fees have been approved 35815
by the municipal corporation having the largest population within 35816
the county and the joint district; and that the legislative 35817
authorities of a combination of municipal corporations and 35818
townships with a combined population within the joint district 35819
comprising at least sixty per cent of the total population of the 35820
joint district have approved the proposed revised fees. 35821

For the purposes of this division, only the population of the 35822
unincorporated area of a township shall be considered. For the 35823
purpose of determining the largest municipal corporation within 35824
each county under this division, a municipal corporation that is 35825
located in more than one solid waste management district, but that 35826
is under the jurisdiction of one county or joint solid waste 35827
management district in accordance with division (A) of section 35828
3734.52 of the Revised Code shall be considered to be within the 35829
boundaries of the county in which a majority of the population of 35830

the municipal corporation resides. 35831

The committee may amend the schedule of fees levied pursuant 35832
to a resolution or amended resolution adopted and ratified under 35833
this division by adopting a resolution establishing the proposed 35834
amount of the amended fees. The committee may abolish the fees 35835
levied pursuant to such a resolution or amended resolution by 35836
adopting a resolution proposing to repeal them. Upon adopting such 35837
a resolution, the committee shall proceed to obtain ratification 35838
of the resolution in accordance with this division. 35839

Not later than fourteen days after declaring the fees or 35840
amended fees to be ratified under this division, the committee 35841
shall notify by certified mail the owner or operator of each solid 35842
waste disposal facility that is required to collect the fees of 35843
the ratification and the amount of the fees. Collection of any 35844
fees or amended fees ratified on or after March 24, 1992, shall 35845
commence on the first day of the second month following the month 35846
in which notification is sent to the owner or operator. 35847

Not later than fourteen days after declaring the repeal of 35848
the district's schedule of fees to be ratified under this 35849
division, the committee shall notify by certified mail the owner 35850
or operator of each facility that is collecting the fees of the 35851
repeal. Collection of the fees shall cease on the first day of the 35852
second month following the month in which notification is sent to 35853
the owner or operator. 35854

Not later than fourteen days after the director issues an 35855
order approving a district's solid waste management plan under 35856
section 3734.55 of the Revised Code or amended plan under division 35857
(A) or (D) of section 3734.56 of the Revised Code that establishes 35858
or amends a schedule of fees levied by the district, or the 35859
ratification of an amendment to the district's approved plan or 35860
amended plan under division (E) of section 3734.56 of the Revised 35861
Code that establishes or amends a schedule of fees, as 35862

appropriate, the committee shall notify by certified mail the 35863
owner or operator of each solid waste disposal facility that is 35864
required to collect the fees of the approval of the plan or 35865
amended plan, or the amendment to the plan, as appropriate, and 35866
the amount of the fees or amended fees. In the case of an initial 35867
or amended plan approved under section 3734.521 of the Revised 35868
Code in connection with a change in district composition, other 35869
than one involving the withdrawal of a county from a joint 35870
district, that establishes or amends a schedule of fees levied 35871
under divisions (B)(1) to (3) of this section by a district 35872
resulting from the change, the committee, within fourteen days 35873
after the change takes effect pursuant to division (G) of that 35874
section, shall notify by certified mail the owner or operator of 35875
each solid waste disposal facility that is required to collect the 35876
fees that the change has taken effect and of the amount of the 35877
fees or amended fees. Collection of any fees set forth in a plan 35878
or amended plan approved by the director on or after April 16, 35879
1993, or an amendment of a plan or amended plan under division (E) 35880
of section 3734.56 of the Revised Code that is ratified on or 35881
after April 16, 1993, shall commence on the first day of the 35882
second month following the month in which notification is sent to 35883
the owner or operator. 35884

Not later than fourteen days after the director issues an 35885
order approving a district's plan under section 3734.55 of the 35886
Revised Code or amended plan under division (A) or (D) of section 35887
3734.56 of the Revised Code that abolishes the schedule of fees 35888
levied under divisions (B)(1) to (3) of this section, or an 35889
amendment to the district's approved plan or amended plan 35890
abolishing the schedule of fees is ratified pursuant to division 35891
(E) of section 3734.56 of the Revised Code, as appropriate, the 35892
committee shall notify by certified mail the owner or operator of 35893
each facility that is collecting the fees of the approval of the 35894
plan or amended plan, or the amendment of the plan or amended 35895

plan, as appropriate, and the abolishment of the fees. In the case 35896
of an initial or amended plan approved under section 3734.521 of 35897
the Revised Code in connection with a change in district 35898
composition, other than one involving the withdrawal of a county 35899
from a joint district, that abolishes the schedule of fees levied 35900
under divisions (B)(1) to (3) of this section by a district 35901
resulting from the change, the committee, within fourteen days 35902
after the change takes effect pursuant to division (G) of that 35903
section, shall notify by certified mail the owner or operator of 35904
each solid waste disposal facility that is required to collect the 35905
fees that the change has taken effect and of the abolishment of 35906
the fees. Collection of the fees shall cease on the first day of 35907
the second month following the month in which notification is sent 35908
to the owner or operator. 35909

Except as otherwise provided in this division, if the 35910
schedule of fees that a district is levying under divisions (B)(1) 35911
to (3) of this section pursuant to a resolution or amended 35912
resolution adopted and ratified under this division, the solid 35913
waste management plan of the district approved under section 35914
3734.55 of the Revised Code, an amended plan approved under 35915
division (A) or (D) of section 3734.56 of the Revised Code, or an 35916
amendment to the district's approved plan or amended plan under 35917
division (E) of section 3734.56 of the Revised Code, is amended by 35918
the adoption and ratification of an amendment to the resolution or 35919
amended resolution or an amendment of the district's approved plan 35920
or amended plan, the fees in effect immediately prior to the 35921
approval of the plan or the amendment of the resolution, amended 35922
resolution, plan, or amended plan, as appropriate, shall continue 35923
to be collected until collection of the amended fees commences 35924
pursuant to this division. 35925

If, in the case of a change in district composition involving 35926
the withdrawal of a county from a joint district, the director 35927

completes the actions required under division (G)(1) or (3) of 35928
section 3734.521 of the Revised Code, as appropriate, forty-five 35929
days or more before the beginning of a calendar year, the policy 35930
committee of each of the districts resulting from the change that 35931
obtained the director's approval of an initial or amended plan in 35932
connection with the change, within fourteen days after the 35933
director's completion of the required actions, shall notify by 35934
certified mail the owner or operator of each solid waste disposal 35935
facility that is required to collect the district's fees that the 35936
change is to take effect on the first day of January immediately 35937
following the issuance of the notice and of the amount of the fees 35938
or amended fees levied under divisions (B)(1) to (3) of this 35939
section pursuant to the district's initial or amended plan as so 35940
approved or, if appropriate, the abolishment of the district's 35941
fees by that initial or amended plan. Collection of any fees set 35942
forth in such a plan or amended plan shall commence on the first 35943
day of January immediately following the issuance of the notice. 35944
If such an initial or amended plan abolishes a schedule of fees, 35945
collection of the fees shall cease on that first day of January. 35946

If, in the case of a change in district composition involving 35947
the withdrawal of a county from a joint district, the director 35948
completes the actions required under division (G)(1) or (3) of 35949
section 3734.521 of the Revised Code, as appropriate, less than 35950
forty-five days before the beginning of a calendar year, the 35951
director, on behalf of each of the districts resulting from the 35952
change that obtained the director's approval of an initial or 35953
amended plan in connection with the change proceedings, shall 35954
notify by certified mail the owner or operator of each solid waste 35955
disposal facility that is required to collect the district's fees 35956
that the change is to take effect on the first day of January 35957
immediately following the mailing of the notice and of the amount 35958
of the fees or amended fees levied under divisions (B)(1) to (3) 35959
of this section pursuant to the district's initial or amended plan 35960

as so approved or, if appropriate, the abolishment of the 35961
district's fees by that initial or amended plan. Collection of any 35962
fees set forth in such a plan or amended plan shall commence on 35963
the first day of the second month following the month in which 35964
notification is sent to the owner or operator. If such an initial 35965
or amended plan abolishes a schedule of fees, collection of the 35966
fees shall cease on the first day of the second month following 35967
the month in which notification is sent to the owner or operator. 35968

In the case of a change in district composition, the schedule 35969
of fees that the former districts that existed prior to the change 35970
were levying under divisions (B)(1) to (3) of this section 35971
pursuant to a resolution or amended resolution adopted and 35972
ratified under this division, the solid waste management plan of a 35973
former district approved under section 3734.521 or 3734.55 of the 35974
Revised Code, an amended plan approved under section 3734.521 or 35975
division (A) or (D) of section 3734.56 of the Revised Code, or an 35976
amendment to a former district's approved plan or amended plan 35977
under division (E) of section 3734.56 of the Revised Code, and 35978
that were in effect on the date that the director completed the 35979
actions required under division (G)(1) or (3) of section 3734.521 35980
of the Revised Code shall continue to be collected until the 35981
collection of the fees or amended fees of the districts resulting 35982
from the change is required to commence, or if an initial or 35983
amended plan of a resulting district abolishes a schedule of fees, 35984
collection of the fees is required to cease, under this division. 35985
Moneys so received from the collection of the fees of the former 35986
districts shall be divided among the resulting districts in 35987
accordance with division (B) of section 343.012 of the Revised 35988
Code and the agreements entered into under division (B) of section 35989
343.01 of the Revised Code to establish the former and resulting 35990
districts and any amendments to those agreements. 35991

For the purposes of the provisions of division (B) of this 35992

section establishing the times when newly established or amended 35993
fees levied by a district are required to commence and the 35994
collection of fees that have been amended or abolished is required 35995
to cease, "fees" or "schedule of fees" includes, in addition to 35996
fees levied under divisions (B)(1) to (3) of this section, those 35997
levied under section 3734.573 or 3734.574 of the Revised Code. 35998

(C) For the purposes of defraying the added costs to a 35999
municipal corporation or township of maintaining roads and other 36000
public facilities and of providing emergency and other public 36001
services, and compensating a municipal corporation or township for 36002
reductions in real property tax revenues due to reductions in real 36003
property valuations resulting from the location and operation of a 36004
solid waste disposal facility within the municipal corporation or 36005
township, a municipal corporation or township in which such a 36006
solid waste disposal facility is located may levy a fee of not 36007
more than twenty-five cents per ton on the disposal of solid 36008
wastes at a solid waste disposal facility located within the 36009
boundaries of the municipal corporation or township regardless of 36010
where the wastes were generated. 36011

The legislative authority of a municipal corporation or 36012
township may levy fees under this division by enacting an 36013
ordinance or adopting a resolution establishing the amount of the 36014
fees. Upon so doing the legislative authority shall mail a 36015
certified copy of the ordinance or resolution to the board of 36016
county commissioners or directors of the county or joint solid 36017
waste management district in which the municipal corporation or 36018
township is located or, if a regional solid waste management 36019
authority has been formed under section 343.011 of the Revised 36020
Code, to the board of trustees of that regional authority, the 36021
owner or operator of each solid waste disposal facility in the 36022
municipal corporation or township that is required to collect the 36023
fee by the ordinance or resolution, and the director of 36024

environmental protection. Although the fees levied under this 36025
division are levied on the basis of tons as the unit of 36026
measurement, the legislative authority, in its ordinance or 36027
resolution levying the fees under this division, may direct that 36028
the fees be levied on the basis of cubic yards as the unit of 36029
measurement based upon a conversion factor of three cubic yards 36030
per ton generally or one cubic yard per ton for baled wastes. 36031

Not later than five days after enacting an ordinance or 36032
adopting a resolution under this division, the legislative 36033
authority shall so notify by certified mail the owner or operator 36034
of each solid waste disposal facility that is required to collect 36035
the fee. Collection of any fee levied on or after March 24, 1992, 36036
shall commence on the first day of the second month following the 36037
month in which notification is sent to the owner or operator. 36038

(D)(1) The fees levied under divisions (A), (B), and (C) of 36039
this section do not apply to the disposal of solid wastes that: 36040

(a) Are disposed of at a facility owned by the generator of 36041
the wastes when the solid waste facility exclusively disposes of 36042
solid wastes generated at one or more premises owned by the 36043
generator regardless of whether the facility is located on a 36044
premises where the wastes are generated; 36045

(b) Are disposed of at facilities that exclusively dispose of 36046
wastes that are generated from the combustion of coal, or from the 36047
combustion of primarily coal in combination with scrap tires, that 36048
is not combined in any way with garbage at one or more premises 36049
owned by the generator. 36050

(2) Except as provided in section 3734.571 of the Revised 36051
Code, any fees levied under division (B)(1) of this section apply 36052
to solid wastes originating outside the boundaries of a county or 36053
joint district that are covered by an agreement for the joint use 36054
of solid waste facilities entered into under section 343.02 of the 36055

Revised Code by the board of county commissioners or board of 36056
directors of the county or joint district where the wastes are 36057
generated and disposed of. 36058

(3) When solid wastes, other than solid wastes that consist 36059
of scrap tires, are burned in a disposal facility that is an 36060
incinerator or energy recovery facility, the fees levied under 36061
divisions (A), (B), and (C) of this section shall be levied upon 36062
the disposal of the fly ash and bottom ash remaining after burning 36063
of the solid wastes and shall be collected by the owner or 36064
operator of the sanitary landfill where the ash is disposed of. 36065

(4) When solid wastes are delivered to a solid waste transfer 36066
facility, the fees levied under divisions (A), (B), and (C) of 36067
this section shall be levied upon the disposal of solid wastes 36068
transported off the premises of the transfer facility for disposal 36069
and shall be collected by the owner or operator of the solid waste 36070
disposal facility where the wastes are disposed of. 36071

(5) The fees levied under divisions (A), (B), and (C) of this 36072
section do not apply to sewage sludge that is generated by a waste 36073
water treatment facility holding a national pollutant discharge 36074
elimination system permit and that is disposed of through 36075
incineration, land application, or composting or at another 36076
resource recovery or disposal facility that is not a landfill. 36077

(6) The fees levied under divisions (A), (B), and (C) of this 36078
section do not apply to solid wastes delivered to a solid waste 36079
composting facility for processing. When any unprocessed solid 36080
waste or compost product is transported off the premises of a 36081
composting facility and disposed of at a landfill, the fees levied 36082
under divisions (A), (B), and (C) of this section shall be 36083
collected by the owner or operator of the landfill where the 36084
unprocessed waste or compost product is disposed of. 36085

(7) When solid wastes that consist of scrap tires are 36086

processed at a scrap tire recovery facility, the fees levied under 36087
divisions (A), (B), and (C) of this section shall be levied upon 36088
the disposal of the fly ash and bottom ash or other solid wastes 36089
remaining after the processing of the scrap tires and shall be 36090
collected by the owner or operator of the solid waste disposal 36091
facility where the ash or other solid wastes are disposed of. 36092

(E) The fees levied under divisions (B) and (C) of this 36093
section shall be collected by the owner or operator of the solid 36094
waste disposal facility where the wastes are disposed of as a 36095
trustee for the county or joint district and municipal corporation 36096
or township where the wastes are disposed of. Moneys from the fees 36097
levied under division (B) of this section shall be forwarded to 36098
the board of county commissioners or board of directors of the 36099
district in accordance with rules adopted under division (H) of 36100
this section. Moneys from the fees levied under division (C) of 36101
this section shall be forwarded to the treasurer or such other 36102
officer of the municipal corporation as, by virtue of the charter, 36103
has the duties of the treasurer or to the clerk of the township, 36104
as appropriate, in accordance with those rules. 36105

(F) Moneys received by the treasurer or such other officer of 36106
the municipal corporation under division (E) of this section shall 36107
be paid into the general fund of the municipal corporation. Moneys 36108
received by the clerk of the township under that division shall be 36109
paid into the general fund of the township. The treasurer or such 36110
other officer of the municipal corporation or the clerk, as 36111
appropriate, shall maintain separate records of the moneys 36112
received from the fees levied under division (C) of this section. 36113

(G) Moneys received by the board of county commissioners or 36114
board of directors under division (E) of this section or section 36115
3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code 36116
shall be paid to the county treasurer, or other official acting in 36117
a similar capacity under a county charter, in a county district or 36118

to the county treasurer or other official designated by the board 36119
of directors in a joint district and kept in a separate and 36120
distinct fund to the credit of the district. If a regional solid 36121
waste management authority has been formed under section 343.011 36122
of the Revised Code, moneys received by the board of trustees of 36123
that regional authority under division (E) of this section shall 36124
be kept by the board in a separate and distinct fund to the credit 36125
of the district. Moneys in the special fund of the county or joint 36126
district arising from the fees levied under division (B) of this 36127
section and the fee levied under division (A) of section 3734.573 36128
of the Revised Code shall be expended by the board of county 36129
commissioners or directors of the district in accordance with the 36130
district's solid waste management plan or amended plan approved 36131
under section 3734.521, 3734.55, or 3734.56 of the Revised Code 36132
exclusively for the following purposes: 36133

(1) Preparation of the solid waste management plan of the 36134
district under section 3734.54 of the Revised Code, monitoring 36135
implementation of the plan, and conducting the periodic review and 36136
amendment of the plan required by section 3734.56 of the Revised 36137
Code by the solid waste management policy committee; 36138

(2) Implementation of the approved solid waste management 36139
plan or amended plan of the district, including, without 36140
limitation, the development and implementation of solid waste 36141
recycling or reduction programs; 36142

(3) Providing financial assistance to boards of health within 36143
the district, if solid waste facilities are located within the 36144
district, for enforcement of this chapter and rules, orders, and 36145
terms and conditions of permits, licenses, and variances adopted 36146
or issued under it, other than the hazardous waste provisions of 36147
this chapter and rules adopted and orders and terms and conditions 36148
of permits issued under those provisions; 36149

(4) Providing financial assistance to each county within the 36150

district to defray the added costs of maintaining roads and other 36151
public facilities and of providing emergency and other public 36152
services resulting from the location and operation of a solid 36153
waste facility within the county under the district's approved 36154
solid waste management plan or amended plan; 36155

(5) Pursuant to contracts entered into with boards of health 36156
within the district, if solid waste facilities contained in the 36157
district's approved plan or amended plan are located within the 36158
district, for paying the costs incurred by those boards of health 36159
for collecting and analyzing samples from public or private water 36160
wells on lands adjacent to those facilities; 36161

(6) Developing and implementing a program for the inspection 36162
of solid wastes generated outside the boundaries of this state 36163
that are disposed of at solid waste facilities included in the 36164
district's approved solid waste management plan or amended plan; 36165

(7) Providing financial assistance to boards of health within 36166
the district for the enforcement of section 3734.03 of the Revised 36167
Code or to local law enforcement agencies having jurisdiction 36168
within the district for enforcing anti-littering laws and 36169
ordinances; 36170

(8) Providing financial assistance to boards of health of 36171
health districts within the district that are on the approved list 36172
under section 3734.08 of the Revised Code to defray the costs to 36173
the health districts for the participation of their employees 36174
responsible for enforcement of the solid waste provisions of this 36175
chapter and rules adopted and orders and terms and conditions of 36176
permits, licenses, and variances issued under those provisions in 36177
the training and certification program as required by rules 36178
adopted under division (L) of section 3734.02 of the Revised Code; 36179

(9) Providing financial assistance to individual municipal 36180
corporations and townships within the district to defray their 36181

added costs of maintaining roads and other public facilities and 36182
of providing emergency and other public services resulting from 36183
the location and operation within their boundaries of a 36184
composting, energy or resource recovery, incineration, or 36185
recycling facility that either is owned by the district or is 36186
furnishing solid waste management facility or recycling services 36187
to the district pursuant to a contract or agreement with the board 36188
of county commissioners or directors of the district; 36189

(10) Payment of any expenses that are agreed to, awarded, or 36190
ordered to be paid under section 3734.35 of the Revised Code and 36191
of any administrative costs incurred pursuant to that section. In 36192
the case of a joint solid waste management district, if the board 36193
of county commissioners of one of the counties in the district is 36194
negotiating on behalf of affected communities, as defined in that 36195
section, in that county, the board shall obtain the approval of 36196
the board of directors of the district in order to expend moneys 36197
for administrative costs incurred. 36198

Prior to the approval of the district's solid waste 36199
management plan under section 3734.55 of the Revised Code, moneys 36200
in the special fund of the district arising from the fees shall be 36201
expended for those purposes in the manner prescribed by the solid 36202
waste management policy committee by resolution. 36203

Notwithstanding division (G)(6) of this section as it existed 36204
prior to October 29, 1993, or any provision in a district's solid 36205
waste management plan prepared in accordance with division 36206
(B)(2)(e) of section 3734.53 of the Revised Code as it existed 36207
prior to that date, any moneys arising from the fees levied under 36208
division (B)(3) of this section prior to January 1, 1994, may be 36209
expended for any of the purposes authorized in divisions (G)(1) to 36210
(10) of this section. 36211

(H) The director shall adopt rules in accordance with Chapter 36212
119. of the Revised Code prescribing procedures for collecting and 36213

forwarding the fees levied under divisions (B) and (C) of this 36214
section to the boards of county commissioners or directors of 36215
county or joint solid waste management districts and to the 36216
treasurers or other officers of municipal corporations or to the 36217
clerks of townships. The rules also shall prescribe the dates for 36218
forwarding the fees to the boards and officials and may prescribe 36219
any other requirements the director considers necessary or 36220
appropriate to implement and administer divisions (A), (B), and 36221
(C) of this section. Collection of the fees levied under division 36222
(A)(1) of this section shall commence on July 1, 1993. Collection 36223
of the fees levied under division (A)(2) of this section shall 36224
commence on January 1, 1994. 36225

Sec. 3735.27. (A) Whenever the director of development has 36226
determined that there is need for a housing authority in any 36227
portion of any county that comprises two or more political 36228
subdivisions or portions ~~thereof~~ of two or more political 36229
subdivisions but is less than all the territory within the county, 36230
a metropolitan housing authority shall be declared to exist, and 36231
the territorial limits ~~thereof~~ of the authority shall be defined, 36232
by a letter from the director. The director shall issue a 36233
determination from the department of development declaring that 36234
there is need for a housing authority within ~~such~~ those 36235
territorial limits after finding either of the following: 36236

(1) Unsanitary or unsafe inhabited housing accommodations 36237
exist in ~~such~~ that area; 36238

(2) There is a shortage of safe and sanitary housing 36239
accommodations in ~~such~~ that area available to persons who lack the 36240
amount of income ~~which~~ that is necessary, as determined by the 36241
director, to enable them, without financial assistance, to live in 36242
decent, safe, and sanitary dwellings without congestion. 36243

In determining whether dwelling accommodations are unsafe or 36244

unsanitary, the director may take into consideration the degree of 36245
congestion, the percentage of land coverage, the light, air, 36246
space, and access available to the inhabitants of ~~such the~~ 36247
dwelling accommodations, the size and arrangement of ~~the~~ rooms, 36248
the sanitary facilities, and the extent to which conditions exist 36249
in ~~such buildings which~~ the dwelling accomodations that endanger 36250
life or property by fire or other causes. 36251

The territorial limits of a metropolitan housing authority, 36252
as defined by the director, under this division shall be fixed for 36253
~~such the~~ authority upon proof of a letter from the director 36254
declaring the need for ~~such the~~ authority to function in those 36255
territorial limits. Any such letter from the director, any 36256
certificate of determination issued by the director, and any 36257
certificate of appointment of members of the authority shall be 36258
admissible in evidence in any suit, action, or proceeding. 36259

A certified copy of the letter from the director, declaring 36260
the existence of a metropolitan housing authority and ~~boundaries~~ 36261
the territorial limits of a ~~housing authority~~ its district, shall 36262
be immediately forwarded to each appointing authority. A 36263
metropolitan housing authority shall consist of ~~five~~ members, who 36264
~~shall be~~ are residents of the territory ~~embraced~~ in ~~such~~ 36265
~~metropolitan housing authority district~~ which they serve. 36266

(B) Except as otherwise provided in division (C), (D), or (E) 36267
of this section, one member shall be appointed by the probate 36268
court, one member by the court of common pleas, one member by the 36269
board of county commissioners, and two members by the chief 36270
executive officer of the most populous city in the ~~territory~~ 36271
~~included in the~~ district, in accordance with the last preceding 36272
federal census. At the time of the initial appointment of the 36273
authority, the member appointed by the probate court shall be 36274
appointed for a period of four years, the ~~appointee of~~ member 36275
appointed by the court of common pleas shall be appointed for 36276

three years, the ~~appointee of~~ member appointed by the board of 36277
county commissioners shall be appointed for two years, one 36278
~~appointee of the~~ member appointed by the chief executive officer 36279
of the most populous city in the district shall be appointed for 36280
one year, and ~~one appointee of the~~ other member appointed by the 36281
chief executive officer of the most populous city in the district 36282
shall be appointed for five years. Thereafter, all members of the 36283
authority shall be appointed for five-year terms, and vacancies 36284
due to expired terms shall be filled ~~by the same appointing powers~~ 36285
in the manner provided in the original appointments. 36286

(C) For any metropolitan housing authority district that 36287
contained, as of the 1990 federal census, a population of at least 36288
one million, two members of the authority shall be appointed by 36289
the ~~municipal~~ legislative authority of the most populous city in 36290
the ~~territory included in the~~ district, two members shall be 36291
appointed by the chief executive officer of the most populous city 36292
in the ~~territory included in the~~ district, and one member shall be 36293
appointed by the chief executive officer, with the approval of the 36294
~~municipal~~ legislative authority, of the city in the district ~~which~~ 36295
that has the second highest number of housing units owned or 36296
managed by the authority. 36297

At the time of the initial appointment of the authority, one 36298
member appointed by the ~~municipal~~ legislative authority of the 36299
most populous city in the ~~territory included in the~~ district shall 36300
be appointed for three years, and one such member shall be 36301
appointed for one year; the ~~appointee of~~ member appointed by the 36302
chief executive officer of the city with the second highest number 36303
of housing units owned or managed by the authority shall be 36304
appointed, with the approval of the ~~municipal~~ legislative 36305
authority, for three years; and one appointee of member appointed 36306
by the chief executive officer of the most populous city in the 36307
district shall be appointed for three years, and one such member 36308

shall be appointed for one year. Thereafter, all members of the 36309
authority shall be appointed for three-year terms, and any vacancy 36310
shall be filled by the same appointing power that made the initial 36311
appointment. At the expiration of the term of any member appointed 36312
by the chief executive officer of the most populous city in the 36313
~~territory included in the~~ district prior to March 15, 1983, the 36314
chief executive officer of the most populous city in the district 36315
shall fill the vacancy by appointment for a three-year term. At 36316
the expiration of the term of any member appointed by the board of 36317
county commissioners prior to March 15, 1983, the chief executive 36318
officer of the city in the district with the second highest number 36319
of housing units owned or managed by the authority shall, with the 36320
approval of the municipal legislative authority, fill the vacancy 36321
by appointment for a three-year term. At the expiration of the 36322
term of any member appointed prior to March 15, 1983, by the court 36323
of common pleas or the probate court, the legislative authority of 36324
the most populous city in the ~~territory included in the~~ district 36325
shall fill the vacancy by appointment for a three-year term. 36326

After March 15, 1983, at least one of the members appointed 36327
by the chief executive officer of the most populous city shall be 36328
a resident of a dwelling unit owned or managed by the ~~housing~~ 36329
authority. At least one of the initial appointments by the chief 36330
executive officer of the most populous city, after March 15, 1983, 36331
shall be a resident of a dwelling unit owned or managed by the 36332
~~housing~~ authority. Thereafter, any member appointed by the chief 36333
executive officer of the most populous city for the term 36334
established by this initial appointment, or for any succeeding 36335
term ~~thereof~~, shall be a person who resides in a dwelling unit 36336
owned or managed by the ~~housing~~ authority. If there is an elected, 36337
representative body of all residents of the ~~housing~~ authority, 36338
~~then~~ the chief executive officer of the most populous city shall, 36339
whenever there is a vacancy in this resident term, provide written 36340
notice of the vacancy to the representative body. If the 36341

representative body submits to the chief executive officer of the 36342
most populous city, in writing and within sixty days after the 36343
date on which it was notified of the vacancy, the names of at 36344
least five residents of the ~~housing~~ authority who are willing and 36345
qualified to serve as a member, ~~then~~ the chief executive officer 36346
of the most populous city shall appoint to the resident term one 36347
of the residents recommended by the representative body. At no 36348
time shall residents constitute a majority of the members of the 36349
authority. 36350

(D)(1) For any metropolitan housing authority district 36351
located in a county that had, as of the 2000 federal census, a 36352
population of at least four hundred thousand and no city with a 36353
population greater than thirty per cent of the total population of 36354
the county, one member of the authority shall be appointed by the 36355
probate court, one member shall be appointed by the court of 36356
common pleas, one member shall be appointed by the chief executive 36357
officer of the most populous city in the district, and two members 36358
shall be appointed by the board of county commissioners. 36359

(2) At the time of the initial appointment of a metropolitan 36360
housing authority pursuant to this division, the member appointed 36361
by the probate court shall be appointed for a period of four 36362
years, the member appointed by the court of common pleas shall be 36363
appointed for three years, the member appointed by the chief 36364
executive officer of the most populous city shall be appointed for 36365
two years, one member appointed by the board of county 36366
commissioners shall be appointed for one year, and the other 36367
member appointed by the board of county commissioners shall be 36368
appointed for five years. Thereafter, all members of the authority 36369
shall be appointed for five-year terms, with each term ending on 36370
the same day of the same month as the term that it succeeds. 36371
Vacancies shall be filled in the manner provided in the original 36372
appointments. Any member appointed to fill a vacancy occurring 36373

prior to the expiration of the term shall hold office as a member 36374
for the remainder of that term. 36375

(E)(1) An additional two members shall be appointed to the 36376
metropolitan housing authority in any district that has three 36377
hundred or more assisted housing units and that does not have at 36378
least one resident as a member of its authority. For the purposes 36379
of this section an "assisted unit" is a housing unit owned or 36380
operated by the housing authority or a unit in which the occupants 36381
receive tenant-based housing assistance through the federal 36382
section 8 housing program, 24 C.F.R. Ch VIII, and, a "resident" is 36383
a person who lives in an assisted housing unit. 36384

(2) The chief executive officer of the most populous city in 36385
the district shall appoint an additional member who is a resident 36386
for an initial term of five years. The board of county 36387
commissioners shall appoint the other additional member, who need 36388
not be a resident, for an initial term of three years. After the 36389
initial term, the terms of both members shall be five years and 36390
vacancies shall be filled in the manner provided in the original 36391
appointments. Any member appointed to fill a vacancy occurring 36392
prior to the expiration of the term for which the member's 36393
predecessor was appointed shall hold office as a member for the 36394
remainder of that term. 36395

(3) A member appointed as a resident member who no longer 36396
qualifies as a resident shall be deemed unable to serve and 36397
another resident member shall be appointed to serve the unexpired 36398
portion of that term. 36399

(F) Public officials, other than the officers having the 36400
appointing power under this section, shall be eligible to serve as 36401
members, officers, or employees of ~~the~~ a metropolitan housing 36402
authority notwithstanding any statute, charter, or law to the 36403
contrary. Not more than two such public officials shall be members 36404
of the authority at any one time. 36405

All members of ~~such housing~~ an authority shall serve without 36406
compensation but shall be entitled to be reimbursed for all 36407
necessary expenses incurred. ~~After such~~ 36408

After a metropolitan housing authority district has been is 36409
formed, the director may enlarge the territory within ~~such the~~ 36410
district to include other political subdivisions, or portions 36411
~~thereof of other political subdivisions~~, but the territorial 36412
limits of ~~which the district~~ shall be less than that of the 36413
county. 36414

Sec. 3735.67. (A) The owner of real property located in a 36415
community reinvestment area and eligible for exemption from 36416
taxation under a resolution adopted pursuant to section 3735.66 of 36417
the Revised Code may file an application for an exemption from 36418
real property taxation of a percentage of the assessed valuation 36419
of a new structure or remodeling, completed after the effective 36420
date of the resolution adopted pursuant to section 3735.66 of the 36421
Revised Code, with the housing officer designated pursuant to 36422
section 3735.66 of the Revised Code for the community reinvestment 36423
area in which the property is located. If any part of the new 36424
structure or remodeling that would be exempted is of real property 36425
to be used for commercial or industrial purposes, the legislative 36426
authority and the owner of the property shall enter into a written 36427
agreement pursuant to section 3735.671 of the Revised Code prior 36428
to commencement of construction or remodeling; if such an 36429
agreement is subject to approval by the board of education of the 36430
school district within the territory of which the property is or 36431
will be located, the agreement shall not be formally approved by 36432
the legislative authority until the board of education approves 36433
the agreement in the manner prescribed by that section. 36434

(B) The housing officer shall verify the construction of the 36435
new structure or the cost of the remodeling and the facts asserted 36436

in the application. The housing officer shall determine whether 36437
the construction or the cost of the remodeling meets the 36438
requirements for an exemption under this section. In cases 36439
involving a structure of historical or architectural significance, 36440
the housing officer shall not determine whether the remodeling 36441
meets the requirements for a tax exemption unless the 36442
appropriateness of the remodeling has been certified, in writing, 36443
by the society, association, agency, or legislative authority that 36444
has designated the structure or by any organization or person 36445
authorized, in writing, by such society, association, agency, or 36446
legislative authority to certify the appropriateness of the 36447
remodeling. 36448

(C) If the construction or remodeling meets the requirements 36449
for exemption, the housing officer shall forward the application 36450
to the county auditor with a certification as to the division of 36451
this section under which the exemption is granted, and the period 36452
and percentage of the exemption as determined by the legislative 36453
authority pursuant to that division. If the construction or 36454
remodeling is of commercial or industrial property and the 36455
legislative authority is not required to certify a copy of a 36456
resolution under section 3735.671 of the Revised Code, the housing 36457
officer shall comply with the notice requirements prescribed under 36458
section 5709.83 of the Revised Code, unless the board has adopted 36459
a resolution under that section waiving its right to receive such 36460
a notice. 36461

(D) The tax exemption shall first apply in the year the 36462
construction or remodeling would first be taxable but for this 36463
section. In the case of remodeling that qualifies for exemption, a 36464
percentage, not to exceed one hundred per cent, of the amount by 36465
which the remodeling increased the assessed value of the structure 36466
shall be exempted from real property taxation. In the case of 36467
construction of a structure that qualifies for exemption, a 36468

percentage, not to exceed one hundred per cent, of the assessed 36469
value of the structure shall be exempted from real property 36470
taxation. In either case, the percentage shall be the percentage 36471
set forth in the agreement if the structure or remodeling is to be 36472
used for commercial or industrial purposes, or the percentage set 36473
forth in the resolution describing the community reinvestment area 36474
if the structure or remodeling is to be used for residential 36475
purposes. 36476

The construction of new structures and the remodeling of 36477
existing structures are hereby declared to be a public purpose for 36478
which exemptions from real property taxation may be granted for 36479
the following periods: 36480

(1) For every dwelling containing not more than two family 36481
units located within the same community reinvestment area and upon 36482
which the cost of remodeling is at least two thousand five hundred 36483
dollars, a period to be determined by the legislative authority 36484
adopting the resolution describing the community reinvestment area 36485
where the dwelling is located, but not exceeding ten years; 36486

(2) For every dwelling containing more than two units and 36487
commercial or industrial properties, located within the same 36488
community reinvestment area, upon which the cost of remodeling is 36489
at least five thousand dollars, a period to be determined by the 36490
legislative authority adopting the resolution, but not exceeding 36491
twelve years; 36492

(3) For construction of every dwelling, and commercial or 36493
industrial structure located within the same community 36494
reinvestment area, a period to be determined by the legislative 36495
authority adopting the resolution, but not exceeding fifteen 36496
years. 36497

(E) Any person, board, or officer authorized by section 36498
5715.19 of the Revised Code to file complaints with the county 36499

board of revision may file a complaint with the housing officer 36500
challenging the continued exemption of any property granted an 36501
exemption under this section. A complaint against exemption shall 36502
be filed prior to the thirty-first day of December of the tax year 36503
for which taxation of the property is requested. The housing 36504
officer shall determine whether the property continues to meet the 36505
requirements for exemption and shall certify the housing officer's 36506
findings to the complainant. If the housing officer determines 36507
that the property does not meet the requirements for exemption, 36508
the housing officer shall notify the county auditor, who shall 36509
correct the tax list and duplicate accordingly. 36510

Sec. 3735.671. (A) If construction or remodeling of 36511
commercial or industrial property is to be exempted from taxation 36512
pursuant to section 3735.67 of the Revised Code, the legislative 36513
authority and the owner of the property, prior to the commencement 36514
of construction or remodeling, shall enter into a written 36515
agreement, binding on both parties for a period of time that does 36516
not end prior to the end of the period of the exemption, that 36517
includes all of the information and statements prescribed by this 36518
section. Agreements may include terms not prescribed by this 36519
section, but such terms shall in no way derogate from the 36520
information and statements prescribed by this section. 36521

(1) Except as otherwise provided in division (A)(2) or (3) of 36522
this section, an agreement entered into under this section shall 36523
not be approved by the legislative authority unless the board of 36524
education of the city, local, or exempted village school district 36525
within the territory of which the property is or will be located 36526
approves the agreement. For the purpose of obtaining such 36527
approval, the legislative authority shall certify a copy of the 36528
agreement to the board of education not later than forty-five days 36529
prior to approving the agreement, excluding Saturday, Sunday, and 36530
a legal holiday as defined in section 1.14 of the Revised Code. 36531

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 the resolution conditions under which the board would approve the agreement. The legislative authority may approve an agreement at any time after the board of education certifies its resolution approving the agreement to the legislative authority, or, if the board approves the agreement conditionally, at any time after the conditions are agreed to by the board and the legislative authority.

(2) Approval of an agreement by the board of education is not required under division (A)(1) of this section if, for each tax year the real property is exempted from taxation, the sum of the following quantities, as estimated at or prior to the time the agreement is formally approved by the legislative authority, equals or exceeds fifty per cent of the amount of taxes, as estimated at or prior to that time, that would have been charged and payable that year upon the real property had that property not been exempted from taxation:

(a) The amount of taxes charged and payable on any portion of the assessed valuation of the new structure or remodeling that will not be exempted from taxation under the agreement;

(b) The amount of taxes charged and payable on tangible personal property located on the premises of the new structure or of the structure to be remodeled under the agreement, whether payable by the owner of the structure or by a related member, as defined in section 5733.042 of the Revised Code without regard to division (B) of that section.

(c) The amount of any cash payment by the owner of the new

structure or structure to be remodeled to the school district, the 36564
dollar value, as mutually agreed to be the owner and the board of 36565
education, of any property or services provided by the owner of 36566
the property to the school district, whether by gift, loan, or 36567
otherwise, and any payment by the legislative authority to the 36568
school district pursuant to section 5709.82 of the Revised Code. 36569

The estimates of quantities used for purposes of division 36570
(A)(2) of this section shall be estimated by the legislative 36571
authority. The legislative authority shall certify to the board of 36572
education that the estimates have been made in good faith. 36573
Departures of the actual quantities from the estimates subsequent 36574
to approval of the agreement by the board of education do not 36575
invalidate the agreement. 36576

(3) If a board of education has adopted a resolution waiving 36577
its right to approve agreements and the resolution remains in 36578
effect, approval of an agreement by the board is not required 36579
under this division. If a board of education has adopted a 36580
resolution allowing a legislative authority to deliver the notice 36581
required under this division fewer than forty-five business days 36582
prior to the legislative authority's execution of the agreement, 36583
the legislative authority shall deliver the notice to the board 36584
not later than the number of days prior to such execution as 36585
prescribed by the board in its resolution. If a board of education 36586
adopts a resolution waiving its right to approve agreements or 36587
shortening the notification period, the board shall certify a copy 36588
of the resolution to the legislative authority. If the board of 36589
education rescinds such a resolution, it shall certify notice of 36590
the rescission to the legislative authority. 36591

(B) Each agreement shall include the following information: 36592

(1) The names of all parties to the agreement; 36593

(2) A description of the remodeling or construction, whether 36594

or not to be exempted from taxation, including existing or new 36595
structure size and cost thereof; the value of machinery, 36596
equipment, furniture, and fixtures, including an itemization of 36597
the value of machinery, equipment, furniture, and fixtures used at 36598
another location in this state prior to the agreement and 36599
relocated or to be relocated from that location to the property, 36600
and the value of machinery, equipment, furniture, and fixtures at 36601
the facility prior to the execution of the agreement; the value of 36602
inventory at the property, including an itemization of the value 36603
of inventory held at another location in this state prior to the 36604
agreement and relocated or to be relocated from that location to 36605
the property, and the value of inventory held at the property 36606
prior to the execution of the agreement; 36607

(3) The scheduled starting and completion dates of remodeling 36608
or construction of real property or of investments made in 36609
machinery, equipment, furniture, fixtures, and inventory; 36610

(4) Estimates of the number of employee positions to be 36611
created each year of the agreement and of the number of employee 36612
positions retained by the owner due to the remodeling or 36613
construction, itemized as to the number of full-time, part-time, 36614
permanent, and temporary positions; 36615

(5) Estimates of the dollar amount of payroll attributable to 36616
the positions set forth in division (B)(4) of this section, 36617
similarly itemized; 36618

(6) The number of employee positions, if any, at the property 36619
and at any other location in this state at the time the agreement 36620
is executed, itemized as to the number of full-time, part-time, 36621
permanent, and temporary positions. 36622

(C) Each agreement shall set forth the following information 36623
and incorporate the following statements: 36624

(1) A description of real property to be exempted from 36625

taxation under the agreement, the percentage of the assessed 36626
valuation of the real property exempted from taxation, and the 36627
period for which the exemption is granted, accompanied by the 36628
statement: "The exemption commences the first year for which the 36629
real property would first be taxable were that property not 36630
exempted from taxation. No exemption shall commence after 36631
..... (insert date) nor extend beyond (insert 36632
date)." ~~The tax commissioner shall adopt rules prescribing the 36633
form the description of such property shall assume in order to 36634
ensure that the property to be exempted from taxation under the 36635
agreement is distinguishable from property that is not to be 36636
exempted under that agreement.~~ 36637

(2) "..... (insert name of owner) shall pay such real 36638
property taxes as are not exempted under this agreement and are 36639
charged against such property and shall file all tax reports and 36640
returns as required by law. If (insert name of owner) 36641
fails to pay such taxes or file such returns and reports, 36642
exemptions from taxation granted under this agreement are 36643
rescinded beginning with the year for which such taxes are charged 36644
or such reports or returns are required to be filed and 36645
thereafter." 36646

(3) "..... (insert name of owner) hereby certifies that 36647
at the time this agreement is executed, (insert name of 36648
owner) does not owe any delinquent real or tangible personal 36649
property taxes to any taxing authority of the State of Ohio, and 36650
does not owe delinquent taxes for which (insert name of 36651
owner) is liable under Chapter 5733., 5735., 5739., 5741., 5743., 36652
5747., or 5753. of the Ohio Revised Code, or, if such delinquent 36653
taxes are owed, (insert name of owner) currently is 36654
paying the delinquent taxes pursuant to an undertaking enforceable 36655
by the State of Ohio or an agent or instrumentality thereof, has 36656
filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or 36657

such a petition has been filed against (insert name of owner). For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Revised Code governing payment of those taxes."

(4) "..... (insert name of municipal corporation or county) shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain exemptions from taxation granted under this agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions."

(5) "If for any reason (insert name of municipal corporation or county) revokes the designation of the area, entitlements granted under this agreement shall continue for the number of years specified under this agreement, unless (insert name of owner) materially fails to fulfill its obligations under this agreement and (insert name of municipal corporation or county) terminates or modifies the exemptions from taxation pursuant to this agreement."

(6) "If (insert name of owner) materially fails to fulfill its obligations under this agreement, or if (insert name of municipal corporation or county) determines that the certification as to delinquent taxes required by this agreement is fraudulent, (insert name of municipal corporation or county) may terminate or modify the exemptions from taxation granted under this agreement."

(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."

(8) "This agreement is not transferable or assignable without 36690
the express, written approval of (insert name of 36691
municipal corporation or county)." 36692

(9) "Exemptions from taxation granted under this agreement 36693
shall be revoked if it is determined that (insert name 36694
of owner), any successor to that person, or any related member (as 36695
those terms are defined in division (E) of section 3735.671 of the 36696
Ohio Revised Code) has violated the prohibition against entering 36697
into this agreement under division (E) of section 3735.671 or 36698
section 5709.62 or 5709.63 of the Ohio Revised Code prior to the 36699
time prescribed by that division or either of those sections." 36700

(10) "..... (insert name of owner) and 36701
(insert name of municipal corporation or county) acknowledge that 36702
this agreement must be approved by formal action of the 36703
legislative authority of (insert name of municipal 36704
corporation or county) as a condition for the agreement to take 36705
effect. This agreement takes effect upon such approval." 36706

The statement described in division (C)(6) of this section 36707
may include the following statement, appended at the end of the 36708
statement: ", and may require the repayment of the amount of taxes 36709
that would have been payable had the property not been exempted 36710
from taxation under this agreement." 36711

(D) Except as otherwise provided in this division, an 36712
agreement entered into under this section shall require that the 36713
owner pay an annual fee equal to the greater of one per cent of 36714
the amount of taxes exempted under the agreement or five hundred 36715
dollars; provided, however, that if the value of the incentives 36716
exceeds two hundred fifty thousand dollars, the fee shall not 36717
exceed two thousand five hundred dollars. The fee shall be payable 36718
to the legislative authority once per year for each year the 36719
agreement is effective on the days and in the form specified in 36720

the agreement. Fees paid shall be deposited in a special fund 36721
created for such purpose by the legislative authority and shall be 36722
used by the legislative authority exclusively for the purpose of 36723
complying with section 3735.672 of the Revised Code and by the tax 36724
incentive review council created under section 5709.85 of the 36725
Revised Code exclusively for the purposes of performing the duties 36726
prescribed under that section. The legislative authority may waive 36727
or reduce the amount of the fee, but such waiver or reduction does 36728
not affect the obligations of the legislative authority or the tax 36729
incentive review council to comply with section 3735.672 or 36730
5709.85 of the Revised Code. 36731

(E) If any person that is party to an agreement granting an 36732
exemption from taxation discontinues operations at the structure 36733
to which that exemption applies prior to the expiration of the 36734
term of the agreement, that person, any successor to that person, 36735
and any related member shall not enter into an agreement under 36736
this section or section 5709.62, 5709.63, or 5709.632 of the 36737
Revised Code, and no legislative authority shall enter into such 36738
an agreement with such a person, successor, or related member, 36739
prior to the expiration of five years after the discontinuation of 36740
operations. As used in this division, "successor" means a person 36741
to which the assets or equity of another person has been 36742
transferred, which transfer resulted in the full or partial 36743
nonrecognition of gain or loss, or resulted in a carryover basis, 36744
both as determined by rule adopted by the tax commissioner. 36745
"Related member" has the same meaning as defined in section 36746
5733.042 of the Revised Code without regard to division (B) of 36747
that section. 36748

The director of development shall review all agreements 36749
submitted to the director under division (F) of this section for 36750
the purpose of enforcing this division. If the director determines 36751
there has been a violation of this division, the director shall 36752

notify the legislative authority of such violation, and the 36753
legislative authority immediately shall revoke the exemption 36754
granted under the agreement. 36755

(F) When an agreement is entered into under this section, the 36756
legislative authority authorizing the agreement shall forward a 36757
copy of the agreement to the director of development ~~and to the~~ 36758
~~tax commissioner~~ within fifteen days after the agreement is 36759
entered into. 36760

Sec. 3737.01. As used in this chapter: 36761

(A) "Assistant fire marshal" means any person who is employed 36762
by the fire marshal and who carries out specific duties assigned 36763
by the fire marshal, including, but not limited to, enforcement of 36764
Chapters 3731., 3737., and 3743. of the Revised Code, fire 36765
inspection, fire code enforcement, fire investigation, and fire 36766
prevention, ~~or the regulation of underground storage tank systems~~ 36767
~~as defined in section 3737.87 of the Revised Code.~~ 36768

(B) "Consumer goods" means any item sold, leased, or rented 36769
primarily for personal or household use. 36770

(C) "Fire agency" means any state or local fire service or 36771
agency whose function is to examine the property of another person 36772
for the purpose of identifying fire safety hazards. 36773

(D) "Fire safety inspector" means any person who is a member 36774
of the civil service, as defined in section 124.01 of the Revised 36775
Code, or who is employed by or voluntarily serves a village or 36776
township, and who examines the property of another person for the 36777
purpose of identifying fire safety hazards. 36778

(E) "Person," in addition to the meaning in section 1.59 of 36779
the Revised Code, means the state and any political subdivision of 36780
the state, and any other entity, public or private. 36781

(F) "Responsible person" means the person responsible for 36782

compliance with the state fire code, including, but not limited 36783
to, the owner, lessee, agent, operator, or occupant of a building, 36784
premises, or vehicle. 36785

Sec. 3737.02. (A) The fire marshal may collect fees to cover 36786
the costs of performing inspections and other duties that the fire 36787
marshal is authorized or required by law to perform. Except as 36788
provided in division (B) of this section, all fees collected by 36789
the fire marshal shall be deposited to the credit of the fire 36790
marshal's fund. 36791

(B) Fees collected under sections 3737.88 and 3737.881 of the 36792
Revised Code for operation of the underground storage tank and 36793
underground storage tank installer certification programs, moneys 36794
recovered under section 3737.89 of the Revised Code for the 36795
state's costs of undertaking corrective or enforcement actions 36796
under that section or section 3737.882 of the Revised Code, and 36797
fines and penalties collected under section 3737.882 of the 36798
Revised Code shall be credited to the underground storage tank 36799
administration fund, which is hereby created in the state 36800
treasury. All interest earned on moneys credited to the 36801
underground storage tank administration fund shall be credited to 36802
the fund. Moneys credited to the underground storage tank 36803
administration fund shall be used by the ~~fire marshal~~ 36804
superintendent of industrial compliance for implementation and 36805
enforcement of underground storage tank, corrective action, and 36806
installer certification programs under sections 3737.88 to 3737.89 36807
of the Revised Code. 36808

(C) The ~~fire marshal~~ superintendent shall take all actions 36809
necessary to obtain any federal funding available to carry out the 36810
~~fire marshal's~~ superintendent's responsibilities under sections 36811
3737.88 to 3737.89 of the Revised Code and federal laws regarding 36812
the cleaning up of releases of petroleum, as "release" is defined 36813

in section 3737.87 of the Revised Code, including, without 36814
limitation, any federal funds that are available to reimburse the 36815
state for the costs of undertaking corrective actions for such 36816
releases of petroleum. The state may, when appropriate, return to 36817
the United States any federal funds recovered under sections 36818
3737.882 and 3737.89 of the Revised Code. 36819

Sec. 3737.03. The state fire commission may do all of the 36820
following: 36821

(A) Conduct research, make and publish reports on fire 36822
safety, and recommend to the governor, the general assembly, the 36823
board of building and fire standards, and other state agencies, 36824
any needed changes in the laws, rules, or administrative policies 36825
relating to fire safety; 36826

~~(B) Recommend revisions in the rules included in the state 36827
fire code adopted by the fire marshal. The recommendations may 36828
propose the adoption of new rules or the amendment or repeal of 36829
existing rules. The commission shall file its recommendations in 36830
the office of the fire marshal, and, within sixty days after the 36831
recommendations are filed, the fire marshal shall file with the 36832
chairperson of the commission the fire marshal's comments on, and 36833
proposed action in response to, the recommendations. 36834~~

~~(C)~~ Maintain the Ohio fire service hall of fame. In 36835
maintaining the hall of fame, the commission shall keep official 36836
commendations that recognize and commemorate exemplary 36837
accomplishments and acts of heroism by firefighters and other 36838
persons at fire-related incidents or similar events occurring in 36839
the state. The commission may adopt criteria and guidelines for 36840
selecting individuals for that recognition and commemoration. The 36841
recognition and commemoration of individuals may occur annually 36842
and include an annual awards ceremony. The expenses associated 36843
with the recognition and commemoration of individuals shall be 36844

paid in accordance with division (F) of section 3737.81 of the Revised Code. 36845
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Sec. 3737.21. (A) The director of ~~the department of commerce~~ public safety shall appoint, from names submitted to the director by the state fire commission, a fire marshal, who shall serve at the pleasure of the director and shall possess the following qualifications: 36847
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(1) A degree from an accredited college or university with specialized study in either the field of fire protection or fire protection engineering, or the equivalent qualifications determined from training, experience, and duties in a fire service; 36852
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(2) Five years of recent, progressively more responsible experience in fire inspection, fire code enforcement, fire investigation, fire protection engineering, teaching of fire safety engineering, or fire fighting. 36857
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(B) When a vacancy occurs in the position of fire marshal, the director shall notify the state fire commission. The commission shall communicate the fact of the vacancy by regular mail to all fire chiefs and fire protection engineers known to the commission, or whose identity may be ascertained by the commission by the exercise of due diligence. The commission, no earlier than thirty days after mailing the notification, shall compile a list of all applicants for the position of fire marshal who are qualified under this section. The commission shall submit the names of at least three persons on the list to the director. The director shall appoint the fire marshal from the list of at least three names or may request the commission to submit additional names. 36861
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Sec. 3737.22. (A) The fire marshal shall do all of the 36874

following:	36875
(1) Adopt the state fire code under sections 3737.82 to 3737.86 of the Revised Code <u>rules necessary to carry out the duty imposed by division (A)(2) of this section;</u>	36876 36877 36878
(2) Enforce the state fire code;	36879
(3) Appoint assistant fire marshals who are authorized to enforce the state fire code;	36880 36881
(4) Conduct investigations into the cause, origin, and circumstances of fires and explosions, and assist in the prosecution of persons believed to be guilty of arson or a similar crime;	36882 36883 36884 36885
(5) Compile statistics concerning loss due to fire and explosion as the fire marshal considers necessary, and consider the compatibility of the fire marshal's system of compilation with the systems of other state and federal agencies and fire marshals of other states;	36886 36887 36888 36889 36890
(6) Engage in research on the cause and prevention of losses due to fire and explosion;	36891 36892
(7) Engage in public education and informational activities which will inform the public of fire safety information;	36893 36894
(8) Operate a fire training academy and forensic laboratory;	36895
(9) Conduct other fire safety and fire fighting training activities for the public and groups as will further the cause of fire safety;	36896 36897 36898
(10) Conduct licensing examinations, and issue permits, licenses, and certificates, as authorized by the Revised Code;	36899 36900
(11) Conduct tests of fire protection systems and devices, and fire fighting equipment to determine compliance with the state fire code, unless a building is insured against the hazard of fire, in which case such tests may be performed by the company	36901 36902 36903 36904

insuring the building;	36905
(12) Establish and collect fees for conducting licensing examinations and for issuing permits, licenses, and certificates;	36906 36907
(13) Make available for the prosecuting attorney and an assistant prosecuting attorney from each county of this state, in accordance with section 3737.331 of the Revised Code, a seminar program, attendance at which is optional, that is designed to provide current information, data, training, and techniques relative to the prosecution of arson cases;	36908 36909 36910 36911 36912 36913
(14) Administer and enforce Chapter 3743. of the Revised Code;	36914 36915
(15) Develop a uniform standard for the reporting of information required to be filed under division (E)(4) of section 2921.22 of the Revised Code, and accept the reports of the information when they are filed.	36916 36917 36918 36919
(B) The fire marshal shall appoint a chief deputy fire marshal, and shall employ professional and clerical assistants as the fire marshal considers necessary. The chief deputy shall be a competent former or current member of a fire agency and possess five years of recent, progressively more responsible experience in fire inspection, fire code enforcement, and fire code management. The chief deputy, with the approval of the director of commerce <u>public safety</u> , shall temporarily assume the duties of the fire marshal when the fire marshal is absent or temporarily unable to carry out the duties of the office. When there is a vacancy in the office of fire marshal, the chief deputy, with the approval of the director of commerce <u>public safety</u> , shall temporarily assume the duties of the fire marshal until a new fire marshal is appointed under section 3737.21 of the Revised Code.	36920 36921 36922 36923 36924 36925 36926 36927 36928 36929 36930 36931 36932 36933
All employees, other than the fire marshal; the chief deputy fire marshal; the superintendent of the Ohio fire academy; the	36934 36935

grants administrator; the fiscal officer; the executive secretary 36936
to the fire marshal; legal counsel; the pyrotechnics 36937
administrator, the chief of the forensic laboratory; the person 36938
appointed by the fire marshal to serve as administrator over 36939
functions concerning testing, license examinations, and the 36940
issuance of permits and certificates; and the chiefs of the 36941
bureaus of fire prevention, of fire and explosion investigation, 36942
and of code enforcement, ~~and of underground storage tanks~~ shall be 36943
in the classified civil service. The fire marshal shall authorize 36944
the chief deputy and other employees under the fire marshal's 36945
supervision to exercise powers granted to the fire marshal by law 36946
as may be necessary to carry out the duties of the fire marshal's 36947
office. 36948

(C) The fire marshal shall create, in and as a part of the 36949
office of fire marshal, a fire and explosion investigation bureau 36950
consisting of a chief of the bureau and additional assistant fire 36951
marshals as the fire marshal determines necessary for the 36952
efficient administration of the bureau. The chief shall be 36953
experienced in the investigation of the cause, origin, and 36954
circumstances of fires, and in administration, including the 36955
supervision of subordinates. The chief, among other duties 36956
delegated to the chief by the fire marshal, shall be responsible, 36957
under the direction of the fire marshal, for the investigation of 36958
the cause, origin, and circumstances of fires and explosions in 36959
the state, and for assistance in the prosecution of persons 36960
believed to be guilty of arson or a similar crime. 36961

(D)(1) The fire marshal shall create, as part of the office 36962
of fire marshal, a bureau of code enforcement consisting of a 36963
chief of the bureau and additional assistant fire marshals as the 36964
fire marshal determines necessary for the efficient administration 36965
of the bureau. The chief shall be qualified, by education or 36966
experience, in fire inspection, fire code development, fire code 36967

enforcement, or any other similar field determined by the fire marshal, and in administration, including the supervision of subordinates. The chief is responsible, under the direction of the fire marshal, for fire inspection, fire code development, fire code enforcement, and any other duties delegated to the chief by the fire marshal.

(2) The fire marshal, the chief deputy fire marshal, the chief of the bureau of code enforcement, or any assistant fire marshal under the direction of the fire marshal, the chief deputy fire marshal, or the chief of the bureau of code enforcement may cause to be conducted the inspection of all buildings, structures, and other places, the condition of which may be dangerous from a fire safety standpoint to life or property, or to property adjacent to the buildings, structures, or other places.

(E) The fire marshal shall create, as a part of the office of fire marshal, a bureau of fire prevention consisting of a chief of the bureau and additional assistant fire marshals as the fire marshal determines necessary for the efficient administration of the bureau. The chief shall be qualified, by education or experience, to promote programs for rural and urban fire prevention and protection. The chief, among other duties delegated to the chief by the fire marshal, is responsible, under the direction of the fire marshal, for the promotion of rural and urban fire prevention and protection through public information and education programs.

(F) The fire marshal shall cooperate with the director of job and family services when the director adopts rules under section 5104.052 of the Revised Code regarding fire prevention and fire safety in certified type B family day-care homes, as defined in section 5104.01 of the Revised Code, recommend procedures for inspecting type B homes to determine whether they are in compliance with those rules, and provide training and technical

assistance to the director and county directors of job and family 37000
services on the procedures for determining compliance with those 37001
rules. 37002

(G) The fire marshal, upon request of a provider of child 37003
day-care in a type B home that is not certified by the county 37004
director of job and family services, as a precondition of approval 37005
by the state board of education under section 3313.813 of the 37006
Revised Code for receipt of United States department of 37007
agriculture child and adult care food program funds established 37008
under the "National School Lunch Act," 60 Stat. 230 (1946), 42 37009
U.S.C. 1751, as amended, shall inspect the type B home to 37010
determine compliance with rules adopted under section 5104.052 of 37011
the Revised Code regarding fire prevention and fire safety in 37012
certified type B homes. In municipal corporations and in townships 37013
where there is a certified fire safety inspector, the inspections 37014
shall be made by that inspector under the supervision of the fire 37015
marshal, according to rules adopted under section 5104.052 of the 37016
Revised Code. In townships outside municipal corporations where 37017
there is no certified fire safety inspector, inspections shall be 37018
made by the fire marshal. 37019

(H) The fire marshal may grant a variance to any provision of 37020
the state fire code upon written application by an affected party 37021
and upon demonstration by that party of both of the following: 37022

(1) That a literal enforcement of the provision will result 37023
in an unnecessary hardship to the party; 37024

(2) Either that the variance will not threaten the public 37025
health, safety, or welfare or that the party will provide measures 37026
to protect the public health, safety, and welfare that are 37027
substantially equivalent to the measures otherwise required under 37028
the state fire code. 37029

Sec. 3737.65. (A) No person shall sell, offer for sale, or 37030

use any fire protection or fire fighting equipment that does not 37031
meet the minimum standards established by the fire marshal ~~in the~~ 37032
~~state fire code.~~ 37033

(B) Except for public and private mobile fire trucks, no 37034
person shall service, test, repair, or install for profit any fire 37035
protection or fire fighting equipment without a certificate or a 37036
provisional certificate issued by the fire marshal. 37037

(C) The fire marshal shall not issue a provisional 37038
certificate pursuant to division (B) of this section to any 37039
individual who is not enrolled in a bona fide apprenticeship 37040
training program registered with the apprenticeship council 37041
pursuant to section 4139.05 of the Revised Code or with the bureau 37042
of apprenticeship and training of the United States department of 37043
labor. A provisional certificate issued pursuant to this section 37044
authorizes an individual to engage in the activities permitted 37045
under division (B) of this section only if the individual: 37046

(1) Remains enrolled in such an apprenticeship training 37047
program; and 37048

(2) Is directly supervised by an individual who possesses a 37049
valid and current certificate issued pursuant to division (B) of 37050
this section for the activities in which the individual issued the 37051
provisional certificate is engaged and the certified individual 37052
directly supervising the individual issued the provisional 37053
certificate only supervises one provisional certificate holder. 37054

Sec. 3737.71. Each insurance company doing business in this 37055
state shall pay to the state in installments, at the time of 37056
making the payments required by section 5729.05 of the Revised 37057
Code, in addition to the taxes required to be paid by it, 37058
three-fourths of one per cent on the gross premium receipts 37059
derived from fire insurance and that portion of the premium 37060
reasonably allocable to insurance against the hazard of fire 37061

included in other coverages except life and sickness and accident 37062
insurance, after deducting return premiums paid and considerations 37063
received for reinsurances as shown by the annual statement of such 37064
company made pursuant to sections 3929.30, 3931.06, and 5729.02 of 37065
the Revised Code. The money received shall be paid into the state 37066
treasury to the credit of the state fire marshal's fund, which is 37067
hereby created. The fund shall be used for the maintenance and 37068
administration of the office of the fire marshal and the Ohio fire 37069
academy established by section 3737.33 of the Revised Code. If the 37070
director of ~~commerce~~ public safety certifies to the director of 37071
budget and management that the cash balance in the state fire 37072
marshal's fund is in excess of the amount needed to pay ongoing 37073
operating expenses, the director may use the excess amount to 37074
acquire by purchase, lease, or otherwise, real property or 37075
interests in real property to be used for the benefit of the 37076
office of the state fire marshal, or to construct, acquire, 37077
enlarge, equip, furnish, or improve the fire marshal's office 37078
facilities or the facilities of the Ohio fire academy. The state 37079
fire marshal's fund shall be assessed a proportionate share of the 37080
administrative costs of the department of ~~commerce~~ public safety 37081
in accordance with procedures prescribed by the director of 37082
~~commerce~~ public safety and approved by the director of budget and 37083
management. Such assessment shall be paid from the state fire 37084
marshal's fund to the ~~division of administration fund~~ credit of 37085
the highway safety fund created by section 4501.06 of the Revised 37086
Code and shall be subject to appropriation solely for the expense 37087
of operation and maintenance of the department of public safety. 37088

Sec. 3737.81. (A) There is hereby created within the 37089
department of public safety the state fire commission consisting 37090
of ten members to be appointed by the governor with the advice and 37091
consent of the senate. The fire marshal or chief deputy fire 37092
marshal, a representative designated by the department of public 37093

safety who has tenure in fire suppression, and a representative 37094
designated by the board of building standards shall be ex officio 37095
members. Of the initial appointments made to the commission, two 37096
shall be for a term ending one year after November 1, 1978, two 37097
shall be for a term ending two years after that date, two shall be 37098
for a term ending three years after that date, two shall be for a 37099
term ending four years after that date, and two shall be for a 37100
term ending five years after that date. Thereafter, terms of 37101
office shall be for five years, each term ending on the same day 37102
of the same month of the year as did the term which it succeeds. 37103
Each member shall hold office from the date of appointment until 37104
the end of the term for which the member was appointed. Any member 37105
appointed to fill a vacancy occurring prior to the expiration of 37106
the term for which the member's predecessor was appointed shall 37107
hold office for the remainder of that term. Any member shall 37108
continue in office subsequent to the expiration date of the 37109
member's term until a successor takes office, or until a period of 37110
sixty days has elapsed, whichever occurs first. Members shall be 37111
qualified by experience and training to deal with the matters that 37112
are the responsibility of the commission. Two members shall be 37113
members of paid fire services, one shall be a member of volunteer 37114
fire services, two shall be mayors, managers, or members of 37115
legislative authorities of municipal corporations, one shall 37116
represent commerce and industry, one shall be a representative of 37117
a fire insurance company domiciled in this state, one shall 37118
represent the flammable liquids industry, one shall represent the 37119
construction industry, and one shall represent the public. At no 37120
time shall more than six members be members of or associated with 37121
the same political party. Membership on the commission shall not 37122
constitute holding a public office, and no person shall forfeit or 37123
otherwise vacate the person's office or position of employment 37124
because of membership on the commission. 37125

(B) The ex officio members may not vote, except that the fire 37126

marshal or chief deputy fire marshal may vote in case of a tie. 37127

(C) Each member of the commission, other than ex officio 37128
members, shall be paid an amount ~~equal to that payable under pay~~ 37129
~~range 32 (S)(D)~~ fixed pursuant to division (J) of section 124.15 37130
of the Revised Code, and the member's actual and necessary 37131
expenses. 37132

(D) The commission shall select a chairperson and a 37133
vice-chairperson from among its members. No business may be 37134
transacted in the absence of a quorum. A quorum shall be at least 37135
six members, excluding ex officio members, and shall include 37136
either the chairperson or vice-chairperson. The commission shall 37137
hold regular meetings at least once every two months and may meet 37138
at any other time at the call of the chairperson. 37139

(E) The fire marshal shall provide the commission with office 37140
space, meeting rooms, staff, and clerical assistance necessary for 37141
the commission to perform its duties. If the commission maintains 37142
the Ohio fire service hall of fame under division ~~(C)~~(B) of 37143
section 3737.03 of the Revised Code, the fire marshal shall 37144
preserve, in an appropriate manner, in the office space or meeting 37145
rooms provided to the commission under this division or in another 37146
location, copies of all official commendations awarded to 37147
individuals recognized and commemorated for their exemplary 37148
accomplishments and acts of heroism at fire-related incidents or 37149
similar events that occurred in this state. 37150

(F) If the commission maintains the Ohio fire service hall of 37151
fame under division ~~(C)~~(B) of section 3737.03 of the Revised Code, 37152
the expenses incurred for the recognition and commemoration of 37153
individuals for their exemplary accomplishments and acts of 37154
heroism at fire-related incidents or similar events that occurred 37155
in this state, including, but not limited to, expenses for 37156
official commendations and an annual awards ceremony as described 37157
in division ~~(C)~~(B) of section 3737.03 of the Revised Code, may be 37158

paid from moneys appropriated by the general assembly for purposes 37159
of that recognition and commemoration, from moneys that are 37160
available to the fire marshal under this chapter, or from other 37161
funding sources available to the commission. 37162

Sec. 3737.82. The ~~fire marshal~~ board of building and fire 37163
standards shall adopt a state fire code which shall consist of 37164
rules relating to all aspects of fire safety. The rules shall be 37165
the minimum standards for safeguarding life and property from fire 37166
and explosion, and the ~~fire marshal~~ board may, in adopting these 37167
rules, incorporate by reference existing published standards as 37168
well as amendments thereto subsequently published by the same 37169
authority. The fire code shall include, but not be limited to, 37170
rules relating to the movable contents of any building, or class 37171
of buildings, the transportation, storage, location, and use of 37172
flammable or explosive materials, the procedures to be employed by 37173
persons in the event of fire, the installation and location of 37174
fire protection equipment, and other similar matters. The fire 37175
code may contain rules applicable to particular classes of 37176
existing buildings or structures as the use and occupancy of such 37177
buildings or structures suggest are necessary. The ~~fire marshal~~ 37178
board may amend, modify, or repeal any rule of the state fire 37179
code. 37180

Sec. 3737.83. The ~~fire marshal~~ board of building and fire 37181
standards shall, as part of the state fire code, adopt rules to: 37182

(A) Establish minimum standards of performance for fire 37183
protection equipment and fire fighting equipment; 37184

(B) Establish minimum standards of training, fix minimum 37185
qualifications, and require certificates for all persons who 37186
engage in the business for profit of installing, testing, 37187
repairing, or maintaining fire protection equipment; 37188

(C) Provide for the issuance of certificates required under 37189
division (B) of this section and establish the fees to be charged 37190
for such certificates. A certificate shall be granted, renewed, or 37191
revoked according to rules the ~~fire marshal~~ board shall adopt. 37192

(D) Establish minimum standards of flammability for consumer 37193
goods in any case where the federal government or any department 37194
or agency thereof has established, or may from time to time 37195
establish standards of flammability for consumer goods. The 37196
standards established by the ~~fire marshal~~ board shall be identical 37197
to the minimum federal standards. 37198

In any case where the federal government or any department or 37199
agency thereof, establishes standards of flammability for consumer 37200
goods subsequent to the adoption of a flammability standard by the 37201
~~fire marshal~~ board, standards previously adopted by the ~~fire~~ 37202
~~marshal~~ board shall not continue in effect to the extent such 37203
standards are not identical to the minimum federal standards. 37204

With respect to the adoption of minimum standards of 37205
flammability, this division shall supersede any authority granted 37206
a political subdivision by any other section of the Revised Code. 37207

(E) Establish minimum standards pursuant to section 5104.05 37208
of the Revised Code for fire prevention and fire safety in child 37209
day-care centers and in type A family day-care homes, as defined 37210
in section 5104.01 of the Revised Code. 37211

(F) Establish minimum standards for fire prevention and 37212
safety an adult group home seeking licensure as an adult care 37213
facility must meet under section 3722.02 of the Revised Code. The 37214
~~fire marshal~~ board shall adopt the rules under this division in 37215
consultation with the directors of health and aging and interested 37216
parties designated by the directors of health and aging. 37217

Sec. 3737.84. (A) The state fire code adopted pursuant to 37218

sections 3737.82 and 3737.83 of the Revised Code shall not contain 37219
any provision as follows: 37220

(1) Relating to the organization or structure of a municipal 37221
or township fire department; 37222

(2) Relating to structural building requirements covered by 37223
the Ohio building code; 37224

(3) That would cause an employer, in complying with it, to be 37225
in violation of the "Occupational Safety and Health Act of 1970," 37226
84 Stat. 1590, 29 U.S.C.A. 651, or the "Consumer Product Safety 37227
Act of 1972," 86 Stat. 1207, 15 U.S.C.A. 2051; 37228

(4) Regulating manufacturers or manufacturing facilities with 37229
respect to occupational hazards where they are subject to 37230
regulation by the federal occupational safety and health 37231
administration; 37232

(5) That is inconsistent with, or in conflict with, 37233
regulations of the federal occupational safety and health 37234
administration or the hazardous materials regulations of the 37235
hazardous materials regulations board of the federal highway 37236
administration, United States department of transportation, or the 37237
public utilities commission; 37238

(6) That establishes a minimum standard of flammability for 37239
consumer goods in any area where the "Flammable Fabrics Act," 81 37240
Stat. 568 (1967), 15 U.S.C. 1191 authorizes the federal government 37241
or any department or agency of the federal government to establish 37242
national standards of flammability for consumer goods; 37243

(7) That establishes a health or safety standard for the use 37244
of explosives in mining, for which the federal government through 37245
its authorized agency sets health or safety standards pursuant to 37246
section 6 of the "Federal Metal and Nonmetallic Mine Safety Act of 37247
1966," 80 Stat. 772, 30 U.S.C. 725, or section 101 of the "Federal 37248
Coal Mine Health and Safety Act of 1969," 83 Stat. 745, 30 37249

U.S.C.A. 811; 37250

(8) That is inconsistent with, or in conflict with, section 37251
3737.73 or Chapter 3743. of the Revised Code, or the rules adopted 37252
pursuant to that chapter; 37253

(9)(a) Restricting the dispensing of diesel fuel at a 37254
terminal or bulk plant into a motor vehicle that is transporting 37255
petroleum products or equipment essential to the operation of the 37256
terminal or bulk plant, provided that the motor vehicle is owned 37257
or leased by or operated under a contract with a person who has 37258
been issued a motor fuel dealer's license under section 5735.02 of 37259
the Revised Code; 37260

(b) Authorizing the dispensing of any petroleum products at a 37261
terminal or bulk plant from an ~~above-ground~~ aboveground storage 37262
tank at the terminal or bulk plant to a motor vehicle other than a 37263
motor vehicle that is described in division (A)(9)(a) of this 37264
section or to a member of the general public. 37265

As used in this section, "terminal or bulk plant" means that 37266
portion of a property where petroleum products are received by 37267
tank vessels, pipelines, tank cars, or tank vehicles and are 37268
stored or blended in bulk for the purpose of distributing the 37269
petroleum products via tank vessel, pipeline, tank car, tank 37270
vehicle, portable tank, or container. 37271

(B) No penalty shall be imposed by the fire marshal or the 37272
board of building and fire standards on any person for a violation 37273
of the state fire code if a penalty has been imposed or an order 37274
issued by the federal government for a violation of a similar 37275
provision contained in or adopted pursuant to the federal acts 37276
referred to in this section, where the facts that constitute the 37277
violation of the state fire code are the same as those that 37278
constitute the violation or alleged violation of the federal act. 37279

Sec. 3737.85. The ~~fire marshal~~ board of building and fire standards shall, as part of the state fire code, adopt rules for giving notice to or serving a citation or order upon a responsible person, to assure that:

(A) The owner of a building or premises receives notice before any action is taken with respect to that building or premises;

(B) The person responsible by law for a violation of the state fire code receives notice of such violation;

(C) The person responsible by law for any violation is given notice of and the opportunity for a hearing as provided in this chapter.

Sec. 3737.86. (A) As used in this section, "rule" includes the adoption, amendment, or repeal of any rule ~~by the fire marshal~~ under sections 3737.82 ~~to~~, 3737.83, and 3737.86 of the Revised Code, ~~regardless of whether or not the rule is included in the state fire code.~~

(B) The ~~fire marshal~~ board of building and fire standards shall adopt rules in accordance with Chapter 119. of the Revised Code. In adopting rules, the ~~fire marshal~~ board shall consider and make appropriate findings with respect to the degree and nature of the risk of injury that the rule is designed to prevent or reduce, the approximate number of products or types or classes of products subject to the rule, the public need for the products involved, the probable effect of the rule on the utility, cost, or availability of such product, and any means of achieving the objective of the rule that will minimize adverse effects on competition or disruption or dislocation of manufacturing and other commercial practices. The minimum standards embodied in the rules shall be published in such a manner as to assure that all

interested parties have a reasonable opportunity to be informed of 37310
the standards so established. 37311

~~(C) The fire marshal shall file a copy of the full text of 37312
any proposed rule with the chairman of the state fire commission. 37313
The fire marshal shall not adopt the proposed rule until the 37314
commission has filed in the office of the fire marshal 37315
recommendations for revisions in the proposed rule or until a 37316
period of sixty days has elapsed since the proposed rule was filed 37317
with the chairman of the commission, whichever occurs first. The 37318
fire marshal shall consider any recommendations made by the 37319
commission before adopting the proposed rule, but may accept, 37320
reject, or modify the recommendations. 37321~~

Sec. 3737.88. (A)(1) The ~~fire marshal~~ superintendent of 37322
industrial compliance shall have responsibility for implementation 37323
of the underground storage tank program and corrective action 37324
program for releases from underground petroleum storage tanks 37325
established by the "Resource Conservation and Recovery Act of 37326
1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended. To implement 37327
the program, the ~~fire marshal~~ superintendent may adopt, amend, and 37328
rescind such rules, conduct such inspections, require annual 37329
registration of underground storage tanks, issue such citations 37330
and orders to enforce those rules, and perform such other duties, 37331
as are consistent with those programs. The ~~fire marshal~~ 37332
superintendent, by rule, may delegate the authority to conduct 37333
inspections of underground storage tanks to certified fire safety 37334
inspectors. 37335

(2) In the place of any rules regarding release containment 37336
and release detection for underground storage tanks adopted under 37337
division (A)(1) of this section, the ~~fire marshal~~ superintendent, 37338
by rule, shall designate areas as being sensitive for the 37339
protection of human health and the environment and adopt 37340

alternative rules regarding release containment and release 37341
detection methods for new and upgraded underground storage tank 37342
systems located in those areas. In designating such areas, the 37343
~~fire marshal~~ superintendent shall take into consideration such 37344
factors as soil conditions, hydrogeology, water use, and the 37345
location of public and private water supplies. Not later than July 37346
11, 1990, the ~~fire marshal~~ superintendent shall file the rules 37347
required under this division with the secretary of state, director 37348
of the legislative service commission, and joint committee on 37349
agency rule review in accordance with divisions (B) and (H) of 37350
section 119.03 of the Revised Code. 37351

(B) Before adopting any rule under this section or section 37352
3737.881 or 3737.882 of the Revised Code, the ~~fire marshal~~ 37353
superintendent shall file written notice of ~~his~~ the proposed rule 37354
with the ~~chairman~~ chairperson of the ~~state fire commission board~~ 37355
of building and fire standards, and, within sixty days after 37356
notice is filed, the ~~commission board~~ may file responses to or 37357
comments on and may recommend alternative or supplementary rules 37358
to the ~~fire marshal~~ superintendent. At the end of the sixty-day 37359
period or upon the filing of responses, comments, or 37360
recommendations by the ~~commission board~~, the ~~fire marshal~~ 37361
superintendent may adopt the rule filed with the ~~commission board~~ 37362
or any alternative or supplementary rule recommended by the 37363
~~commission board~~. 37364

(C) The ~~fire commission board~~ may recommend courses of action 37365
to be taken by the ~~fire marshal~~ superintendent in carrying out ~~his~~ 37366
the superintendent's duties under this section. The ~~commission~~ 37367
board shall file its recommendations in the office of the ~~fire~~ 37368
~~marshal~~ superintendent, and, within sixty days after the 37369
recommendations are filed, the ~~fire marshal~~ superintendent shall 37370
file with the ~~chairman~~ chairperson of the ~~commission his board the~~ 37371
superintendent's comments on, and proposed action in response to, 37372

the recommendations. 37373

(D) For the purpose of sections 3737.87 to 3737.89 of the 37374
Revised Code, the ~~fire-marshal~~ superintendent shall adopt, and may 37375
amend and rescind, rules identifying or listing hazardous 37376
substances. The rules shall be consistent with and equivalent in 37377
scope, coverage, and content to regulations identifying or listing 37378
hazardous substances adopted under the "Comprehensive 37379
Environmental Response, Compensation, and Liability Act of 1980," 37380
94 Stat. 2779, 42 U.S.C.A. 9602, as amended, except that the ~~fire~~ 37381
~~marshal~~ superintendent shall not identify or list as a hazardous 37382
substance any hazardous waste identified or listed in rules 37383
adopted under division (A) of section 3734.12 of the Revised Code. 37384

(E) Notwithstanding any provision of the laws of this state 37385
to the contrary, the ~~fire-marshal~~ superintendent has exclusive 37386
jurisdiction to regulate the storage, treatment, and disposal of 37387
petroleum contaminated soil generated from corrective actions 37388
undertaken in response to releases of petroleum. The ~~fire-marshal~~ 37389
superintendent may adopt, amend, or rescind such rules as ~~he~~ the 37390
superintendent considers to be necessary or appropriate to 37391
regulate the storage, treatment, or disposal of petroleum 37392
contaminated soil so generated. 37393

(F) The ~~fire-marshal~~ superintendent shall adopt, amend, and 37394
rescind rules under sections 3737.88 to 3737.882 of the Revised 37395
Code in accordance with Chapter 119. of the Revised Code. 37396

Sec. 3737.881. (A) The ~~fire-marshal~~ superintendent of 37397
industrial compliance shall certify underground storage tank 37398
systems installers who meet the standards for certification 37399
established in rules adopted under division (D)(1) of this 37400
section, pass the certification examination required by this 37401
division, and pay the certificate fee established in rules adopted 37402
under division (D)(5) of this section. Any individual who wishes 37403

to obtain certification as an installer shall apply to the ~~fire~~ 37404
~~marshal~~ superintendent on a form prescribed by the ~~fire-marshal~~ 37405
superintendent. The application shall be accompanied by the 37406
application and examination fees established in rules adopted 37407
under division (D)(5) of this section. 37408

The ~~fire-marshal~~ superintendent shall prescribe an 37409
examination designed to test the knowledge of applicants for 37410
certification as underground storage tank system installers in the 37411
installation, repair, abandonment, and removal of those systems. 37412
The examination shall also test the applicants' knowledge and 37413
understanding of the requirements and standards established in 37414
rules adopted under sections 3737.88 and 3737.882 of the Revised 37415
Code pertaining to the installation, repair, abandonment, and 37416
removal of those systems. 37417

Installer certifications issued under this division shall be 37418
renewed annually, upon submission of a certification renewal form 37419
prescribed by the ~~fire-marshal~~ superintendent, provision of proof 37420
of successful completion of continuing education requirements, and 37421
payment of the certification renewal fee established in rules 37422
adopted under division (D)(5) of this section. In addition, the 37423
~~fire-marshal~~ superintendent may from time to time prescribe an 37424
examination for certification renewal and may require applicants 37425
to pass the examination and pay the fee established for it in 37426
rules adopted under division (D)(5) of this section. 37427

The ~~fire-marshal~~ superintendent may, in accordance with 37428
Chapter 119. of the Revised Code, deny, suspend, revoke, or refuse 37429
to renew an installer's certification or renewal thereof ~~if he~~ 37430
~~finds~~ after finding that any of the following applies: 37431

(1) The applicant for certification or certificate holder 37432
fails to meet the standards for certification or renewal thereof 37433
under this section and rules adopted under it; 37434

(2) The certification was obtained through fraud or 37435
misrepresentation; 37436

(3) The certificate holder recklessly caused or permitted a 37437
person under ~~his~~ the certificate holder's supervision to install, 37438
perform major repairs on site to, abandon, or remove an 37439
underground storage tank system in violation of the performance 37440
standards set forth in rules adopted under section 3737.88 or 37441
3737.882 of the Revised Code. 37442

As used in division (A)(3) of this section, "recklessly" has 37443
the same meaning as in section 2901.22 of the Revised Code. 37444

(B) The ~~fire marshal~~ superintendent shall certify persons who 37445
sponsor training programs for underground storage tank system 37446
installers who meet the criteria for certification established in 37447
rules adopted by the ~~fire marshal~~ superintendent under division 37448
(D)(4) of this section and pay the certificate fee established in 37449
rules adopted under division (D)(5) of this section. Any person 37450
who wishes to obtain certification to sponsor such a training 37451
program shall apply to the ~~fire marshal~~ superintendent on a form 37452
prescribed by ~~him~~ the superintendent. Training program 37453
certificates issued under this division shall expire annually. 37454
Upon submission of a certification renewal application form 37455
prescribed by the ~~fire marshal~~ superintendent and payment of the 37456
application and certification renewal fees established in rules 37457
adopted under division (D)(5) of this section, the ~~fire marshal~~ 37458
superintendent shall issue a training program renewal certificate 37459
to the applicant. 37460

The ~~fire marshal~~ superintendent may, in accordance with 37461
Chapter 119. of the Revised Code, deny an application for, 37462
suspend, or revoke a training program certificate or renewal 37463
thereof ~~if he finds~~ after finding that the training program does 37464
not or will not meet the standards for certification established 37465

in rules adopted under division (D)(4) of this section. 37466

(C) The ~~fire-marshal~~ superintendent may conduct or cause to 37467
be conducted training programs for underground storage tank 37468
systems installers as ~~he~~ the superintendent considers to be 37469
necessary or appropriate. The ~~fire-marshal~~ superintendent is not 37470
subject to division (B) of this section with respect to training 37471
programs conducted by employees of the office of the ~~fire-marshal~~ 37472
superintendent. 37473

(D) The ~~fire-marshal~~ superintendent shall adopt, and may 37474
amend and rescind, rules doing all of the following: 37475

(1) Defining the activities that constitute supervision over 37476
the installation, performance of major repairs on site to, 37477
abandonment of, and removal of underground storage tank systems; 37478

(2) Establishing standards and procedures for certification 37479
of underground storage tank systems installers; 37480

(3) Establishing standards and procedures for continuing 37481
education for certification renewal; 37482

(4) Establishing standards and procedures for certification 37483
of training programs for installers; 37484

(5) Establishing fees for applications for certifications 37485
under this section, the examinations prescribed under division (A) 37486
of this section, the issuance and renewal of certificates under 37487
divisions (A) and (B) of this section, and attendance at training 37488
programs conducted by the ~~fire-marshal~~ superintendent under 37489
division (C) of this section. Fees received under this section 37490
shall be credited to the underground storage tank administration 37491
fund created in section 3737.02 of the Revised Code and shall be 37492
used to defray the costs of implementing, administering, and 37493
enforcing this section and the rules adopted thereunder, 37494
conducting training sessions, and facilitating prevention of 37495
releases. 37496

(6) That are necessary or appropriate for the implementation, 37497
administration, and enforcement of this section. 37498

(E) Nothing in this section or the rules adopted under it 37499
prohibits an owner or operator of an underground storage tank 37500
system from installing, making major repairs on site to, 37501
abandoning, or removing an underground storage tank system under 37502
the supervision of an installer certified under division (A) of 37503
this section who is a full-time or part-time employee of the owner 37504
or operator. 37505

(F) On and after ~~the date one hundred eighty days after the~~ 37506
~~effective date of this section~~ January 7, 1990, no person shall do 37507
any of the following: 37508

(1) Install, make major repairs on site to, abandon, or 37509
remove an underground storage tank system unless the activity is 37510
performed under the supervision of a qualified individual who 37511
holds a valid installer certificate issued under division (A) of 37512
this section; 37513

(2) Act in the capacity of providing supervision for the 37514
installation of, performance of major repairs on site to, 37515
abandonment of, or removal of an underground storage tank system 37516
unless the person holds a valid installer certificate issued under 37517
division (A) of this section; 37518

(3) Except as provided in division (C) of this section, 37519
sponsor a training program for underground storage tank systems 37520
installers unless the person holds a valid training program 37521
certificate issued under division (B) of this section. 37522

Sec. 3737.882. (A) If, after an examination or inspection, 37523
the ~~fire marshal~~ superintendent of industrial compliance or ~~an~~ the 37524
superintendent's assistant ~~fire marshal~~ finds that a release of 37525
petroleum is suspected, the ~~fire marshal~~ superintendent shall take 37526

such action as the ~~fire marshal~~ superintendent considers necessary 37527
to ensure that a suspected release is confirmed or disproved and, 37528
if the occurrence of a release is confirmed, to correct the 37529
release. These actions may include one or more of the following: 37530

(1) Issuance of a citation and order requiring the 37531
responsible person to undertake, in a manner consistent with the 37532
requirements of section 9003 of the "Resource Conservation and 37533
Recovery Act of 1976," 98 Stat. 3279, 42 U.S.C.A. 6991b, as 37534
amended, applicable regulations adopted thereunder, and rules 37535
adopted under division (B) of this section, such actions as are 37536
necessary to protect human health and the environment, including, 37537
without limitation, the investigation of a suspected release. 37538

(2) Requesting the attorney general to bring a civil action 37539
for appropriate relief, including a temporary restraining order or 37540
preliminary or permanent injunction, in the court of common pleas 37541
of the county in which a suspected release is located or in which 37542
the release occurred, to obtain the corrective action necessary to 37543
protect human health and the environment. In granting any such 37544
relief, the court shall ensure that the terms of the temporary 37545
restraining order or injunction are sufficient to provide 37546
comprehensive corrective action to protect human health and the 37547
environment. 37548

(3) Entry onto premises and undertaking corrective action 37549
with respect to a release of petroleum if, in the ~~fire marshal's~~ 37550
superintendent's judgment, such action is necessary to protect 37551
human health and the environment. Any corrective action undertaken 37552
by the ~~fire marshal~~ superintendent or the superintendent's 37553
assistant ~~fire marshal~~ under division (A)(3) of this section shall 37554
be consistent with the requirements of sections 9003 and 9005 of 37555
the "Resource Conservation and Recovery Act of 1976," 98 Stat. 37556
3279, 42 U.S.C.A. 6991b, and 98 Stat. 3284, 42 U.S.C.A. 6991e, 37557
respectively, as amended, applicable regulations adopted 37558

thereunder, and rules adopted under division (B) of this section. 37559

(B) The ~~fire-marshal~~ superintendent shall adopt, and may 37560
amend and rescind, such rules as the ~~fire-marshal~~ superintendent 37561
considers necessary to establish standards for corrective actions 37562
for suspected and confirmed releases of petroleum and standards 37563
for the recovery of costs incurred for undertaking corrective or 37564
enforcement actions with respect to such releases. The rules also 37565
shall include requirements for financial responsibility for the 37566
cost of corrective actions for and compensation of bodily injury 37567
and property damage incurred by third parties that are caused by 37568
releases of petroleum. Rules regarding financial responsibility 37569
shall, without limitation, require responsible persons to provide 37570
evidence that the parties guaranteeing payment of the deductible 37571
amount established under division (E) or (F) of section 3737.91 of 37572
the Revised Code are, at a minimum, secondarily liable for all 37573
corrective action and third-party liability costs incurred within 37574
the scope of the deductible amount. The rules shall be consistent 37575
with sections 9003 and 9005 of the "Resource Conservation and 37576
Recovery Act of 1976," 98 Stat. 3279, 42 U.S.C.A. 6991b, and 98 37577
Stat. 3284, 42 U.S.C.A. 6991e, respectively, as amended, and 37578
applicable regulations adopted thereunder. 37579

(C)(1) No person shall violate or fail to comply with a rule 37580
adopted under division (A) of section 3737.88 of the Revised Code 37581
or division (B) of this section, and no person shall violate or 37582
fail to comply with the terms of any order issued under division 37583
(A) of section 3737.88 of the Revised Code or division (A)(1) of 37584
this section. 37585

(2) Whoever violates division (C)(1) of this section or 37586
division (F) of section 3737.881 of the Revised Code shall pay a 37587
civil penalty of not more than ten thousand dollars for each day 37588
that the violation continues. The ~~fire-marshal~~ superintendent may, 37589
by order, assess a civil penalty under this division, or the ~~fire~~ 37590

~~marshal~~ superintendent may request the attorney general to bring a 37591
civil action for imposition of the civil penalty in the court of 37592
common pleas of the county in which the violation occurred. If the 37593
~~fire marshal~~ superintendent determines that a responsible person 37594
is in violation of division (C)(1) of this section or division (F) 37595
of section 3737.881 of the Revised Code, the ~~fire marshal~~ 37596
superintendent may request the attorney general to bring a civil 37597
action for appropriate relief, including a temporary restraining 37598
order or preliminary or permanent injunction, in the court of 37599
common pleas of the county in which the underground storage tank 37600
or, in the case of a violation of division (F)(3) of section 37601
3737.881 of the Revised Code, the training program that is the 37602
subject of the violation is located. The court shall issue a 37603
temporary restraining order or an injunction upon a demonstration 37604
that a violation of division (C)(1) of this section or division 37605
(F) of section 3737.881 of the Revised Code has occurred or is 37606
occurring. 37607

Any action brought by the attorney general under this 37608
division is a civil action, governed by the Rules of Civil 37609
Procedure and other rules of practice and procedure applicable to 37610
civil actions. 37611

(D) Orders issued under division (A) of section 3737.88 of 37612
the Revised Code and divisions (A)(1) and (C) of this section, and 37613
appeals thereof, are subject to and governed by Chapter 3745. of 37614
the Revised Code. Such orders shall be issued without the 37615
necessity for issuance of a proposed action under that chapter. 37616
For purposes of appeals of any such orders, the term "director" as 37617
used in Chapter 3745. of the Revised Code includes the ~~fire~~ 37618
~~marshal~~ superintendent and ~~an~~ the superintendent's assistant ~~fire~~ 37619
~~marshal~~. 37620

(E) Any restrictions on the use of real property for the 37621
purpose of achieving applicable standards pursuant to rules 37622

adopted under division (B) of this section shall be contained in a deed or in another instrument that is signed and acknowledged by the property owner in the same manner as a deed. The deed or other instrument containing the restrictions shall be filed and recorded in the office of the county recorder of the county in which the property is located. Pursuant to Chapter 5309. of the Revised Code, such use restrictions in connection with registered land, as defined in section 5309.01 of the Revised Code, shall be entered as a memorial on the page of the register where the title of the owner is registered.

Sec. 3737.883. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the ~~state fire marshal~~ superintendent of industrial compliance shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a certificate issued pursuant to section 3737.34, 3737.65, 3737.83, or 3737.881 of the Revised Code.

Sec. 3737.89. (A) Except when a responsible person can prove that a release of petroleum was caused solely by any one or a combination of an act of God, an act of war, or an act or omission of a third party without regard to whether any such act or omission was or was not negligent, a responsible person, notwithstanding any other provision of the Revised Code or common law of this state, is strictly liable to the state for any costs incurred for any corrective or enforcement action undertaken by the ~~fire marshal~~ superintendent of industrial compliance under section 3737.882 of the Revised Code and for any costs incurred for any enforcement action undertaken by the attorney general under this section or section 3737.882 of the Revised Code with respect to a release of petroleum.

The attorney general, upon the request of the ~~fire marshal~~

superintendent, shall bring a civil action to recover those costs 37654
in the court of common pleas of the county in which the corrective 37655
or enforcement action was undertaken. 37656

(B) If a responsible person alleges that a release of 37657
petroleum was caused solely by an act or omission of a third party 37658
or was caused solely by such an act or omission in combination 37659
with an act of God or an act of war, the responsible person shall 37660
pay to the state the cost of any corrective or enforcement action 37661
undertaken by the ~~fire marshal~~ superintendent under section 37662
3737.882 of the Revised Code and any enforcement action undertaken 37663
by the attorney general under this section or section 3737.882 of 37664
the Revised Code with respect to the release and is entitled by 37665
subrogation to all rights of the state to recover those costs from 37666
the third party under division (C) of this section. The attorney 37667
general, upon the request of the ~~fire marshal~~ superintendent, 37668
shall bring a civil action to recover payment from the responsible 37669
party for those costs in the court of common pleas of the county 37670
in which the corrective or enforcement action was undertaken. 37671

(C) If the responsible person proves that a release of 37672
petroleum was caused solely by an act or omission of a third party 37673
or by such an act or omission in combination with an act of God or 37674
an act of war, the third party, notwithstanding any other 37675
provision of the Revised Code or common law of this state, is 37676
strictly liable to the state for any costs incurred for any 37677
corrective or enforcement action undertaken by the ~~fire marshal~~ 37678
superintendent under section 3737.882 of the Revised Code and for 37679
any enforcement action undertaken by the attorney general under 37680
this section or section 3737.882 of the Revised Code with respect 37681
to the release. The attorney general, upon the request of the ~~fire~~ 37682
~~marshal~~ superintendent or any person entitled by subrogation to 37683
the rights of the state under division (B) of this section, may 37684
bring a civil action to recover those costs in the court of common 37685

pleas of the county in which the corrective or enforcement action 37686
was undertaken. 37687

(D) No indemnification, hold harmless, or similar agreement 37688
or conveyance shall be effective to transfer from the responsible 37689
person, or from any other person who may be liable under division 37690
(C) of this section, to another person the liability imposed by 37691
this section. Nothing in this division bars either of the 37692
following: 37693

(1) Any agreement to insure, hold harmless, or indemnify a 37694
party to such an agreement for any liability under this section; 37695

(2) A cause of action that any person has or would have 37696
against any other person by reason of subrogation or otherwise. 37697

(E) Nothing in this section limits the duty of a responsible 37698
person under section 3737.882 of the Revised Code and rules 37699
adopted under it to notify the fire marshal and to take action 37700
with respect to a release of petroleum. 37701

(F) Nothing in this section limits the right of the federal 37702
government to recover from the responsible person any federal 37703
money expended for any corrective or enforcement action as a 37704
result of a release of petroleum. 37705

Sec. 3737.91. (A) There is hereby created the petroleum 37706
underground storage tank financial assurance fund, which shall be 37707
in the custody of the treasurer of state, but is not a part of the 37708
state treasury. The fund shall consist of moneys from the 37709
following sources: 37710

(1) All fees collected under divisions (B) and (F) of this 37711
section and all supplemental fees collected under division (C) of 37712
this section; 37713

(2) Interest earned on moneys in the fund; 37714

(3) Appropriations to the fund from the general revenue fund; 37715

(4) The proceeds of revenue bonds issued under sections 37716
3737.90 to 3737.948 of the Revised Code, provided that upon 37717
resolution of the petroleum underground storage tank release 37718
compensation board created in section 3737.90 of the Revised Code, 37719
all or part of those proceeds may be deposited into a separate 37720
account of the fund. Chapters 131. and 135. of the Revised Code do 37721
not apply to the establishment, deposit, investment, application, 37722
and safeguard of any such account and moneys in any such account. 37723

(B) For the purposes of paying the costs of implementing and 37724
administering this section and sections 3737.90 and 3737.92 of the 37725
Revised Code and rules adopted under them; payment or 37726
reimbursement of corrective action costs under section 3737.92 of 37727
the Revised Code; compensating third parties for bodily injury or 37728
property damage under that section; and payment of principal and 37729
interest on revenue bonds issued under sections 3737.90 to 37730
3737.948 of the Revised Code to raise capital for the fund, there 37731
is hereby assessed an annual petroleum underground storage tank 37732
financial assurance fee on each tank comprising an underground 37733
storage tank or an underground storage tank system that contains 37734
or has contained petroleum and for which a responsible person is 37735
required to demonstrate financial responsibility by rules adopted 37736
by the ~~fire marshal~~ superintendent of industrial compliance under 37737
division (B) of section 3737.882 of the Revised Code. The fee 37738
assessed by this division shall be paid to the board by a 37739
responsible person for each tank that is subject to the fee. The 37740
fee shall be paid not later than the first day of July of each 37741
year, except that in 1989 the fee shall be paid by either the 37742
first day of September or ninety days after July 11, 1989, 37743
whichever is later. The fee is in addition to any fee established 37744
by the ~~fire marshal~~ superintendent under section 3737.88 of the 37745
Revised Code. 37746

The amount of the annual fee due in 1989 and 1990 is one 37747

hundred fifty dollars per tank per year. In 1991 and subsequent 37748
years the board shall establish the amount of the annual fee in 37749
accordance with this division. Not later than the first day of 37750
April of 1991 and each subsequent year, the board, in consultation 37751
with the administrative agent of the fund with whom the board has 37752
entered into a contract under division (B)(3) of section 3737.90 37753
of the Revised Code, if any, shall determine the amount of the 37754
annual fee to be assessed in that year and shall adopt rules in 37755
accordance with Chapter 119. of the Revised Code to establish the 37756
fee at that amount. The fee shall be established at an amount 37757
calculated to maintain the continued financial soundness of the 37758
fund, provided that if the unobligated balance of the fund exceeds 37759
forty-five million dollars on the date that an annual 37760
determination is made, the board may assess a fee in the year to 37761
which the determination applies only to the extent required in or 37762
by, or necessary to comply with covenants or other requirements 37763
in, revenue bonds issued under sections 3737.90 to 3737.948 of the 37764
Revised Code or in proceedings or other covenants or agreements 37765
related to such bonds. Not later than the first day of May of 1991 37766
and each subsequent year, the board shall notify each responsible 37767
person by certified mail of the amount of the annual fee per tank 37768
due in that year. As used in this paragraph, "proceedings" has the 37769
same meaning as in section 133.01 of the Revised Code. 37770

If a responsible person is both the owner and operator of a 37771
tank, the responsible person shall pay any annual fee assessed 37772
under this division in compliance with this division and the rules 37773
adopted thereunder. If the owner of the tank and the operator of 37774
the tank are not the same person, any annual fee assessed under 37775
this division in compliance with this division and the rules 37776
adopted thereunder shall be paid by one of the responsible 37777
persons; however, all such responsible persons are liable for 37778
noncompliance with this division. 37779

(C) As necessary to maintain the financial soundness of the fund, the board, by rules adopted in accordance with Chapter 119. of the Revised Code, may at any time assess a supplemental petroleum underground storage tank financial assurance fee on tanks subject to the fee assessed under division (B) or (F) of this section in any fiscal year in which the board finds that the unobligated balance in the fund is less than fifteen million dollars. The board, in consultation with the fund's administrative agent, if any, shall establish the amount of the supplemental fee at an amount that will ensure an unobligated balance in the fund of at least fifteen million dollars at the end of the fiscal year in which the supplemental fee is assessed. Not less than thirty days before the date on which payment of the supplemental fee is due under the board's rules, the board shall notify each responsible person by certified mail of the amount of the supplemental fee and the date on which payment of the supplemental fee to the board is due.

If a responsible person is both the owner and operator of a tank, the responsible person shall pay any supplemental fee assessed under this division in compliance with this division and the rules adopted thereunder. If the owner of the tank and the operator of the tank are not the same person, any supplemental fee assessed under this division in compliance with this division and the rules adopted thereunder shall be paid by one of the responsible persons; however, all such responsible persons are liable for noncompliance with this division.

(D)(1) The board shall issue a certificate of coverage to any responsible person who has complied with all of the following:

(a) Paid the fee assessed under division (B) or (F) of this section;

(b) Demonstrated to the board financial responsibility in

compliance with the rules adopted by the ~~fire marshal~~ 37811
superintendent under division (B) of section 3737.882 of the 37812
Revised Code for the deductible amount established under division 37813
(E) of this section or, when appropriate, the reduced deductible 37814
amount established under division (F) of this section. If the 37815
responsible person utilizes self-insurance as a financial 37816
responsibility mechanism, the responsible person shall provide the 37817
board with an affidavit in which the responsible party certifies 37818
that all documentation submitted to the board is true and 37819
accurate; 37820

(c) Certified to the board that for each petroleum 37821
underground storage tank system for which a certificate of 37822
coverage is sought, the responsible person is in compliance with 37823
applicable rules for petroleum underground storage tank systems 37824
that have been adopted by the ~~fire marshal~~ superintendent under 37825
section 3737.88 of the Revised Code. 37826

The certificate of coverage shall state the amount of 37827
coverage to which the responsible person is entitled from the fund 37828
pursuant to division (D)(3) of this section and the time period 37829
for which the certificate provides that coverage. An issued 37830
certificate of coverage is subject to the condition that the 37831
holder timely pay any supplemental fee assessed under division (C) 37832
of this section during the time that the certificate is in effect. 37833

(2) The board shall not issue a certificate of coverage to 37834
any responsible person who fails to comply with divisions 37835
(D)(1)(a), (b), and (c) of this section. 37836

(3) The maximum disbursement from the fund for any single 37837
release of petroleum is the difference between the deductible 37838
amount established under division (E) of this section or, when 37839
appropriate, the reduced deductible amount established under 37840
division (F) of this section and one million dollars. The maximum 37841
disbursement from the fund during any fiscal year on behalf of any 37842

responsible person shall not exceed in the aggregate one million 37843
dollars less the deductible amount if the responsible person owns 37844
or operates not more than one hundred tanks comprising underground 37845
petroleum storage tanks or underground petroleum storage tank 37846
systems, shall not exceed in the aggregate two million dollars 37847
less the deductible amount if the responsible person owns or 37848
operates not more than two hundred such tanks, shall not exceed in 37849
the aggregate three million dollars less the deductible amount if 37850
the responsible person owns or operates not more than three 37851
hundred such tanks, and shall not exceed in the aggregate four 37852
million dollars less the deductible amount if the responsible 37853
person owns or operates more than three hundred such tanks. The 37854
maximum disbursement from the fund for any single release or for 37855
any fiscal year under this division does not in any manner limit 37856
the liability of a responsible person for a release of petroleum. 37857

(E)(1) Except as otherwise provided in division (F) of this 37858
section, no responsible person is eligible to receive moneys from 37859
the fund under section 3737.92 of the Revised Code until the 37860
responsible person demonstrates to the board financial 37861
responsibility for the first fifty thousand dollars of the cost 37862
for corrective action for, and compensating third parties for 37863
bodily injury and property damage caused by, accidental releases 37864
of petroleum from an underground storage tank owned or operated by 37865
the responsible party. The fifty thousand dollar amount is the 37866
deductible amount for the purposes of this section and section 37867
3737.92 of the Revised Code. 37868

(2) The board, in consultation with the fund's administrative 37869
agent, if any, may, by rules adopted in accordance with Chapter 37870
119. of the Revised Code, establish for any fiscal year a 37871
deductible amount that differs from fifty thousand dollars. The 37872
deductible amount established by the board shall be such an amount 37873
as to maintain the financial soundness of the fund. Any action of 37874

the board to establish a differing deductible amount or to alter a 37875
deductible amount previously established by it shall be taken 37876
concurrently with the establishment under division (B) of this 37877
section of the annual fee due on the first day of the fiscal year 37878
in which the deductible amount will apply. If the deductible 37879
amount established under this division differs from that in effect 37880
at the time of the board's action, the board shall notify each 37881
responsible person of the change by certified mail not later than 37882
the first day of May preceding the effective date of the change. 37883

(F)(1) Any responsible person owning, or owning or operating, 37884
a total of six or fewer petroleum underground storage tanks may 37885
elect in calendar years 1989 and 1990 to pay twice the amount of 37886
the per tank annual fee for each tank assessed under division (B) 37887
of this section in order to reduce the amount of the deductible 37888
established in division (E) of this section to the total amount of 37889
ten thousand dollars. The election shall be available only at the 37890
time of the payment of the annual fee and any supplemental fee. 37891
The election shall not be retroactively applied. 37892

(2) Any responsible person owning, or owning or operating, a 37893
total of six or fewer petroleum underground storage tanks may 37894
elect in calendar year 1991 and in each subsequent year to pay an 37895
additional fee at an amount established by the board in addition 37896
to the per tank annual fee assessed under division (B) of this 37897
section in order to reduce the deductible amount established under 37898
division (E) of this section. In calendar year 1991 and in each 37899
subsequent year, the board shall establish the amount of the 37900
additional fee and the reduced deductible amount. In determining 37901
the amount of the additional fee and the reduced deductible 37902
amount, the board shall take into consideration the effect of the 37903
additional claims paid under section 3737.92 of the Revised Code 37904
to responsible persons making an election under division (F)(2) of 37905
this section and balance that consideration with such factors as 37906

the availability of liability insurance, the difficulty of proving 37907
financial responsibility pursuant to the rules adopted by the ~~fire~~ 37908
~~marshal~~ superintendent under division (B) of section 3737.882 of 37909
the Revised Code, and the hardship created on small owners and 37910
operators of petroleum underground storage tanks by an increase in 37911
either the additional fee or the reduced deductible amount. 37912

(3) Any responsible person owning, or owning or operating, a 37913
total of six or fewer petroleum underground storage tanks who 37914
elects to pay the additional fee under divisions (F)(1) and (2) of 37915
this section shall pay any per tank supplemental fee assessed 37916
under division (C) of this section. 37917

(G) If the director of the fund determines that a responsible 37918
person has failed to comply with division (B), (C), or (F) of this 37919
section, the director of the fund shall notify each responsible 37920
person for the petroleum underground storage tank of the 37921
noncompliance. If, within thirty days after the notification, the 37922
responsible person fails to pay the applicable fee or any fee 37923
previously assessed upon the responsible person under this 37924
section, the director of the fund shall issue an order requiring 37925
the responsible person to pay all of the fees the responsible 37926
person owes to the fund and an additional late payment fee in the 37927
amount of one thousand dollars to the fund. 37928

If a responsible person fails to comply with any order of the 37929
director of the fund within thirty days after the issuance of the 37930
order, the director shall notify the ~~fire-marshal~~ superintendent 37931
of that noncompliance. Upon the request of the director of the 37932
fund, the attorney general may bring a civil action for 37933
appropriate relief, including a temporary restraining order or 37934
preliminary or permanent injunction, in the court of common pleas 37935
of the county in which the petroleum underground storage tank that 37936
is the subject of the order is located. The court shall issue an 37937
injunction upon a demonstration that a failure to comply with the 37938

director's order has occurred or is occurring. 37939

Any orders issued by the director of the fund under this 37940
division may be appealed by the responsible person under division 37941
(F) of section 3737.92 of the Revised Code. For the purpose of an 37942
appeal of any order of the director of the fund, "determination" 37943
as used in that division includes any order of the director of the 37944
fund. The filing of a notice of appeal under this division does 37945
not operate as a stay of any order of the director of the fund. 37946

Sec. 3737.92. (A) The petroleum underground storage tank 37947
release compensation board created in section 3737.90 of the 37948
Revised Code shall use moneys in the petroleum underground storage 37949
tank financial assurance fund established in section 3737.91 of 37950
the Revised Code exclusively for the following purposes: 37951

(1) Payment of the expenses of administering the fund; 37952

(2) Payment of the administrative expenses of the board; 37953

(3) Payment to or reimbursement of responsible persons for 37954
the necessary cost of corrective action for and compensating third 37955
parties for bodily injury and property damage caused by accidental 37956
releases of petroleum in accordance with this section, provided 37957
that proceeds from the issuance of revenue bonds under sections 37958
3737.90 to 3737.948 of the Revised Code may only be used for the 37959
payment to or reimbursement of responsible persons for the 37960
necessary costs of corrective action for improving property 37961
damaged by accidental releases of petroleum in accordance with 37962
this section; 37963

(4) Deposit into any funds provided for in a resolution or 37964
resolutions of the board in connection with any revenue bonds 37965
issued under sections 3737.90 to 3737.948 of the Revised Code; 37966

(5) Placement of petroleum underground storage tank linked 37967
deposits under sections 3737.95 to 3737.98 of the Revised Code. 37968

(B) A responsible person seeking to obtain from the fund 37969
payment of or reimbursement for corrective action costs for an 37970
accidental release of petroleum shall submit a claim to the board 37971
in accordance with and containing the information required by 37972
rules adopted by the board in accordance with Chapter 119. of the 37973
Revised Code. Before authorizing any disbursement from the fund to 37974
pay all or any portion of a claim submitted under this division, 37975
the director of the fund shall first determine that the claim 37976
meets all of the following criteria: 37977

(1) The responsible person is eligible under division (D) of 37978
this section to receive payment of or reimbursement for the 37979
corrective action costs from the fund; 37980

(2) The corrective action performed or to be performed has 37981
been authorized by the ~~fire marshal~~ superintendent of industrial 37982
compliance under section 3737.882 of the Revised Code and rules 37983
adopted under that section; 37984

(3) The costs of performing the corrective action are 37985
necessary to comply with the rules of the ~~fire marshal~~ 37986
superintendent adopted under sections 3737.88 and 3737.882 of the 37987
Revised Code governing corrective actions. 37988

(C) A responsible person seeking to obtain from the fund 37989
payment of or reimbursement for compensation paid or to be paid to 37990
third parties for bodily injury or property damage caused by an 37991
accidental release of petroleum shall submit a claim to the board 37992
in accordance with and containing the information required by 37993
rules adopted by the board in accordance with Chapter 119. of the 37994
Revised Code. Before authorizing any disbursement from the fund to 37995
pay all or any portion of a claim submitted under this division, 37996
the director of the fund shall first determine that the claim 37997
meets both of the following criteria: 37998

(1) The responsible person who submitted the claim is 37999

eligible under division (D) of this section to receive payment of 38000
or reimbursement for the third-party compensation from the fund; 38001

(2) There is a legally enforceable judgment against the 38002
responsible person for bodily injury or property damage to one or 38003
more third parties resulting from the release in the amount stated 38004
in the claim, or, if there is a settlement with a third party as a 38005
result of the release, the amount of the settlement stated in the 38006
claim is reasonable. 38007

(D) A responsible person is not eligible to receive payment 38008
or reimbursement from the fund under division (B) or (C) of this 38009
section unless all of the following conditions are met: 38010

(1) At the time that the release was first suspected or 38011
confirmed, a responsible person possessed a valid certificate of 38012
coverage issued by the board under division (D) of section 3737.91 38013
of the Revised Code for the petroleum underground storage tank 38014
system from which the release occurred; 38015

(2) One of the following applies: 38016

(a) The petroleum underground storage tank system from which 38017
the release occurred was registered in compliance with rules 38018
adopted by the ~~fire marshal~~ superintendent under section 3737.88 38019
of the Revised Code when the occurrence of the release was first 38020
suspected or confirmed; 38021

(b) The ~~fire marshal~~ superintendent has recommended that 38022
payment or reimbursement be made because good cause existed for 38023
the responsible person's failure to have so registered the 38024
petroleum underground storage tank system, and the responsible 38025
person has registered the petroleum underground storage tank 38026
system with the ~~fire marshal~~ superintendent and paid all back 38027
registration fees payable under those rules for registration of 38028
the system from the time the responsible person should have, but 38029
failed to register the system. 38030

(3) The ~~fire marshal~~ superintendent has determined that, when 38031
the claim was filed, a responsible person was in compliance with 38032
all orders issued under sections 3737.88 and 3737.882 of the 38033
Revised Code regarding the petroleum underground storage tank 38034
system from which the release occurred; 38035

(4) A responsible person demonstrates financial 38036
responsibility for the deductible amount applicable under section 38037
3737.91 of the Revised Code for the petroleum underground storage 38038
tank system from which the release has occurred; 38039

(5) The responsible person has not falsified any attestation 38040
contained on a registration application required by rules adopted 38041
under section 3737.88 of the Revised Code; 38042

(6) The petroleum underground storage tank system from which 38043
the release occurred was in compliance with rules, other than 38044
rules regarding registration, adopted by the ~~fire marshal~~ 38045
superintendent under section 3737.88 of the Revised Code when the 38046
occurrence of the release was first suspected or confirmed. 38047

(E) The director of the fund may make a determination to 38048
approve or disapprove a claim and to authorize a disbursement from 38049
the fund for payment of an approved claim administratively without 38050
a hearing. If the director of the fund makes a determination 38051
regarding a claim that is inconsistent with a recommendation or 38052
determination of the ~~fire marshal~~ superintendent for purposes of 38053
division (B)(2) or (3) or (D)(2), (3), or (5) of this section, the 38054
director shall detail those inconsistencies in a written finding 38055
of fact before authorizing any disbursement from the fund for 38056
payment of the claim. Upon making a determination of a claim under 38057
this section, the director of the fund shall provide written 38058
notice of the determination and a copy of any written finding of 38059
fact accompanying the determination to the responsible person who 38060
submitted the claim and to the ~~fire marshal~~ superintendent. 38061

(F) If the responsible person who submitted a claim under this section or the ~~fire marshal~~ superintendent objects to the determination of the claim made by the director of the fund and files an objection to the determination with the board within thirty days after the mailing of the notification of the determination and finding of fact, if any, the board shall appoint a referee to conduct an adjudication hearing on the determination. The adjudication hearing shall be conducted in accordance with section 119.09 of the Revised Code. For the purposes of adjudication hearings on determinations of the director of the fund, the term "agency" as used in that section includes the board.

If any party is aggrieved by an order of the board made after the adjudication hearing on the determination, the party may appeal the order in accordance with section 119.12 of the Revised Code. For the purposes of appeals of any such orders, the ~~terms~~ "fire marshal" and term "building" as used in that section ~~include the board and~~ includes the petroleum underground storage tank, ~~respectively.~~

(G) Neither the state, the board, nor the director of the fund is liable to any responsible person to pay the cost of any corrective action or of third party compensation for a release of petroleum when the fund is depeleted of moneys because the amount of the claims made on the fund exceeds the unobligated balance in the fund. However, upon assessing and collecting a supplemental fee under division (C) of section 3737.91 of the Revised Code, the board shall again consider the claim of a responsible person whose claim was not initially honored because of the insufficiency of unobligated balances in the fund to pay that person's claim.

The inability of a responsible person to obtain money from the fund does not in any manner limit the liability of a responsible person for a release of petroleum.

(H) Neither the right to apply for payment or reimbursement 38094
nor the receipt of payment or reimbursement under this section 38095
limits the liability of any responsible person to the state for 38096
the payment of any corrective action or enforcement costs under 38097
sections 3737.882 and 3737.89 of the Revised Code, or to any third 38098
party for bodily injury or property damage, resulting from a 38099
release of petroleum from an underground storage tank system owned 38100
or operated by the responsible person. Neither the right to apply 38101
for payment or reimbursement under this section nor any delay by 38102
the board or director of the fund in acting upon any claim for any 38103
such payment or reimbursement limits or postpones the duty of any 38104
responsible person to comply with any order of the ~~fire marshal~~ 38105
superintendent issued under section 3737.88 or 3737.882 of the 38106
Revised Code. 38107

(I) The board, upon payment to or reimbursement of a 38108
responsible person from the fund for corrective action costs or 38109
the cost of compensation to third parties for bodily injury or 38110
property damage, is entitled by subrogation to all rights of the 38111
responsible person to recover those costs from any other person. 38112
The attorney general, upon the request of the board, may bring a 38113
civil action to recover those costs in the court of common pleas 38114
of the county in which the release of petroleum occurred. 38115

(J) Nothing in this section limits the right of the federal 38116
government to recover from the responsible person any federal 38117
money expended for any corrective or enforcement action as a 38118
result of a release of petroleum. 38119

(K) If the responsible person described in division (D) of 38120
this section is a state agency, any payments or reimbursements 38121
received by the state agency under this section shall be deposited 38122
into the fund from which the expenditures for the corrective 38123
action or third party compensation originally were made. 38124

Sec. 3737.98. (A) Upon placement of a petroleum underground 38125
storage tank linked deposit with an eligible lending institution, 38126
the institution shall lend the funds to each approved eligible 38127
owner listed in the petroleum underground storage tank linked 38128
deposit loan package required by division (D) of section 3737.96 38129
of the Revised Code and in accordance with the linked deposit 38130
agreement required by division (C) of section 3737.97 of the 38131
Revised Code. The loan shall be at a rate below the present 38132
borrowing rate determined in the agreement with the petroleum 38133
underground storage tank release compensation board applicable to 38134
each eligible owner. A certificate of compliance with this 38135
section, in the form and manner prescribed by the board, shall be 38136
required for the eligible lending institution. The borrowing rate 38137
set by the agreement shall be uniform and may not be revised 38138
during the period of the deposit. 38139

(B) The board shall take any and all steps necessary to 38140
implement the petroleum underground storage tank linked deposit 38141
program and to monitor the compliance of eligible lending 38142
institutions and eligible owners, including the development of 38143
guidelines for those purposes as necessary. 38144

(C) The board and the ~~fire marshal~~ superintendent of 38145
industrial compliance shall notify owners of petroleum underground 38146
storage tanks of the linked deposit program and its eligibility 38147
requirements. Annually, on or before the first day of February, 38148
the board shall report on the petroleum underground storage tank 38149
linked deposit program for the preceding calendar year to the 38150
governor, speaker of the house of representatives, and president 38151
of the senate. The speaker of the house of representatives and 38152
president of the senate shall transmit copies of the report to the 38153
~~chairmen~~ chairpersons of their respective standing committees that 38154
customarily consider legislation regarding underground storage 38155

tanks and the environment. The report shall set forth the 38156
petroleum underground storage tank linked deposits made by the 38157
board during the preceding year and shall include information 38158
regarding the nature, terms, and amounts of loans upon which the 38159
linked deposits were made and the eligible owners to which the 38160
loans were made. 38161

Sec. 3741.14. (A) Each filling station offering self-service 38162
shall be operated in accordance with national fire protection 38163
association standard number 30A-1990, and the provisions of the 38164
"Occupational Safety and Health Act of 1970," 84 Stat. 1590, 5 38165
U.S.C.A. 5108, and any amendments thereto and standards adopted 38166
thereunder. 38167

(B) The ~~fire marshal~~ board of building and fire standards 38168
shall adopt, as part of the state fire code, rules governing the 38169
equipment, operation, and maintenance of filling stations. The 38170
rules shall be such as are necessary for the protection of the 38171
persons and property of the public, but shall require as a minimum 38172
that: 38173

(1) Gasoline and other flammable or combustible liquids be 38174
dispensed only by a person who is not smoking; 38175

(2) A sign, in block letters at least four inches in height, 38176
be conspicuously displayed on each gasoline pump island where 38177
self-service is offered stating that it is a self-service island; 38178

(3) Signs giving instructions for the operation of gasoline 38179
dispensing equipment, in block letters, be conspicuously posted at 38180
each filling station offering self-service; 38181

(4) A sign bearing the following words in block letters be 38182
conspicuously posted on each gasoline pump island where 38183
self-service is offered: 38184

(a) "STOP ENGINE"; 38185

(b) "NO SMOKING";	38186
(c) "WARNING--IT IS UNLAWFUL AND DANGEROUS TO DISPENSE GASOLINE INTO UNAPPROVED CONTAINERS";	38187 38188
(d) "PERSONS USING DISPENSERS WITH HOLD-OPEN LATCHES MUST REMAIN AT THE REFUELING POINT DURING REFUELING".	38189 38190
(5) All signs required by this section be constructed of rigid, weather-resistant material;	38191 38192
(6) Gasoline dispensing nozzles used by any person other than a supervisor, employee, or attendant be of an approved automatic closing type. Any person other than a supervisor, employee, or attendant using a dispenser with a hold-open latch shall remain at the refueling point during refueling.	38193 38194 38195 38196 38197
(C) The fire marshal <u>board</u> shall not prohibit the operation of a filling station offering self-service solely because it is an unattended filling station that utilizes key- or card-operated self-service flammable or combustible liquid dispensing equipment.	38198 38199 38200 38201
(D) Nothing in this section shall be interpreted to prohibit the fire marshal <u>board</u> from adopting reasonable rules governing the safety of self-service flammable or combustible liquid dispensing equipment.	38202 38203 38204 38205
<u>Sec. 3741.15. (A) Except for Chapters 3704., 3734., 3750., 3751., 3752., and 3753. of the Revised Code, the superintendent of the division of industrial compliance shall have primary responsibility under Title XXXVII of the Revised Code for the implementation and administration of the aboveground petroleum storage tank program. To implement the program, the superintendent shall propose rules to the board of building and fire standards created under section 3781.07 of the Revised Code and the board shall not adopt the proposed rules until the fire code advisory committee has filed in the board's office recommendations for</u>	38206 38207 38208 38209 38210 38211 38212 38213 38214 38215

revisions in the proposed rules or until a period of sixty days 38216
has elapsed since the proposed rules, whichever occurs first. The 38217
board shall consider any recommendations made by the committee 38218
before adopting the proposed rules, but may accept, reject, or 38219
modify the recommendations so long as any rule proposed is 38220
consistent with the state fire code adopted pursuant to section 38221
3737.82 of the Revised Code. The board shall adopt the rules under 38222
this section in accordance with Chapter 119. of the Revised Code. 38223

(B) In proposing the rules to the board for the 38224
implementation and administration of the aboveground petroleum 38225
storage tank program, the superintendent shall require a method of 38226
permitting for the installation, removal, modification, and repair 38227
of aboveground storage tanks containing petroleum or petroleum 38228
products at terminal and bulk plants in the state as those terms 38229
are defined in section 3737.84 of the Revised Code. The 38230
superintendent shall propose rules allowing for the delegation of 38231
authority to conduct inspections related to permitting of 38232
aboveground petroleum storage tanks. The superintendent may 38233
consider and propose rules for annual registration of aboveground 38234
petroleum storage tanks and the superintendent may propose fees 38235
for registration, permitting, and inspection as are consistent 38236
with this program. Within seven days of the receipt of an 38237
application for a permit under this section, the superintendent 38238
shall notify in writing the state fire marshal and the fire 38239
department having jurisdiction of the proposed permitted activity. 38240
The fire marshal or the fire department having jurisdiction may 38241
waive the notification requirements of this paragraph. 38242

(C) Nothing in this section shall prohibit the state fire 38243
marshal or a certified fire safety inspector having jurisdiction 38244
from inspecting terminal and bulk plants in this state. If, upon 38245
inspection or investigation, the fire marshal, an assistant fire 38246
marshal, or a certified fire safety inspector having jurisdiction 38247

finds a violation of the state fire code or sections 3737.41 to 38248
3737.46 of the Revised Code, the fire marshal, an assistant fire 38249
marshal, or a certified fire safety inspector may take such 38250
actions as provided for by sections 3737.41 to 3737.46 of the 38251
Revised Code or rules adopted pursuant to Chapter 3737. of the 38252
Revised Code. 38253

(D) When any permit is issued by the superintendent, the 38254
structure and every particular thereof represented by that permit 38255
and disclosed therein shall, in the absence of fraud or a serious 38256
safety hazard, be conclusively presumed to comply with Chapter 38257
3737. of the Revised Code or any rule issued pursuant thereto, if 38258
constructed, altered or repaired in accordance with that permit 38259
and any such rule in effect at the time of approval. 38260

(E) Upon application by an affected party regulated under 38261
this section, the superintendent may grant a variance from the 38262
state fire code or rules adopted for the implementation and 38263
administration of the aboveground petroleum storage tank program, 38264
if the superintendent determines that a literal enforcement of the 38265
requirement will result in unnecessary hardship and the variance 38266
will not be contrary to the public health, safety, or welfare. 38267

Sec. 3743.57. (A) All fees collected by the fire marshal for 38268
licenses or permits issued pursuant to this chapter shall be 38269
deposited into the state fire marshal's fund, and interest earned 38270
on the amounts in the fund shall be credited by the treasurer of 38271
state to the fund. 38272

(B) There is hereby established in the state treasury the 38273
fire marshal's fireworks training and education fund. The fire 38274
marshal shall deposit all assessments paid under this division 38275
into the state treasury to the credit of the fund. Each fireworks 38276
manufacturer and fireworks wholesaler licensed under this chapter 38277
shall pay assessments to the fire marshal for deposit into the 38278

fund as required by this division. 38279

The fire marshal shall impose an initial assessment upon each 38280
licensed fireworks manufacturer and wholesaler in order to 38281
establish a fund balance of fifteen thousand dollars. The fund 38282
balance shall at no time exceed fifteen thousand dollars, and the 38283
fire marshal shall impose no further assessments unless the fund 38284
balance is reduced to five thousand dollars or less. If the fund 38285
balance is reduced to five thousand dollars or less, the fire 38286
marshal shall impose an additional assessment upon each licensed 38287
fireworks manufacturer and wholesaler in order to increase the 38288
fund balance to fifteen thousand dollars. The fire marshal shall 38289
determine the amount of the initial assessment on each 38290
manufacturer or wholesaler and each additional assessment by 38291
dividing the total amount needed to be paid into the fund by the 38292
total number of fireworks manufacturers and wholesalers licensed 38293
under this chapter. If a licensed fireworks manufacturer or 38294
wholesaler fails to pay an assessment required by this division 38295
within thirty days after receiving notice of the assessment, the 38296
fire marshal, in accordance with Chapter 119. of the Revised Code, 38297
may refuse to issue, or may revoke, the appropriate license. 38298

The fire marshal shall in the fire marshal's discretion use 38299
amounts in the fund for fireworks training and education purposes, 38300
including, but not limited to, the creation of educational and 38301
training programs, attendance by the fire marshal and the fire 38302
marshal's employees at conferences and seminars, the payment of 38303
travel and meal expenses associated with such attendance, 38304
participation by the fire marshal and the fire marshal's employees 38305
in committee meetings and other meetings related to pyrotechnic 38306
codes, and the payment of travel and meal expenses associated with 38307
such participation. The use of the fund shall comply with rules of 38308
the department of ~~commerce~~ public safety, policies and procedures 38309
established by the director of budget and management, and all 38310

other applicable laws. 38311

Sec. 3743.75. (A) During the period beginning on ~~the~~ 38312
~~effective date of this section June 29, 2001,~~ and ending on 38313
December 15, 2005, the state fire marshal shall not do any of the 38314
following: 38315

(1) Issue a license as a manufacturer of fireworks under 38316
sections 3743.02 and 3743.03 of the Revised Code to a person for a 38317
particular fireworks plant unless that person possessed such a 38318
license for that fireworks plant immediately prior to ~~the~~ 38319
~~effective date of this section June 29, 2001;~~ 38320

(2) Issue a license as a wholesaler of fireworks under 38321
sections 3743.15 and 3743.16 of the Revised Code to a person for a 38322
particular location unless that person possessed such a license 38323
for that location immediately prior to ~~the effective date of this~~ 38324
~~section June 29, 2001;~~ 38325

(3) Except as provided in division (B) of this section, 38326
approve the transfer of a license as a manufacturer or wholesaler 38327
of fireworks issued under this chapter to any location other than 38328
a location for which a license was issued under this chapter 38329
immediately prior to ~~the effective date of this section June 29,~~ 38330
2001. 38331

(B) Division (A)(3) of this section does not apply to a 38332
transfer that the state fire marshal approves under division 38333
(D)(2) of section 3743.17 of the Revised Code. Section 3743.59 of 38334
the Revised Code does not apply to this section. 38335

(C) The department of ~~commerce~~ public safety and the division 38336
of state fire marshal shall devise, by December 15, 2005, a 38337
proposal to provide for the issuance of manufacturer and 38338
wholesaler of fireworks licenses that is based upon demographics 38339
and designed to ensure the safety of the public and send a copy of 38340

the proposal to the president of the senate and speaker of the 38341
house of representatives. 38342

Sec. 3745.04. As used in this section, "any person" means any 38343
individual, any partnership, corporation, association, or other 38344
legal entity, or any political subdivision, instrumentality, or 38345
agency of a state, whether or not the individual or legal entity 38346
is an applicant for or holder of a license, permit, or variance 38347
from the environmental protection agency, and includes any 38348
department, agency, or instrumentality of the federal government 38349
that is an applicant for or holder of a license, permit, or 38350
variance from the environmental protection agency. 38351

As used in this section, "action" or "act" includes the 38352
adoption, modification, or repeal of a rule or standard, the 38353
issuance, modification, or revocation of any lawful order other 38354
than an emergency order, and the issuance, denial, modification, 38355
or revocation of a license, permit, lease, variance, or 38356
certificate, or the approval or disapproval of plans and 38357
specifications pursuant to law or rules adopted thereunder. 38358

Any person who was a party to a proceeding before the 38359
director of environmental protection may participate in an appeal 38360
to the environmental review appeals commission for an order 38361
vacating or modifying the action of the director or a local board 38362
of health, or ordering the director or board of health to perform 38363
an act. The environmental review appeals commission has exclusive 38364
original jurisdiction over any matter that may, under this 38365
section, be brought before it. 38366

The person so appealing to the commission shall be known as 38367
appellant, and the director and any party to a proceeding 38368
substantially supporting the finding from which the appeal is 38369
taken shall be known as appellee, except that when an appeal 38370
involves a license to operate a disposal site or facility, the 38371

local board of health or the director of environmental protection, 38372
and any party to a proceeding substantially supporting the finding 38373
from which the appeal is taken, shall, as appropriate, be known as 38374
the appellee. Appellant and appellee shall be deemed to be parties 38375
to the appeal. 38376

The appeal shall be in writing and shall set forth the action 38377
complained of and the grounds upon which the appeal is based. 38378

The appeal shall be filed with the commission within thirty 38379
days after notice of the action. Notice of the filing of the 38380
appeal shall be filed with the appellee within three days after 38381
the appeal is filed with the commission. 38382

The appeal shall be accompanied by a filing fee of ~~sixty~~ 38383
seventy dollars, which the commission, in its discretion, may 38384
~~waive in cases of~~ reduce if by affidavit the appellant 38385
demonstrates that payment of the full amount of the fee would 38386
cause extreme hardship. 38387

Within seven days after receipt of the notice of appeal, the 38388
director or local board of health shall prepare and certify to the 38389
commission a record of the proceedings out of which the appeal 38390
arises, including all documents and correspondence, and a 38391
transcript of all testimony. 38392

Upon the filing of the appeal, the commission shall fix the 38393
time and place at which the hearing on the appeal will be held. 38394
The commission shall give the appellant and the appellee at least 38395
ten days' written notice thereof by certified mail. The commission 38396
shall hold the hearing within thirty days after the notice of 38397
appeal is filed. The commission may postpone or continue any 38398
hearing upon its own motion or upon application of the appellant 38399
or of the appellee. 38400

The filing of an appeal does not automatically suspend or 38401
stay execution of the action appealed from. Upon application by 38402

the appellant, the commission may suspend or stay the execution 38403
pending immediate determination of the appeal without interruption 38404
by continuances, other than for unavoidable circumstances. 38405

As used in this section and sections 3745.05 and 3745.06 of 38406
the Revised Code, "director of environmental protection" and 38407
"director" are deemed to include the director of agriculture and 38408
"environmental protection agency" is deemed to include the 38409
department of agriculture with respect to actions that are 38410
appealable to the commission under Chapter 903. of the Revised 38411
Code. 38412

Sec. 3745.11. (A) Applicants for and holders of permits, 38413
licenses, variances, plan approvals, and certifications issued by 38414
the director of environmental protection pursuant to Chapters 38415
3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee 38416
to the environmental protection agency for each such issuance and 38417
each application for an issuance as provided by this section. No 38418
fee shall be charged for any issuance for which no application has 38419
been submitted to the director. 38420

(B) ~~Prior to January 1, 1994, each~~ Each person who is issued 38421
~~a permit to operate, variance, or permit to install~~ prior to July 38422
1, 2003, pursuant to rules adopted under division (F) of section 38423
3704.03 of the Revised Code shall pay the fees specified in the 38424
following ~~schedule~~ schedules: 38425

(1) Fuel-Burning Equipment (<u>boilers</u>)				38426
Input capacity (<u>maximum</u>)	Permit		Permit	38427
(million British	to		to	38428
thermal units per hour)	operate	<u>Variance</u>	install	38429
<u>Greater than 0 or more, but</u>	\$ 75	<u>\$225</u>	\$ 100 <u>200</u>	38430
less than 10				38431
10 or more, but less than 100	<u>210</u>	<u>450</u>	390 <u>400</u>	38432
100 or more, but less than 300	<u>270</u>	<u>675</u>	585 <u>800</u>	38433

300 or more, but less than 500	330	900	780 <u>1500</u>	38434
500 or more, <u>but less than 1000</u>	500	975	1000 <u>2500</u>	38435
<u>1000 or more, but less than 5000</u>			<u>4000</u>	38436
<u>5000 or more</u>			<u>6000</u>	38437

Units burning exclusively natural gas, number two fuel oil, 38438
or both shall be assessed a fee that is one-half of the applicable 38439
amount established in division (F)(1) of this section. 38440

~~Any fuel burning equipment using only natural gas, propane,~~ 38441
~~liquefied petroleum gas, or number two or lighter fuel oil shall~~ 38442
~~be assessed a fee one half of that shown.~~ 38443

(2) Incinerators 38444

	Permit		Permit	38445
Input capacity	to		to	38446
(pounds per hour)	operate	Variance	install	38447
0 to 50 <u>100</u>	\$ 50	\$225	\$ 65 <u>100</u>	38448
51 <u>101</u> to 500	210	450	390 <u>400</u>	38449
501 to 2000	270	675	585 <u>750</u>	38450
2001 to 30,000 <u>20,000</u>	330	900	780	38451
			<u>1000</u>	
more than 30,000 <u>20,000</u>	500	975	1000 <u>2500</u>	38452

~~(3)~~(a) Process 38453

	Permit		Permit	38454
Process weight rate	to		to	38455
(pounds per hour)	operate	Variance	install	38456
0 to 1000	\$100	\$225	\$ 200	38457
1001 to 5000	210	450	390 <u>400</u>	38458
5001 to 10,000	270	675	585 <u>600</u>	38459
10,001 to 50,000	330	900	780 <u>800</u>	38460
more than 50,000	500	975	1000	38461

In any process where process weight rate cannot be 38462
ascertained, the minimum fee shall be assessed. 38463

(b) Notwithstanding division (B)(3)(a) of this section, any 38464
person issued a permit to install pursuant to rules adopted under 38465
division (F) of section 3704.03 of the Revised Code shall pay the 38466
fees established in division (B)(3)(c) of this section for a 38467
process used in any of the following industries, as identified by 38468
the applicable four-digit standard industrial classification code 38469
according to the Standard Industrial Classification Manual 38470
published by the United States office of management and budget in 38471
the executive office of the president, 1972, as revised: 38472

1211 Bituminous coal and lignite mining; 38473

1213 Bituminous coal and lignite mining services; 38474

1411 Dimension stone; 38475

1422 Crushed and broken limestone; 38476

1427 Crushed and broken stone, not elsewhere classified; 38477

1442 Construction sand and gravel; 38478

1446 Industrial sand; 38479

3281 Cut stone and stone products; 38480

3295 Minerals and earth, ground or otherwise treated. 38481

(c) The fees established in the following schedule apply to 38482
the issuance of a permit to install pursuant to rules adopted 38483
under division (F) of section 3704.03 of the Revised Code for a 38484
process listed in division (B)(3)(b) of this section: 38485

<u>Process weight rate</u>	<u>Permit to</u>	
<u>(pounds per hour)</u>	<u>install</u>	
<u>0 to 1000</u>	<u>\$ 200</u>	38488
<u>10,001 to 50,000</u>	<u>300</u>	38489
<u>50,001 to 100,000</u>	<u>400</u>	38490

<u>100,001 to 200,000</u>			<u>500</u>	38491
<u>200,001 to 400,000</u>			<u>600</u>	38492
<u>400,001 or more</u>			<u>700</u>	38493
(4) Storage tanks				38494
Gallons (<u>maximum useful</u> capacity)	Permit		Permit	38495
	to		to	38496
	operate	Variance	install	38497
				38498
Less than 40,000 <u>0 to 20,000</u>	\$150	\$225	\$ 195 <u>100</u>	38499
20,001 to 40,000 or more, but less				38500
than 100,000	210	450	390 <u>150</u>	38501
100,000 or more, but less				38502
than 400,000	270	675	585	38503
400,000 or more, but less				38504
than 40,001 to 100,000			<u>200</u>	38505
<u>100,001 to 250,000</u>			<u>250</u>	38506
<u>250,001 to 500,000</u>			<u>350</u>	38507
<u>500,001 to 1,000,000</u>	330	900	780 <u>500</u>	38508
1,000,000 <u>1,000,001 or more greater</u>	500	975	1000 <u>750</u>	38509
(5) Gasoline				38510
Gasoline/ <u>fuel</u> dispensing	Permit		Permit	38511
facilities	to		to	38512
	operate	Variance	install	38513
For each gasoline/ <u>fuel</u>				38514
dispensing facility	\$20	\$100	\$50 <u>100</u>	38515
(6) Dry cleaning				38516
Dry cleaning	Permit		Permit	38517
facilities	to		to	38518
	operate	Variance	install	38519
For each dry cleaning				38520
facility (<u>includes all units</u>	\$50	\$200	\$100	38521
<u>at the facility</u>)				38522

(7) ~~Coal mining operations regulated under Chapter 1513. of~~ 38523
~~the Revised Code shall be assessed a fee of two hundred fifty~~ 38524
~~dollars per mine or location.~~ Registration status 38525
Permit 38526
to 38527
install 38528
For each source covered by registration status \$75 38529

(C)(1) Except as otherwise provided in division (C)(2) of 38530
this section, beginning July 1, 1994, each person who owns or 38531
operates an air contaminant source and who is required to apply 38532
for and obtain a Title V permit under section 3704.036 of the 38533
Revised Code shall pay the fees set forth in division (C)(1) of 38534
this section. For the purposes of that division, total emissions 38535
of air contaminants may be calculated using engineering 38536
calculations, emissions factors, material balance calculations, or 38537
performance testing procedures, as authorized by the director. 38538

The following fees shall be assessed on the total actual 38539
emissions from a source in tons per year of the regulated 38540
pollutants particulate matter, sulfur dioxide, nitrogen oxides, 38541
organic compounds, and lead: 38542

(a) Fifteen dollars per ton on the total actual emissions of 38543
each such regulated pollutant during the period July through 38544
December 1993, to be collected no sooner than July 1, 1994; 38545

(b) Twenty dollars per ton on the total actual emissions of 38546
each such regulated pollutant during calendar year 1994, to be 38547
collected no sooner than April 15, 1995; 38548

(c) Twenty-five dollars per ton on the total actual emissions 38549
of each such regulated pollutant in calendar year 1995, and each 38550
subsequent calendar year, to be collected no sooner than the 38551
fifteenth day of April of the year next succeeding the calendar 38552
year in which the emissions occurred. 38553

The fees levied under division (C)(1) of this section do not 38554
apply to that portion of the emissions of a regulated pollutant at 38555
a facility that exceed four thousand tons during a calendar year. 38556

(2) The fees assessed under division (C)(1) of this section 38557
are for the purpose of providing funding for the Title V permit 38558
program. 38559

(3) The fees assessed under division (C)(1) of this section 38560
do not apply to emissions from any electric generating unit 38561
designated as a Phase I unit under Title IV of the federal Clean 38562
Air Act prior to calendar year 2000. Those fees shall be assessed 38563
on the emissions from such a generating unit commencing in 38564
calendar year 2001 based upon the total actual emissions from the 38565
generating unit during calendar year 2000 and shall continue to be 38566
assessed each subsequent calendar year based on the total actual 38567
emissions from the generating unit during the preceding calendar 38568
year. 38569

(4) The director shall issue invoices to owners or operators 38570
of air contaminant sources who are required to pay a fee assessed 38571
under division (C) or (D) of this section. Any such invoice shall 38572
be issued no sooner than the applicable date when the fee first 38573
may be collected in a year under the applicable division, shall 38574
identify the nature and amount of the fee assessed, and shall 38575
indicate that the fee is required to be paid within thirty days 38576
after the issuance of the invoice. 38577

(D)(1) Except as provided in division (D)~~(2)~~(3) of this 38578
section, ~~beginning from~~ January 1, 1994, through December 31, 38579
2003, each person who owns or operates an air contaminant source; 38580
who is required to apply for a permit to operate pursuant to rules 38581
adopted under division (G), or a variance pursuant to division 38582
(H), of section 3704.03 of the Revised Code; and who is not 38583
required to apply for and obtain a Title V permit under section 38584

3704.036 of the Revised Code shall pay a single fee based upon the
sum of the actual annual emissions from the facility of the
regulated pollutants particulate matter, sulfur dioxide, nitrogen
oxides, organic compounds, and lead in accordance with the
following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 50	\$ 75
50 or more, but less than 100	300
100 or more	700

(2) Except as provided in division (D)(3) of this section,
beginning January 1, 2004, each person who owns or operates an air
contaminant source; who is required to apply for a permit to
operate pursuant to rules adopted under division (G), or a
variance pursuant to division (H), of section 3704.03 of the
Revised Code; and who is not required to apply for and obtain a
Title V permit under section 3704.03 of the Revised Code shall pay
a single fee based upon the sum of the actual annual emissions
from the facility of the regulated pollutants particulate matter,
sulfur dioxide, nitrogen oxides, organic compounds, and lead in
accordance with the following schedule:

<u>Total tons per year</u> <u>of regulated pollutants</u> <u>emitted</u>	<u>Annual fee</u> <u>per facility</u>
<u>More than 0, but less than 10</u>	<u>\$ 100</u>
<u>10 or more, but less than 50</u>	<u>200</u>
<u>50 or more, but less than 100</u>	<u>300</u>
<u>100 or more</u>	<u>700</u>

(3)(a) As used in division (D) of this section, "synthetic
minor facility" means a facility for which one or more permits to
install or permits to operate have been issued for the air

contaminant sources at the facility that include terms and 38617
conditions that lower the facility's potential to emit air 38618
contaminants below the major source thresholds established in 38619
rules adopted under section 3704.036 of the Revised Code. 38620

(b) Beginning January 1, 2000, through June 30, ~~2004~~ 2006, 38621
each person who owns or operates a synthetic minor facility shall 38622
pay an annual fee based on the sum of the actual annual emissions 38623
from the facility of particulate matter, sulfur dioxide, nitrogen 38624
dioxide, organic compounds, and lead in accordance with the 38625
following schedule: 38626

Combined total tons 38627	Annual fee 38628	
per year of all regulated 38628	per facility 38629	
pollutants emitted 38629		
Less than 10 38630	\$ 170 38630	
10 or more, but less than 20 38631	340 38631	
20 or more, but less than 30 38632	670 38632	
30 or more, but less than 40 38633	1,010 38633	
40 or more, but less than 50 38634	1,340 38634	
50 or more, but less than 60 38635	1,680 38635	
60 or more, but less than 70 38636	2,010 38636	
70 or more, but less than 80 38637	2,350 38637	
80 or more, but less than 90 38638	2,680 38638	
90 or more, but less than 100 38639	3,020 38639	
100 or more 38640	3,350 38640	

~~(3)~~(4) The fees assessed under division (D)(1) of this 38641
section shall be collected annually no sooner than the fifteenth 38642
day of April, commencing in 1995. The fees assessed under division 38643
(D)(2) of this section shall be collected annually no sooner than 38644
the fifteenth day of April, commencing in 2005. The fees assessed 38645
under division (D)~~(2)~~(3) of this section shall be collected no 38646
sooner than the fifteenth day of April, commencing in 2000. The 38647
fees assessed under division (D) of this section in a calendar 38648

year shall be based upon the sum of the actual emissions of those 38649
regulated pollutants during the preceding calendar year. For the 38650
purpose of division (D) of this section, emissions of air 38651
contaminants may be calculated using engineering calculations, 38652
emission factors, material balance calculations, or performance 38653
testing procedures, as authorized by the director. The director, 38654
by rule, may require persons who are required to pay the fees 38655
assessed under division (D) of this section to pay those fees 38656
biennially rather than annually. 38657

(E)(1) Consistent with the need to cover the reasonable costs 38658
of the Title V permit program, the director annually shall 38659
increase the fees prescribed in division (C)(1) of this section by 38660
the percentage, if any, by which the consumer price index for the 38661
most recent calendar year ending before the beginning of a year 38662
exceeds the consumer price index for calendar year 1989. Upon 38663
calculating an increase in fees authorized by division (E)(1) of 38664
this section, the director shall compile revised fee schedules for 38665
the purposes of division (C)(1) of this section and shall make the 38666
revised schedules available to persons required to pay the fees 38667
assessed under that division and to the public. 38668

(2) For the purposes of division (E)(1) of this section: 38669

(a) The consumer price index for any year is the average of 38670
the consumer price index for all urban consumers published by the 38671
United States department of labor as of the close of the 38672
twelve-month period ending on the thirty-first day of August of 38673
that year. 38674

(b) If the 1989 consumer price index is revised, the director 38675
shall use the revision of the consumer price index that is most 38676
consistent with that for calendar year 1989. 38677

(F) Each person who is issued a permit to install pursuant to 38678
rules adopted under division (F) of section 3704.03 of the Revised 38679

Code on or after ~~January 1, 1994~~ July 1, 2003, shall pay the fees 38680
specified in the following schedules: 38681

(1) Fuel-burning equipment (boilers, furnaces, or process 38682
heaters used in the process of burning fuel for the primary 38683
purpose of producing heat or power by indirect heat transfer) 38684

Input capacity (maximum)		38685
(million British thermal units per hour)	Permit to install	38686
Greater than 0, but less than 10	\$ 200	38687
10 or more, but less than 100	400	38688
100 or more, but less than 300	800 <u>1000</u>	38689
300 or more, but less than 500	1500 <u>2250</u>	38690
500 or more, but less than 1000	2500 <u>3750</u>	38691
1000 or more, but less than 5000	4000 <u>6000</u>	38692
5000 or more	6000 <u>9000</u>	38693

Units burning exclusively natural gas, number two fuel oil, 38694
or both shall be assessed a fee that is one-half the applicable 38695
amount shown in division (F)(1) of this section. 38696

(2) Combustion turbines and stationary internal combustion 38697
engines designed to generate electricity 38698

<u>Generating capacity (mega watts)</u>	<u>Permit to install</u>	38699
<u>0 or more, but less than 10</u>	<u>\$ 25</u>	38700
<u>10 or more, but less than 25</u>	<u>150</u>	38701
<u>25 or more, but less than 50</u>	<u>300</u>	38702
<u>50 or more, but less than 100</u>	<u>500</u>	38703
<u>100 or more, but less than 250</u>	<u>1000</u>	38704
<u>250 or more</u>	<u>2000</u>	38705

(3) Incinerators 38706

Input capacity (pounds per hour)	Permit to install	38707
0 to 100	\$ 100	38708
101 to 500	400 <u>500</u>	38709
501 to 2000	750 <u>1000</u>	38710
2001 to 20,000	1000 <u>1500</u>	38711

more than 20,000	2500 <u>3750</u>	38712
(3) (4)(a) Process		38713
Process weight rate (pounds per hour)	Permit to install	38714
0 to 1000	\$ 200	38715
1001 to 5000	400 <u>500</u>	38716
5001 to 10,000	600 <u>750</u>	38717
10,001 to 50,000	800 <u>1000</u>	38718
more than 50,000	1000 <u>1250</u>	38719
In any process where process weight rate cannot be		38720
ascertained, the minimum fee shall be assessed. <u>A boiler, furnace,</u>		38721
<u>combustion turbine, stationary internal combustion engine, or</u>		38722
<u>process heater designed to provide direct heat or power to a</u>		38723
<u>process not designed to generate electricity shall be assessed a</u>		38724
<u>fee established in division (F)(4)(a) of this section. A</u>		38725
<u>combustion turbine or stationary internal combustion engine</u>		38726
<u>designed to generate electricity shall be assessed a fee</u>		38727
<u>established in division (F)(2) of this section.</u>		38728
(b) Notwithstanding division (F)(3)(a) of this section, any		38729
person issued a permit to install pursuant to rules adopted under		38730
division (F) of section 3704.03 of the Revised Code shall pay the		38731
fees set forth in division (F)(3)(c) of this section for a process		38732
used in any of the following industries, as identified by the		38733
applicable four-digit standard industrial classification code		38734
according to the Standard Industrial Classification Manual		38735
published by the United States office of management and budget in		38736
the executive office of the president, 1972, as revised:		38737
1211 Bituminous coal and lignite mining;		38738
1213 Bituminous coal and lignite mining services;		38739
1411 Dimension stone;		38740
1422 Crushed and broken limestone;		38741

1427 Crushed and broken stone, not elsewhere classified;		38742
1442 Construction sand and gravel;		38743
1446 Industrial sand;		38744
3281 Cut stone and stone products;		38745
3295 Minerals and earth, ground or otherwise treated.		38746
(c) The fees set forth in the following schedule apply to the		38747
issuance of a permit to install pursuant to rules adopted under		38748
division (F) of section 3704.03 of the Revised Code for a process		38749
identified in division (F)(3)(b) of this section:		38750
Gallons (maximum		38751
useful capacity <u>Process weight rate</u>	Permit to install	38752
<u>(pounds per hour)</u>		
0 to 20,000 <u>10,000</u>	\$ 100 <u>200</u>	38753
20,001 <u>10,001</u> to 40,000 <u>50,000</u>	150 <u>400</u>	38754
40,001 <u>50,001</u> to 100,000	200 <u>500</u>	38755
100,001 to 250,000 <u>200,000</u>	250 <u>600</u>	38756
250,001 <u>200,001</u> to 500,000 <u>400,000</u>	350 <u>750</u>	38757
500,001 to 1,000,000	500	38758
1,000,001 <u>400,001</u> or greater <u>more</u>	750 <u>900</u>	38759
(4)(5) Storage tanks		38760
Gallons (maximum useful capacity)	Permit to install	38761
0 to 20,000	\$ 100	38762
20,001 to 40,000	150	38763
40,001 to 100,000	200 <u>250</u>	38764
100,001 to 250,000	250	38765
250,001 to 500,000	350 <u>400</u>	38766
500,001 to 1,000,000	500	38767
1,000,001 or greater	750	38768
(5)(6) Gasoline/fuel dispensing facilities		38769
For each gasoline/fuel	Permit to install	38770

dispensing facility (<u>includes all</u>	\$ 100	38771
<u>units at the facility</u>)		
(6) (7) Dry cleaning facilities		38772
For each dry cleaning		38773
facility (includes all units	Permit to install	38774
at the facility)	\$ 100	38775
(7) (8) Registration status		38776
For each source covered	Permit to install	38777
by registration status	\$ 75	38778
(G) An owner or operator who is responsible for an asbestos		38779
demolition or renovation project pursuant to rules adopted under		38780
section 3704.03 of the Revised Code shall pay the fees set forth		38781
in the following schedule:		38782
Action	Fee	38783
Each notification	\$75	38784
Asbestos removal	\$3/unit	38785
Asbestos cleanup	\$4/cubic yard	38786
For purposes of this division, "unit" means any combination of		38787
linear feet or square feet equal to fifty.		38788
(H) A person who is issued an extension of time for a permit		38789
to install an air contaminant source pursuant to rules adopted		38790
under division (F) of section 3704.03 of the Revised Code shall		38791
pay a fee equal to one-half the fee originally assessed for the		38792
permit to install under this section, except that the fee for such		38793
an extension shall not exceed two hundred dollars.		38794
(I) A person who is issued a modification to a permit to		38795
install an air contaminant source pursuant to rules adopted under		38796
section 3704.03 of the Revised Code shall pay a fee equal to		38797
one-half of the fee that would be assessed under this section to		38798
obtain a permit to install the source. The fee assessed by this		38799
division only applies to modifications that are initiated by the		38800

owner or operator of the source and shall not exceed two thousand 38801
dollars. 38802

(J) Notwithstanding division (B) or (F) of this section, a 38803
person who applies for or obtains a permit to install pursuant to 38804
rules adopted under division (F) of section 3704.03 of the Revised 38805
Code after the date actual construction of the source began shall 38806
pay a fee for the permit to install that is equal to twice the fee 38807
that otherwise would be assessed under the applicable division 38808
unless the applicant received authorization to begin construction 38809
under division (W) of section 3704.03 of the Revised Code. This 38810
division only applies to sources for which actual construction of 38811
the source begins on or after July 1, 1993. The imposition or 38812
payment of the fee established in this division does not preclude 38813
the director from taking any administrative or judicial 38814
enforcement action under this chapter, Chapter 3704., 3714., 38815
3734., or 6111. of the Revised Code, or a rule adopted under any 38816
of them, in connection with a violation of rules adopted under 38817
division (F) of section 3704.03 of the Revised Code. 38818

As used in this division, "actual construction of the source" 38819
means the initiation of physical on-site construction activities 38820
in connection with improvements to the source that are permanent 38821
in nature, including, without limitation, the installation of 38822
building supports and foundations and the laying of underground 38823
pipework. 38824

(K) Fifty cents per ton of each fee assessed under division 38825
(C) of this section on actual emissions from a source and received 38826
by the environmental protection agency pursuant to that division 38827
shall be deposited into the state treasury to the credit of the 38828
small business assistance fund created in section 3706.19 of the 38829
Revised Code. The remainder of the moneys received by the division 38830
pursuant to that division and moneys received by the agency 38831
pursuant to divisions (D), (F), (G), (H), (I), and (J) of this 38832

section shall be deposited in the state treasury to the credit of 38833
the clean air fund created in section 3704.035 of the Revised 38834
Code. 38835

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) 38836
or (c) of this section, a person issued a water discharge permit 38837
or renewal of a water discharge permit pursuant to Chapter 6111. 38838
of the Revised Code shall pay a fee based on each point source to 38839
which the issuance is applicable in accordance with the following 38840
schedule: 38841

Design flow discharge (gallons per day)	Fee	
0 to 1000	\$ 0	38843
1,001 to 5000	100	38844
5,001 to 50,000	200	38845
50,001 to 100,000	300	38846
100,001 to 300,000	525	38847
over 300,000	750	38848

(b) Notwithstanding the fee schedule specified in division 38849
(L)(1)(a) of this section, the fee for a water discharge permit 38850
that is applicable to coal mining operations regulated under 38851
Chapter 1513. of the Revised Code shall be two hundred fifty 38852
dollars per mine. 38853

(c) Notwithstanding the fee schedule specified in division 38854
(L)(1)(a) of this section, the fee for a water discharge permit 38855
for a public discharger identified by I in the third character of 38856
the permittee's NPDES permit number shall not exceed seven hundred 38857
fifty dollars. 38858

(2) A person applying for a plan approval for a wastewater 38859
treatment works pursuant to section 6111.44, 6111.45, or 6111.46 38860
of the Revised Code shall pay a fee of one hundred dollars plus 38861
sixty-five one-hundredths of one per cent of the estimated project 38862
cost through June 30, ~~2004~~ 2006, and one hundred dollars plus 38863
two-tenths of one per cent of the estimated project cost on and 38864

after July 1, ~~2004~~ 2006, except that the total fee shall not 38865
exceed fifteen thousand dollars through June 30, ~~2004~~ 2006, and 38866
five thousand dollars on and after July 1, ~~2004~~ 2006. The fee 38867
shall be paid at the time the application is submitted. 38868

(3) A person issued a modification of a water discharge 38869
permit shall pay a fee equal to one-half the fee that otherwise 38870
would be charged for a water discharge permit, except that the fee 38871
for the modification shall not exceed four hundred dollars. 38872

(4) A person who has entered into an agreement with the 38873
director under section 6111.14 of the Revised Code shall pay an 38874
administrative service fee for each plan submitted under that 38875
section for approval that shall not exceed the minimum amount 38876
necessary to pay administrative costs directly attributable to 38877
processing plan approvals. The director annually shall calculate 38878
the fee and shall notify all persons who have entered into 38879
agreements under that section, or who have applied for agreements, 38880
of the amount of the fee. 38881

(5)(a)(i) Not later than January 30, ~~2002~~ 2004, and January 38882
30, ~~2003~~ 2005, a person holding an NPDES discharge permit issued 38883
pursuant to Chapter 6111. of the Revised Code with an average 38884
daily discharge flow of five thousand gallons or more shall pay a 38885
nonrefundable annual discharge fee. Any person who fails to pay 38886
the fee at that time shall pay an additional amount that equals 38887
ten per cent of the required annual discharge fee. 38888

(ii) The billing year for the annual discharge fee 38889
established in division (L)(5)(a)(i) of this section shall consist 38890
of a twelve-month period beginning on the first day of January of 38891
the year preceding the date when the annual discharge fee is due. 38892
In the case of an existing source that permanently ceases to 38893
discharge during a billing year, the director shall reduce the 38894
annual discharge fee, including the surcharge applicable to 38895
certain industrial facilities pursuant to division (L)(5)(c) of 38896

this section, by one-twelfth for each full month during the 38897
billing year that the source was not discharging, but only if the 38898
person holding the NPDES discharge permit for the source notifies 38899
the director in writing, not later than the first day of October 38900
of the billing year, of the circumstances causing the cessation of 38901
discharge. 38902

(iii) The annual discharge fee established in division 38903
(L)(5)(a)(i) of this section, except for the surcharge applicable 38904
to certain industrial facilities pursuant to division (L)(5)(c) of 38905
this section, shall be based upon the average daily discharge flow 38906
in gallons per day calculated using first day of May through 38907
thirty-first day of October flow data for the period two years 38908
prior to the date on which the fee is due. In the case of NPDES 38909
discharge permits for new sources, the fee shall be calculated 38910
using the average daily design flow of the facility until actual 38911
average daily discharge flow values are available for the time 38912
period specified in division (L)(5)(a)(iii) of this section. The 38913
annual discharge fee may be prorated for a new source as described 38914
in division (L)(5)(a)(ii) of this section. 38915

(b) An NPDES permit holder that is a public discharger shall 38916
pay the fee specified in the following schedule: 38917

Average daily	Fee due by	
discharge flow	January 30,	
	2002 <u>2004</u> , and	38920
	January 30, 2003	38921
	<u>2005</u>	
5,000 to 49,999	\$ 200	38922
50,000 to 100,000	500	38923
100,001 to 250,000	1,050	38924
250,001 to 1,000,000	2,600	38925
1,000,001 to 5,000,000	5,200	38926
5,000,001 to 10,000,000	10,350	38927

10,000,001 to 20,000,000	15,550	38928
20,000,001 to 50,000,000	25,900	38929
50,000,001 to 100,000,000	41,400	38930
100,000,001 or more	62,100	38931

Public dischargers owning or operating two or more publicly owned treatment works serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand shall pay an annual discharge fee under division (L)(5)(b) of this section that is based on the combined average daily discharge flow of the treatment works.

(c) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, 2002 <u>2004</u> , and January 30, 2003 <u>2005</u>	
5,000 to 49,999	\$ 250	38948
50,000 to 250,000	1,200	38949
250,001 to 1,000,000	2,950	38950
1,000,001 to 5,000,000	5,850	38951
5,000,001 to 10,000,000	8,800	38952
10,000,001 to 20,000,000	11,700	38953
20,000,001 to 100,000,000	14,050	38954
100,000,001 to 250,000,000	16,400	38955
250,000,001 or more	18,700	38956

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as

a major discharger during all or part of the annual discharge fee 38959
billing year specified in division (L)(5)(a)(ii) of this section 38960
shall pay a nonrefundable annual surcharge of seven thousand five 38961
hundred dollars not later than January 30, ~~2002~~ 2004, and not 38962
later than January 30, ~~2003~~ 2005. Any person who fails to pay the 38963
surcharge at that time shall pay an additional amount that equals 38964
ten per cent of the amount of the surcharge. 38965

(d) Notwithstanding divisions (L)(5)(b) and (c) of this 38966
section, a public discharger identified by I in the third 38967
character of the permittee's NPDES permit number and an industrial 38968
discharger identified by I, J, L, V, W, X, Y, or Z in the third 38969
character of the permittee's NPDES permit number shall pay a 38970
nonrefundable annual discharge fee of one hundred eighty dollars 38971
not later than January 30, ~~2002~~ 2004, and not later than January 38972
30, ~~2003~~ 2005. Any person who fails to pay the fee at that time 38973
shall pay an additional amount that equals ten per cent of the 38974
required fee. 38975

(6) Each person obtaining a national pollutant discharge 38976
elimination system general or individual permit for municipal 38977
storm water discharge shall pay a nonrefundable storm water 38978
discharge fee of one hundred dollars per square mile of area 38979
permitted. The fee shall not exceed ten thousand dollars and shall 38980
be payable on or before January 30, 2004, and the thirtieth day of 38981
January of each year thereafter. Any person who fails to pay the 38982
fee on the date specified in division (L)(6) of this section shall 38983
pay an additional amount per year equal to ten per cent of the 38984
annual fee that is unpaid. 38985

(7) The director shall transmit all moneys collected under 38986
division (L) of this section to the treasurer of state for deposit 38987
into the state treasury to the credit of the surface water 38988
protection fund created in section 6111.038 of the Revised Code. 38989

(8) As used in division (L) of this section: 38990

(a) "NPDES" means the federally approved national pollutant discharge elimination system program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements under Chapter 6111. of the Revised Code and rules adopted under it.

(b) "Public discharger" means any holder of an NPDES permit identified by P in the second character of the NPDES permit number assigned by the director.

(c) "Industrial discharger" means any holder of an NPDES permit identified by I in the second character of the NPDES permit number assigned by the director.

(d) "Major discharger" means any holder of an NPDES permit classified as major by the regional administrator of the United States environmental protection agency in conjunction with the director.

(M) Through June 30, ~~2004~~ 2006, a person applying for a license or license renewal to operate a public water system under section 6109.21 of the Revised Code shall pay the appropriate fee established under this division at the time of application to the director. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

Fees Except as provided in division (M)(4) of this section, fees required under this division shall be calculated and paid in accordance with the following schedule:

(1) For the initial license required under division (A)(1) of section 6109.21 of the Revised Code for any public water system that is a community water system as defined in section 6109.01 of

the Revised Code, and for each license renewal required for such a system prior to January 31, ~~2004~~ 2006, the fee is:

Number of service connections	Fee amount	
Not more than 49	\$56 <u>112</u>	
50 to 99	88 <u>176</u>	

Number of service connections	Average cost per connection	
100 to 2,499	\$.96 <u>1.92</u>	
2,500 to 4,999	.92 <u>1.48</u>	
5,000 to 7,499	.88 <u>1.42</u>	
7,500 to 9,999	.84 <u>1.34</u>	
10,000 to 14,999	.80 <u>1.16</u>	
15,000 to 24,999	.76 <u>1.10</u>	
25,000 to 49,999	.72 <u>1.04</u>	
50,000 to 99,999	.68 <u>.92</u>	
100,000 to 149,999	.64 <u>.86</u>	
150,000 to 199,999	.60 <u>.80</u>	
200,000 or more	.56 <u>.76</u>	

A public water system may determine how it will pay the total amount of the fee calculated under division (M)(1) of this section, including the assessment of additional user fees that may be assessed on a volumetric basis.

As used in division (M)(1) of this section, "service connection" means the number of active or inactive pipes, goosenecks, pigtails, and any other fittings connecting a water main to any building outlet.

(2) For the initial license required under division (A)(2) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a nontransient population, and for each license renewal required for such a system prior to January 31, ~~2004~~ 2006, the fee is:

Population served	Fee amount	
Fewer than 150	\$ 56 <u>112</u>	

150 to 299	88 <u>176</u>	39054
300 to 749	192 <u>384</u>	39055
750 to 1,499	392 <u>628</u>	39056
1,500 to 2,999	792 <u>1,268</u>	39057
3,000 to 7,499	1,760 <u>2,816</u>	39058
7,500 to 14,999	3,800 <u>5,510</u>	39059
15,000 to 22,499	6,240 <u>9,048</u>	39060
22,500 to 29,999	8,576 <u>12,430</u>	39061
30,000 or more	11,600 <u>16,820</u>	39062

As used in division (M)(2) of this section, "population served" means the total number of individuals receiving water from the water supply during a twenty-four-hour period for at least sixty days during any calendar year. In the absence of a specific population count, that number shall be calculated at the rate of three individuals per service connection.

(3) For the initial license required under division (A)(3) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a transient population, and for each license renewal required for such a system prior to January 31, ~~2004~~ 2006, the fee is:

Number of wells supplying system	Fee amount	
1	\$ 56 <u>112</u>	39075
2	56 <u>112</u>	39076
3	88 <u>176</u>	39077
4	192 <u>278</u>	39078
5	392 <u>568</u>	39079

System ~~supplied by~~ designated as
using a surface
~~water, springs, or dug wells~~
source

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. 39084

(4) A public water system designated as using a surface water 39085
source shall pay a fee of seven hundred ninety-two dollars or the 39086
amount calculated under division (M)(1) or (2) of this section, 39087
whichever is greater. 39088

(N)(1) A person applying for a plan approval for a public 39089
water supply system under section 6109.07 of the Revised Code 39090
shall pay a fee of one hundred fifty dollars plus ~~two tenths~~ 39091
thirty-five hundredths of one per cent of the estimated project 39092
cost, except that the total fee shall not exceed ~~fifteen~~ twenty 39093
thousand dollars through June 30, ~~2004~~ 2006, and ~~five~~ fifteen 39094
thousand dollars on and after July 1, ~~2004~~ 2006. The fee shall be 39095
paid at the time the application is submitted. 39096

(2) A person who has entered into an agreement with the 39097
director under division (A)(2) of section 6109.07 of the Revised 39098
Code shall pay an administrative service fee for each plan 39099
submitted under that section for approval that shall not exceed 39100
the minimum amount necessary to pay administrative costs directly 39101
attributable to processing plan approvals. The director annually 39102
shall calculate the fee and shall notify all persons that have 39103
entered into agreements under that division, or who have applied 39104
for agreements, of the amount of the fee. 39105

(3) Through June 30, ~~2004~~ 2006, the following fee, on a per 39106
survey basis, shall be charged any person for services rendered by 39107
the state in the evaluation of laboratories and laboratory 39108
personnel for compliance with accepted analytical techniques and 39109
procedures established pursuant to Chapter 6109. of the Revised 39110
Code for determining the qualitative characteristics of water: 39111

microbiological	\$1,650	39112
<u>MMO-MUG</u>	<u>\$2,000</u>	39113
<u>MF</u>	<u>2,100</u>	39114
<u>MMO-MUG and MF</u>	<u>2,550</u>	39115

organic chemical	3,500 <u>5,400</u>	39116
inorganic chemical <u>trace</u>	3,500 <u>5,400</u>	39117
<u>metals</u>		
standard chemistry	1,800 <u>2,800</u>	39118
limited chemistry	1,000 <u>1,550</u>	39119

On and after July 1, ~~2004~~ 2006, the following fee, on a per survey basis, shall be charged any such person:

microbiological	\$250 <u>1,650</u>	39122
<u>organic chemicals</u>	<u>3,500</u>	39123
chemical/radiological <u>trace</u>	250 <u>3,500</u>	39124
<u>metals</u>		
<u>standard chemistry</u>	<u>1,800</u>	39125
nitrate/turbidity (only)	150 <u>1,000</u>	39126
<u>limited chemistry</u>		

The fee for those services shall be paid at the time the request for the survey is made. Through June 30, ~~2004~~ 2006, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period unless the person requests the addition of analytical methods or analysts, in which case the person shall pay eighteen hundred dollars for each additional survey requested.

As used in division (N)(3) of this section:

(a) "MF" means microfiltration.

(b) "MMO" means minimal medium ONPG.

(c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide.

(d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(O) Any person applying to the director for examination for certification as an operator of a water supply system or wastewater system under Chapter 6109. or 6111. of the Revised Code, at the time the application is submitted, shall pay an application fee of twenty-five dollars through ~~June~~ November 30, 2004, and ~~ten dollars on and after July 1, 2004~~ 2003. Upon approval from the director that the applicant is eligible to take the examination therefor, the applicant shall pay a fee in accordance with the following schedule through ~~June~~ November 30, 2004 2003:

Class I operator	\$45	39153
Class II operator	55	39154
Class III operator	65	39155
Class IV operator	75	39156

On and after December 1, 2003, any person applying to the director for examination for certification as an operator of a water supply system or wastewater system under Chapter 6109. or 6111. of the Revised Code, at the time the application is submitted, shall pay an application fee of forty-five dollars through November 30, 2006, and twenty-five dollars on and after December 1, 2006. Upon approval from the director that the applicant is eligible to take the examination therefor, the applicant shall pay a fee in accordance with the following schedule through November 30, 2006:

<u>Class A operator</u>	<u>\$35</u>	39167
<u>Class I operator</u>	<u>60</u>	39168
<u>Class II operator</u>	<u>75</u>	39169
<u>Class III operator</u>	<u>85</u>	39170
<u>Class IV operator</u>	<u>100</u>	39171

On and after ~~July~~ December 1, 2004 2006, the applicant shall pay a fee in accordance with the following schedule:

<u>Class A operator</u>	<u>\$25</u>	39174
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Class I operator	\$ 25 <u>45</u>	39175
Class II operator	35 <u>55</u>	39176
Class III operator	45 <u>65</u>	39177
Class IV operator	55 <u>75</u>	39178

A person shall pay a biennial certification renewal fee for 39179
each applicable class of certification in accordance with the 39180
following schedule: 39181

<u>Class A operator</u>	<u>\$25</u>	39182
<u>Class I operator</u>	<u>35</u>	39183
<u>Class II operator</u>	<u>45</u>	39184
<u>Class III operator</u>	<u>55</u>	39185
<u>Class IV operator</u>	<u>65</u>	39186

If a certification renewal fee is received by the director 39187
more than thirty days, but not more than one year after the 39188
expiration date of the certification, the person shall pay a 39189
certification renewal fee in accordance with the following 39190
schedule: 39191

<u>Class A operator</u>	<u>\$45</u>	39192
<u>Class I operator</u>	<u>55</u>	39193
<u>Class II operator</u>	<u>65</u>	39194
<u>Class III operator</u>	<u>75</u>	39195
<u>Class IV operator</u>	<u>85</u>	39196

A person who requests a replacement certificate shall pay a 39197
fee of twenty-five dollars at the time the request is made. 39198

The director shall transmit all moneys collected under this 39199
division to the treasurer of state for deposit into the drinking 39200
water protection fund created in section 6109.30 of the Revised 39201
Code. 39202

(P) ~~Through June 30, 2004, any~~ Any person submitting an 39203
application for an industrial water pollution control certificate 39204
under section 6111.31 of the Revised Code, as that section existed 39205

before its repeal by H.B. 95 of the 125th general assembly, shall 39206
pay a nonrefundable fee of five hundred dollars at the time the 39207
application is submitted. The director shall transmit all moneys 39208
collected under this division to the treasurer of state for 39209
deposit into the surface water protection fund created in section 39210
6111.038 of the Revised Code. A person paying a certificate fee 39211
under this division shall not pay an application fee under 39212
division (S)(1) of this section. On and after the effective date 39213
of this amendment, persons shall file such applications and pay 39214
the fee as required under sections 5709.20 to 5709.27 of the 39215
Revised Code, and proceeds from the fee shall be credited as 39216
provided in section 5709.212 of the Revised Code. 39217

(Q) Except as otherwise provided in division (R) of this 39218
section, a person issued a permit by the director for a new solid 39219
waste disposal facility other than an incineration or composting 39220
facility, a new infectious waste treatment facility other than an 39221
incineration facility, or a modification of such an existing 39222
facility that includes an increase in the total disposal or 39223
treatment capacity of the facility pursuant to Chapter 3734. of 39224
the Revised Code shall pay a fee of ten dollars per thousand cubic 39225
yards of disposal or treatment capacity, or one thousand dollars, 39226
whichever is greater, except that the total fee for any such 39227
permit shall not exceed eighty thousand dollars. A person issued a 39228
modification of a permit for a solid waste disposal facility or an 39229
infectious waste treatment facility that does not involve an 39230
increase in the total disposal or treatment capacity of the 39231
facility shall pay a fee of one thousand dollars. A person issued 39232
a permit to install a new, or modify an existing, solid waste 39233
transfer facility under that chapter shall pay a fee of two 39234
thousand five hundred dollars. A person issued a permit to install 39235
a new or to modify an existing solid waste incineration or 39236
composting facility, or an existing infectious waste treatment 39237
facility using incineration as its principal method of treatment, 39238

under that chapter shall pay a fee of one thousand dollars. The 39239
increases in the permit fees under this division resulting from 39240
the amendments made by Amended Substitute House Bill 592 of the 39241
117th general assembly do not apply to any person who submitted an 39242
application for a permit to install a new, or modify an existing, 39243
solid waste disposal facility under that chapter prior to 39244
September 1, 1987; any such person shall pay the permit fee 39245
established in this division as it existed prior to June 24, 1988. 39246
In addition to the applicable permit fee under this division, a 39247
person issued a permit to install or modify a solid waste facility 39248
or an infectious waste treatment facility under that chapter who 39249
fails to pay the permit fee to the director in compliance with 39250
division (V) of this section shall pay an additional ten per cent 39251
of the amount of the fee for each week that the permit fee is 39252
late. 39253

Permit and late payment fees paid to the director under this 39254
division shall be credited to the general revenue fund. 39255

(R)(1) A person issued a registration certificate for a scrap 39256
tire collection facility under section 3734.75 of the Revised Code 39257
shall pay a fee of two hundred dollars, except that if the 39258
facility is owned or operated by a motor vehicle salvage dealer 39259
licensed under Chapter 4738. of the Revised Code, the person shall 39260
pay a fee of twenty-five dollars. 39261

(2) A person issued a registration certificate for a new 39262
scrap tire storage facility under section 3734.76 of the Revised 39263
Code shall pay a fee of three hundred dollars, except that if the 39264
facility is owned or operated by a motor vehicle salvage dealer 39265
licensed under Chapter 4738. of the Revised Code, the person shall 39266
pay a fee of twenty-five dollars. 39267

(3) A person issued a permit for a scrap tire storage 39268
facility under section 3734.76 of the Revised Code shall pay a fee 39269
of one thousand dollars, except that if the facility is owned or 39270

operated by a motor vehicle salvage dealer licensed under Chapter 39271
4738. of the Revised Code, the person shall pay a fee of fifty 39272
dollars. 39273

(4) A person issued a permit for a scrap tire monocell or 39274
monofill facility under section 3734.77 of the Revised Code shall 39275
pay a fee of ten dollars per thousand cubic yards of disposal 39276
capacity or one thousand dollars, whichever is greater, except 39277
that the total fee for any such permit shall not exceed eighty 39278
thousand dollars. 39279

(5) A person issued a registration certificate for a scrap 39280
tire recovery facility under section 3734.78 of the Revised Code 39281
shall pay a fee of one hundred dollars. 39282

(6) A person issued a permit for a scrap tire recovery 39283
facility under section 3734.78 of the Revised Code shall pay a fee 39284
of one thousand dollars. 39285

(7) In addition to the applicable registration certificate or 39286
permit fee under divisions (R)(1) to (6) of this section, a person 39287
issued a registration certificate or permit for any such scrap 39288
tire facility who fails to pay the registration certificate or 39289
permit fee to the director in compliance with division (V) of this 39290
section shall pay an additional ten per cent of the amount of the 39291
fee for each week that the fee is late. 39292

(8) The registration certificate, permit, and late payment 39293
fees paid to the director under divisions (R)(1) to (7) of this 39294
section shall be credited to the scrap tire management fund 39295
created in section 3734.82 of the Revised Code. 39296

(S)(1) Except as provided by divisions (L), (M), (N), (O), 39297
(P), and (S)(2) of this section, division (A)(2) of section 39298
3734.05 of the Revised Code, section 3734.79 of the Revised Code, 39299
and rules adopted under division (T)(1) of this section, any 39300
person applying for a registration certificate under section 39301

3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, 39302
variance, or plan approval under Chapter 3734. of the Revised Code 39303
shall pay a nonrefundable fee of fifteen dollars at the time the 39304
application is submitted. 39305

Except as otherwise provided, any person applying for a 39306
permit, variance, or plan approval under Chapter 6109. or 6111. of 39307
the Revised Code shall pay a nonrefundable fee of one hundred 39308
dollars at the time the application is submitted through June 30, 39309
~~2004~~ 2006, and a nonrefundable fee of fifteen dollars at the time 39310
the application is submitted on and after July 1, ~~2004~~ 2006. 39311
Through June 30, ~~2004~~ 2006, any person applying for a national 39312
pollutant discharge elimination system permit under Chapter 6111. 39313
of the Revised Code shall pay a nonrefundable fee of two hundred 39314
dollars at the time of application for the permit. On and after 39315
July 1, ~~2004~~ 2006, such a person shall pay a nonrefundable fee of 39316
fifteen dollars at the time of application. 39317

In addition to the application fee established under division 39318
(S)(1) of this section, any person applying for a national 39319
pollutant discharge elimination system general storm water 39320
construction permit shall pay a nonrefundable fee of twenty 39321
dollars per acre for each acre that is permitted above five acres 39322
at the time the application is submitted. However, the per acreage 39323
fee shall not exceed three hundred dollars. In addition, any 39324
person applying for a national pollutant discharge elimination 39325
system general storm water industrial permit shall pay a 39326
nonrefundable fee of one hundred fifty dollars at the time the 39327
application is submitted. 39328

The director shall transmit all moneys collected under 39329
division (S)(1) of this section pursuant to Chapter 6109. of the 39330
Revised Code to the treasurer of state for deposit into the 39331
drinking water protection fund created in section 6109.30 of the 39332
Revised Code. 39333

The director shall transmit all moneys collected under 39334
division (S)(1) of this section pursuant to Chapter 6111. of the 39335
Revised Code to the treasurer of state for deposit into the 39336
surface water protection fund created in section 6111.038 of the 39337
Revised Code. 39338

If a registration certificate is issued under section 39339
3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of 39340
the application fee paid shall be deducted from the amount of the 39341
registration certificate fee due under division (R)(1), (2), or 39342
(5) of this section, as applicable. 39343

If a person submits an electronic application for a 39344
registration certificate, permit, variance, or plan approval for 39345
which an application fee is established under division (S)(1) of 39346
this section, the person shall pay the applicable application fee 39347
as expeditiously as possible after the submission of the 39348
electronic application. An application for a registration 39349
certificate, permit, variance, or plan approval for which an 39350
application fee is established under division (S)(1) of this 39351
section shall not be reviewed or processed until the applicable 39352
application fee, and any other fees established under this 39353
division, are paid. 39354

(2) Division (S)(1) of this section does not apply to an 39355
application for a registration certificate for a scrap tire 39356
collection or storage facility submitted under section 3734.75 or 39357
3734.76 of the Revised Code, as applicable, if the owner or 39358
operator of the facility or proposed facility is a motor vehicle 39359
salvage dealer licensed under Chapter 4738. of the Revised Code. 39360

(T) The director may adopt, amend, and rescind rules in 39361
accordance with Chapter 119. of the Revised Code that do all of 39362
the following: 39363

(1) Prescribe fees to be paid by applicants for and holders 39364

of any license, permit, variance, plan approval, or certification 39365
required or authorized by Chapter 3704., 3734., 6109., or 6111. of 39366
the Revised Code that are not specifically established in this 39367
section. The fees shall be designed to defray the cost of 39368
processing, issuing, revoking, modifying, denying, and enforcing 39369
the licenses, permits, variances, plan approvals, and 39370
certifications. 39371

The director shall transmit all moneys collected under rules 39372
adopted under division (T)(1) of this section pursuant to Chapter 39373
6109. of the Revised Code to the treasurer of state for deposit 39374
into the drinking water protection fund created in section 6109.30 39375
of the Revised Code. 39376

The director shall transmit all moneys collected under rules 39377
adopted under division (T)(1) of this section pursuant to Chapter 39378
6111. of the Revised Code to the treasurer of state for deposit 39379
into the surface water protection fund created in section 6111.038 39380
of the Revised Code. 39381

(2) Exempt the state and political subdivisions thereof, 39382
including education facilities or medical facilities owned by the 39383
state or a political subdivision, or any person exempted from 39384
taxation by section 5709.07 or 5709.12 of the Revised Code, from 39385
any fee required by this section; 39386

(3) Provide for the waiver of any fee, or any part thereof, 39387
otherwise required by this section whenever the director 39388
determines that the imposition of the fee would constitute an 39389
unreasonable cost of doing business for any applicant, class of 39390
applicants, or other person subject to the fee; 39391

(4) Prescribe measures that the director considers necessary 39392
to carry out this section. 39393

(U) When the director reasonably demonstrates that the direct 39394
cost to the state associated with the issuance of a permit to 39395

install, license, variance, plan approval, or certification 39396
exceeds the fee for the issuance or review specified by this 39397
section, the director may condition the issuance or review on the 39398
payment by the person receiving the issuance or review of, in 39399
addition to the fee specified by this section, the amount, or any 39400
portion thereof, in excess of the fee specified under this 39401
section. The director shall not so condition issuances for which 39402
fees are prescribed in divisions (B)(7) and (L)(1)(b) of this 39403
section. 39404

(V) Except as provided in divisions (L), (M), and (P) of this 39405
section or unless otherwise prescribed by a rule of the director 39406
adopted pursuant to Chapter 119. of the Revised Code, all fees 39407
required by this section are payable within thirty days after the 39408
issuance of an invoice for the fee by the director or the 39409
effective date of the issuance of the license, permit, variance, 39410
plan approval, or certification. If payment is late, the person 39411
responsible for payment of the fee shall pay an additional ten per 39412
cent of the amount due for each month that it is late. 39413

(W) As used in this section, "fuel-burning equipment," 39414
"fuel-burning equipment input capacity," "incinerator," 39415
"incinerator input capacity," "process," "process weight rate," 39416
"storage tank," "gasoline dispensing facility," "dry cleaning 39417
facility," "design flow discharge," and "new source treatment 39418
works" have the meanings ascribed to those terms by applicable 39419
rules or standards adopted by the director under Chapter 3704. or 39420
6111. of the Revised Code. 39421

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), 39422
and (J) of this section, and in any other provision of this 39423
section pertaining to fees paid pursuant to Chapter 3704. of the 39424
Revised Code: 39425

(1) "Facility," "federal Clean Air Act," "person," and "Title 39426
V permit" have the same meanings as in section 3704.01 of the 39427

Revised Code.	39428
(2) "Title V permit program" means the following activities as necessary to meet the requirements of Title V of the federal Clean Air Act and 40 C.F.R. part 70, including at least:	39429 39430 39431
(a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement;	39432 39433 39434
(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;	39435 39436 39437 39438
(c) Administering the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry;	39439 39440 39441
(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;	39442 39443 39444
(e) Emission and ambient monitoring;	39445
(f) Modeling, analyses, or demonstrations;	39446
(g) Preparing inventories and tracking emissions;	39447
(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.	39448 39449 39450 39451 39452 39453 39454
(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	39455 39456 39457

cents per dry ton of sewage sludge, including the dry tons of 39458
sewage sludge in materials derived from sewage sludge, that the 39459
sewage sludge facility treats or disposes of in this state. The 39460
annual volume of sewage sludge treated or disposed of by a sewage 39461
sludge facility shall be calculated using the first day of January 39462
through the thirty-first day of December of the calendar year 39463
preceding the date on which payment of the fee is due. 39464

(2)(a) Except as provided in division (Y)(2)(d) of this 39465
section, each sewage sludge facility shall pay a minimum annual 39466
sewage sludge fee of one hundred dollars. 39467

(b) The annual sludge fee required to be paid by a sewage 39468
sludge facility that treats or disposes of exceptional quality 39469
sludge in this state shall be thirty-five per cent less per dry 39470
ton of exceptional quality sludge than the fee assessed under 39471
division (Y)(1) of this section, subject to the following 39472
exceptions: 39473

(i) Except as provided in division (Y)(2)(d) of this section, 39474
a sewage sludge facility that treats or disposes of exceptional 39475
quality sludge shall pay a minimum annual sewage sludge fee of one 39476
hundred dollars. 39477

(ii) A sewage sludge facility that treats or disposes of 39478
exceptional quality sludge shall not be required to pay the annual 39479
sludge fee for treatment or disposal in this state of exceptional 39480
quality sludge generated outside of this state and contained in 39481
bags or other containers not greater than one hundred pounds in 39482
capacity. 39483

A thirty-five per cent reduction for exceptional quality 39484
sludge applies to the maximum annual fees established under 39485
division (Y)(3) of this section. 39486

(c) A sewage sludge facility that transfers sewage sludge to 39487
another sewage sludge facility in this state for further treatment 39488

prior to disposal in this state shall not be required to pay the 39489
annual sludge fee for the tons of sewage sludge that have been 39490
transferred. In such a case, the sewage sludge facility that 39491
disposes of the sewage sludge shall pay the annual sludge fee. 39492
However, the facility transferring the sewage sludge shall pay the 39493
one-hundred-dollar minimum fee required under division (Y)(2)(a) 39494
of this section. 39495

In the case of a sewage sludge facility that treats sewage 39496
sludge in this state and transfers it out of this state to another 39497
entity for disposal, the sewage sludge facility in this state 39498
shall be required to pay the annual sludge fee for the tons of 39499
sewage sludge that have been transferred. 39500

(d) A sewage sludge facility that generates sewage sludge 39501
resulting from an average daily discharge flow of less than five 39502
thousand gallons per day is not subject to the fees assessed under 39503
division (Y) of this section. 39504

(3) No sewage sludge facility required to pay the annual 39505
sludge fee shall be required to pay more than the maximum annual 39506
fee for each disposal method that the sewage sludge facility uses. 39507
The maximum annual fee does not include the additional amount that 39508
may be charged under division (Y)(5) of this section for late 39509
payment of the annual sludge fee. The maximum annual fee for the 39510
following methods of disposal of sewage sludge is as follows: 39511

(a) Incineration: five thousand dollars; 39512

(b) Preexisting land reclamation project or disposal in a 39513
landfill: five thousand dollars; 39514

(c) Land application, land reclamation, surface disposal, or 39515
any other disposal method not specified in division (Y)(3)(a) or 39516
(b) of this section: twenty thousand dollars. 39517

(4)(a) In the case of an entity that generates sewage sludge 39518
or a sewage sludge facility that treats sewage sludge and 39519

transfers the sewage sludge to an incineration facility for 39520
disposal, the incineration facility, and not the entity generating 39521
the sewage sludge or the sewage sludge facility treating the 39522
sewage sludge, shall pay the annual sludge fee for the tons of 39523
sewage sludge that are transferred. However, the entity or 39524
facility generating or treating the sewage sludge shall pay the 39525
one-hundred-dollar minimum fee required under division (Y)(2)(a) 39526
of this section. 39527

(b) In the case of an entity that generates sewage sludge and 39528
transfers the sewage sludge to a landfill for disposal or to a 39529
sewage sludge facility for land reclamation or surface disposal, 39530
the entity generating the sewage sludge, and not the landfill or 39531
sewage sludge facility, shall pay the annual sludge fee for the 39532
tons of sewage sludge that are transferred. 39533

(5) Not later than the first day of April of the calendar 39534
year following March 17, 2000, and each first day of April 39535
thereafter, the director shall issue invoices to persons who are 39536
required to pay the annual sludge fee. The invoice shall identify 39537
the nature and amount of the annual sludge fee assessed and state 39538
the first day of May as the deadline for receipt by the director 39539
of objections regarding the amount of the fee and the first day of 39540
July as the deadline for payment of the fee. 39541

Not later than the first day of May following receipt of an 39542
invoice, a person required to pay the annual sludge fee may submit 39543
objections to the director concerning the accuracy of information 39544
regarding the number of dry tons of sewage sludge used to 39545
calculate the amount of the annual sludge fee or regarding whether 39546
the sewage sludge qualifies for the exceptional quality sludge 39547
discount established in division (Y)(2)(b) of this section. The 39548
director may consider the objections and adjust the amount of the 39549
fee to ensure that it is accurate. 39550

If the director does not adjust the amount of the annual 39551

sludge fee in response to a person's objections, the person may 39552
appeal the director's determination in accordance with Chapter 39553
119. of the Revised Code. 39554

Not later than the first day of June, the director shall 39555
notify the objecting person regarding whether the director has 39556
found the objections to be valid and the reasons for the finding. 39557
If the director finds the objections to be valid and adjusts the 39558
amount of the annual sludge fee accordingly, the director shall 39559
issue with the notification a new invoice to the person 39560
identifying the amount of the annual sludge fee assessed and 39561
stating the first day of July as the deadline for payment. 39562

Not later than the first day of July, any person who is 39563
required to do so shall pay the annual sludge fee. Any person who 39564
is required to pay the fee, but who fails to do so on or before 39565
that date shall pay an additional amount that equals ten per cent 39566
of the required annual sludge fee. 39567

(6) The director shall transmit all moneys collected under 39568
division (Y) of this section to the treasurer of state for deposit 39569
into the surface water protection fund created in section 6111.038 39570
of the Revised Code. The moneys shall be used to defray the costs 39571
of administering and enforcing provisions in Chapter 6111. of the 39572
Revised Code and rules adopted under it that govern the use, 39573
storage, treatment, or disposal of sewage sludge. 39574

(7) Beginning in fiscal year 2001, and every two years 39575
thereafter, the director shall review the total amount of moneys 39576
generated by the annual sludge fees to determine if that amount 39577
exceeded six hundred thousand dollars in either of the two 39578
preceding fiscal years. If the total amount of moneys in the fund 39579
exceeded six hundred thousand dollars in either fiscal year, the 39580
director, after review of the fee structure and consultation with 39581
affected persons, shall issue an order reducing the amount of the 39582
fees levied under division (Y) of this section so that the 39583

estimated amount of moneys resulting from the fees will not exceed 39584
six hundred thousand dollars in any fiscal year. 39585

If, upon review of the fees under division (Y)(7) of this 39586
section and after the fees have been reduced, the director 39587
determines that the total amount of moneys collected and 39588
accumulated is less than six hundred thousand dollars, the 39589
director, after review of the fee structure and consultation with 39590
affected persons, may issue an order increasing the amount of the 39591
fees levied under division (Y) of this section so that the 39592
estimated amount of moneys resulting from the fees will be 39593
approximately six hundred thousand dollars. Fees shall never be 39594
increased to an amount exceeding the amount specified in division 39595
(Y)(7) of this section. 39596

Notwithstanding section 119.06 of the Revised Code, the 39597
director may issue an order under division (Y)(7) of this section 39598
without the necessity to hold an adjudicatory hearing in 39599
connection with the order. The issuance of an order under this 39600
division is not an act or action for purposes of section 3745.04 39601
of the Revised Code. 39602

(8) As used in division (Y) of this section: 39603

(a) "Sewage sludge facility" means an entity that performs 39604
treatment on or is responsible for the disposal of sewage sludge. 39605

(b) "Sewage sludge" means a solid, semi-solid, or liquid 39606
residue generated during the treatment of domestic sewage in a 39607
treatment works as defined in section 6111.01 of the Revised Code. 39608
"Sewage sludge" includes, but is not limited to, scum or solids 39609
removed in primary, secondary, or advanced wastewater treatment 39610
processes. "Sewage sludge" does not include ash generated during 39611
the firing of sewage sludge in a sewage sludge incinerator, grit 39612
and screenings generated during preliminary treatment of domestic 39613
sewage in a treatment works, animal manure, residue generated 39614

during treatment of animal manure, or domestic septage. 39615

(c) "Exceptional quality sludge" means sewage sludge that 39616
meets all of the following qualifications: 39617

(i) Satisfies the class A pathogen standards in 40 C.F.R. 39618
503.32(a); 39619

(ii) Satisfies one of the vector attraction reduction 39620
requirements in 40 C.F.R. 503.33(b)(1) to (b)(8); 39621

(iii) Does not exceed the ceiling concentration limitations 39622
for metals listed in table one of 40 C.F.R. 503.13; 39623

(iv) Does not exceed the concentration limitations for metals 39624
listed in table three of 40 C.F.R. 503.13. 39625

(d) "Treatment" means the preparation of sewage sludge for 39626
final use or disposal and includes, but is not limited to, 39627
thickening, stabilization, and dewatering of sewage sludge. 39628

(e) "Disposal" means the final use of sewage sludge, 39629
including, but not limited to, land application, land reclamation, 39630
surface disposal, or disposal in a landfill or an incinerator. 39631

(f) "Land application" means the spraying or spreading of 39632
sewage sludge onto the land surface, the injection of sewage 39633
sludge below the land surface, or the incorporation of sewage 39634
sludge into the soil for the purposes of conditioning the soil or 39635
fertilizing crops or vegetation grown in the soil. 39636

(g) "Land reclamation" means the returning of disturbed land 39637
to productive use. 39638

(h) "Surface disposal" means the placement of sludge on an 39639
area of land for disposal, including, but not limited to, 39640
monofills, surface impoundments, lagoons, waste piles, or 39641
dedicated disposal sites. 39642

(i) "Incinerator" means an entity that disposes of sewage 39643
sludge through the combustion of organic matter and inorganic 39644

matter in sewage sludge by high temperatures in an enclosed 39645
device. 39646

(j) "Incineration facility" includes all incinerators owned 39647
or operated by the same entity and located on a contiguous tract 39648
of land. Areas of land are considered to be contiguous even if 39649
they are separated by a public road or highway. 39650

(k) "Annual sludge fee" means the fee assessed under division 39651
(Y)(1) of this section. 39652

(l) "Landfill" means a sanitary landfill facility, as defined 39653
in rules adopted under section 3734.02 of the Revised Code, that 39654
is licensed under section 3734.05 of the Revised Code. 39655

(m) "Preexisting land reclamation project" means a 39656
property-specific land reclamation project that has been in 39657
continuous operation for not less than five years pursuant to 39658
approval of the activity by the director and includes the 39659
implementation of a community outreach program concerning the 39660
activity. 39661

Sec. 3745.14. (A) As used in this section: 39662

(1) "Compliance review" means the review of an application 39663
for a permit, renewal of a permit, or plan approval, or 39664
modification thereof, for an existing or proposed facility, 39665
source, or activity and the accompanying engineering plans, 39666
specifications, and materials and information that are submitted 39667
under Chapter 3704., 3734., 6109., or 6111. of the Revised Code 39668
and rules adopted under them for compliance with performance 39669
standards under the applicable chapter and rules adopted under it. 39670
"Compliance review" does not include the review of an application 39671
for a hazardous waste facility installation and operation permit 39672
or the renewal or modification of such a permit, a permit to 39673
establish or modify an infectious waste treatment facility, a 39674

permit to install a solid waste incineration facility that also 39675
would treat infectious wastes, or a permit to modify a solid waste 39676
incineration facility to also treat infectious wastes under 39677
Chapter 3734. of the Revised Code. 39678

(2) "Engineer" includes both of the following: 39679

(a) A professional engineer registered under Chapter 4733. of 39680
the Revised Code; 39681

(b) A firm, partnership, association, or corporation 39682
providing engineering services in this state in compliance with 39683
Chapter 4733. of the Revised Code. 39684

(B) The director of environmental protection, in accordance 39685
with Chapter 119. of the Revised Code, shall adopt, and may amend 39686
and rescind, rules establishing a program for the certification of 39687
engineers to conduct compliance reviews. The rules, at a minimum, 39688
shall do all of the following: 39689

(1) Require that the program be administered by the director; 39690

(2) Establish eligibility criteria for certification to 39691
conduct compliance reviews; 39692

(3) Establish criteria for denying, suspending, and revoking 39693
certifications and renewals of certifications issued pursuant to 39694
rules adopted under division (B) of this section; 39695

(4) Require the periodic renewal of certifications issued 39696
pursuant to rules adopted under division (B) of this section; 39697

(5) Establish an application fee and fee for issuance for 39698
certifications under this section. The fees shall be established 39699
at a level calculated to defray the costs to the environmental 39700
protection agency for administering the certification program 39701
established by rules adopted under division (B) of this section. 39702
All such application and certification fees received by the 39703
director shall be deposited into the state treasury to the credit 39704

of the permit review fund created in division (E) of this section. 39705

(C) The director shall maintain a current list of all 39706
engineers who are certified to conduct compliance reviews pursuant 39707
to rules adopted under this section. The list shall indicate the 39708
types of permits, permit renewals, and plan approvals that each 39709
engineer is certified to review and the types or categories of 39710
facilities, sources, or activities in connection with which the 39711
engineer is certified to conduct the reviews. Upon request, the 39712
director shall provide a copy of the list to anyone requesting it. 39713

(D) An applicant for a permit, renewal of a permit, plan 39714
approval, or modification thereof, under Chapter 3704., 3734., 39715
6109., or 6111. of the Revised Code and applicable rules adopted 39716
under them, other than a hazardous waste facility installation and 39717
operation permit or renewal or modification of such a permit, a 39718
permit to establish or modify an infectious waste treatment 39719
facility, a permit to install a solid waste incineration facility 39720
that also would treat infectious wastes, or a permit to modify a 39721
solid waste incineration facility to also treat infectious wastes 39722
under Chapter 3734. of the Revised Code, may submit a written 39723
request to the director to have the compliance review conducted by 39724
an engineer certified under this section. The request shall 39725
accompany the permit application, shall indicate the applicant's 39726
choice from among the certified engineers on the director's list 39727
who are qualified to conduct the compliance review, shall be 39728
accompanied by separate certifications by the applicant and the 39729
engineer indicating that the applicant does not have and has not 39730
had during the preceding two years a financial interest in the 39731
engineer and has not employed or retained the engineer to perform 39732
services for the applicant during the preceding two years, and may 39733
be accompanied by a draft proposal for conducting the compliance 39734
review that was developed by the applicant and the engineer. No 39735
such draft proposal is binding upon the director. 39736

Within seven days after receiving a request under this 39737
division, the director shall do all of the following, as 39738
appropriate: 39739

(1) In the director's discretion, approve or disapprove the 39740
applicant's request to have the compliance review of the 39741
application conducted by an engineer on the list of certified 39742
engineers prepared under this section; 39743

(2) If the director approves the conducting of the compliance 39744
review by such a certified engineer, approve or disapprove, in the 39745
director's discretion, the applicant's choice of the engineer; 39746

(3) Mail written notice of decisions made under divisions 39747
(D)(1) and (2) of this section to the applicant. 39748

If the director fails to mail notice of the director's 39749
decisions on the request to the applicant within seven days after 39750
receiving the request, it is conclusively presumed that the 39751
director approved the applicant's request to have the compliance 39752
review conducted by a certified engineer and the applicant's 39753
choice of the engineer, and the director shall enter into a 39754
contract with the engineer chosen by the applicant. If the 39755
director disapproves the applicant's choice of an engineer and 39756
provides timely notice of the disapproval to the applicant, the 39757
director and applicant, by mutual agreement, shall select another 39758
engineer from the list prepared under this section to conduct the 39759
compliance review, and the director shall enter into a contract 39760
with that engineer. 39761

(E) The director may enter into contracts for conducting 39762
performance reviews under division (D) of this section without 39763
advertising for bids. The commencement of any work under such a 39764
contract shall be contingent upon the director's receipt of 39765
payment from the applicant of an amount that is equal to one 39766
hundred ten per cent of the amount specified in the contract, 39767

excluding contingencies for any additional work that may be needed 39768
to properly complete the review and that was not anticipated when 39769
the contract was made. Moneys received by the director from an 39770
applicant shall be deposited into the permit review fund, which is 39771
hereby created in the state treasury. The director shall use 39772
moneys in the fund to pay the cost of compliance reviews conducted 39773
pursuant to contracts entered into under division (D) of this 39774
section and to administer the certification program established 39775
under division (B) of this section. The director may use any 39776
moneys in the fund not needed for those purposes to administer the 39777
environmental laws or programs of this state. 39778

If, while conducting a compliance review, the engineer finds 39779
that work in addition to that upon which the cost under the 39780
contract was based, or any additional work previously authorized 39781
under this division, is needed to properly review the application 39782
and accompanying information for compliance with the applicable 39783
performance standards, the engineer shall notify the director of 39784
that fact and of the cost of the additional work, as determined 39785
pursuant to the terms of the contract. If the director finds that 39786
the additional work is needed and that the costs of performing the 39787
work have been determined in accordance with the terms of the 39788
contract, the director shall authorize the contractor to perform 39789
the work. Upon completion of the additional work, the contractor 39790
shall submit to the director an invoice for the cost of performing 39791
the additional work, and the director shall forward a copy of the 39792
invoice to the applicant. The applicant is liable to the state for 39793
an amount equal to one hundred ten per cent of the cost of 39794
performing the additional work and, within thirty days after 39795
receiving a copy of the invoice, shall pay to the director an 39796
amount equal to one hundred ten per cent of the amount indicated 39797
on the invoice. Upon receiving this payment, the director shall 39798
forward the moneys to the treasurer of state, who shall deposit 39799
them into the state treasury to the credit of the permit review 39800

fund. 39801

Until the applicant pays to the director the amount due in 39802
connection with the additional work, the director shall not issue 39803
to the applicant any permit, renewal of a permit, or plan 39804
approval, or modification thereof, for which an application is 39805
pending before the director. The director also may certify the 39806
unpaid amount to the attorney general and request that the 39807
attorney general bring a civil action against the applicant to 39808
recover that amount. Any moneys so recovered shall be deposited 39809
into the state treasury to the credit of the permit review fund. 39810

(F) Upon completing a compliance review conducted under this 39811
section, the engineer shall make a certification to the director 39812
as to whether the existing or proposed facility, source, activity, 39813
or modification will comply with the applicable performance 39814
standards. If the certification indicates that the existing or 39815
proposed facility, source, activity, or modification will not 39816
comply, the engineer shall include in the certification the 39817
engineer's findings as to the causes of the noncompliance. 39818

(G) When a compliance review is conducted by an engineer 39819
certified under this section, the other activities in connection 39820
with the consideration, approval, and issuance of the permit, 39821
renewal of the permit, or plan approval, or modification thereof, 39822
shall be conducted by the director ~~or, when applicable, the~~ 39823
~~hazardous waste facility board established in section 3734.05 of~~ 39824
~~the Revised Code,~~ in accordance with the applicable provisions of 39825
Chapter 3704., 3734., 6109., or 6111. of the Revised Code and 39826
rules adopted under the applicable chapter. 39827

(H) All expenses incurred by the attorney general in bringing 39828
a civil action under this section shall be reimbursed from the 39829
permit review fund in accordance with Chapter 109. of the Revised 39830
Code. 39831

Sec. 3745.40. (A) There is hereby created the clean Ohio 39832
operating fund consisting of moneys credited to the fund in 39833
accordance with this section. The fund shall be used to pay the 39834
costs incurred by the director of environmental protection 39835
pursuant to sections 122.65 to 122.658 of the Revised Code. 39836
Investment earnings of the fund shall be credited to the fund. ~~For~~ 39837
~~two years after the effective date of this section, investment~~ 39838
~~earnings credited to the fund~~ and may be used to pay 39839
administrative costs incurred by the director pursuant to those 39840
sections. 39841

(B) Notwithstanding section 3746.16 of the Revised Code, upon 39842
the request of the director of environmental protection, the 39843
director of development shall certify to the director of budget 39844
and management the amount of excess investment earnings that are 39845
available to be transferred from the clean Ohio revitalization 39846
fund created in section 122.658 of the Revised Code to the clean 39847
Ohio operating fund. Upon certification, the director of budget 39848
and management may transfer from the clean Ohio revitalization 39849
fund to the clean Ohio operating fund an amount not exceeding the 39850
amount of the annual appropriation to the clean Ohio operating 39851
fund. 39852

Sec. 3746.02. (A) Nothing in this chapter applies to any of 39853
the following: 39854

(1) Property for which a voluntary action under this chapter 39855
is precluded by federal law or regulations adopted under federal 39856
law, including, without limitation, any of the following federal 39857
laws or regulations adopted thereunder: 39858

(a) The "Federal Water Pollution Control Act Amendments of 39859
1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended; 39860

(b) The "Resource Conservation and Recovery Act of 1976," 90 39861

Stat. 2806, 42 U.S.C.A. 6921, as amended;	39862
(c) The "Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended;	39863 39864
(d) The "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9601, as amended;	39865 39866 39867
(e) The "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended.	39868 39869
(2) Those portions of property where closure of a hazardous waste facility or solid waste facility is required under Chapter 3734. of the Revised Code or rules adopted under it;	39870 39871 39872
(3) Property or properties regardless of ownership that are subject to remediation rules adopted under the authority of the division of fire marshal in the department of commerce, including <u>public safety or under the authority of the superintendent of</u> <u>industrial compliance under</u> remediation rules adopted under sections 3737.88, 3737.882, and 3737.889 of the Revised Code;	39873 39874 39875 39876 39877 39878
(4) Property that is subject to Chapter 1509. of the Revised Code;	39879 39880
(5) Any other property if the director of environmental protection has issued a letter notifying the owner or operator of the property that he <u>the director</u> will issue an enforcement order under Chapter 3704., 3734., or 6111. of the Revised Code, a release or threatened release of a hazardous substance or petroleum from or at the property poses a substantial threat to public health or safety or the environment, and the person subject to the order does not present sufficient evidence to the director that he <u>the person</u> has entered into the voluntary action program under this chapter and is proceeding expeditiously to address that threat. For the purposes of this division, the evidence constituting sufficient evidence of entry into the voluntary	39881 39882 39883 39884 39885 39886 39887 39888 39889 39890 39891 39892

action program under this chapter shall be defined by the director 39893
by rules adopted under section 3746.04 of the Revised Code. Until 39894
such time as the director has adopted those rules, the director, 39895
at a minimum, shall consider the existence of a contract with a 39896
certified professional to appropriately respond to the threat 39897
named in the director's letter informing the person of ~~his~~ the 39898
director's intent to issue an enforcement order and the 39899
availability of financial resources to complete the contract to be 39900
sufficient evidence of entry into the program. 39901

(B) The application of any provision of division (A) of this 39902
section to a portion of property does not preclude participation 39903
in the voluntary action program under this chapter in connection 39904
with other portions of the property where those provisions do not 39905
apply. 39906

(C) As used in this section, "property" means any parcel of 39907
real property, or portion thereof, and any improvements thereto. 39908

Sec. 3746.13. (A) For property that does not involve the 39909
issuance of a consolidated standards permit under section 3746.15 39910
of the Revised Code and where no engineering or institutional 39911
controls are used to comply with applicable standards, the 39912
director of environmental protection shall issue a covenant not to 39913
sue pursuant to section 3746.12 of the Revised Code by issuance of 39914
an order as a final action under Chapter 3745. of the Revised Code 39915
within thirty days after the director receives the no further 39916
action letter for the property and accompanying verification from 39917
the certified professional who prepared the letter under section 39918
3746.11 of the Revised Code. 39919

(B) For property that involves the issuance of a consolidated 39920
standards permit under section 3746.15 of the Revised Code or 39921
where engineering or institutional controls are used to comply 39922
with applicable standards, the director shall issue a covenant not 39923

to sue by issuance of an order as a final action under Chapter 39924
3745. of the Revised Code within ninety days after the director 39925
receives the no further action letter for the property and 39926
accompanying verification from the certified professional who 39927
prepared the letter. 39928

(C) Except as provided in division (D) of this section, each 39929
person who is issued a covenant not to sue under this section 39930
shall pay the fee established pursuant to rules adopted under 39931
division (B)(8) of section 3746.04 of the Revised Code. Until 39932
those rules become effective, each person who is issued a covenant 39933
not to sue shall pay a fee of two thousand dollars. The fee shall 39934
be paid to the director at the time that the no further action 39935
letter and accompanying verification are submitted to the 39936
director. 39937

(D) An applicant, as defined in section 122.65 of the Revised 39938
Code, who has entered into an agreement under section 122.653 of 39939
the Revised Code and who is issued a covenant not to sue under 39940
this section shall not be required to pay the fee for the issuance 39941
of a covenant not to sue established in rules adopted under 39942
division (B)(8) of section 3746.04 of the Revised Code. 39943

Sec. 3747.16. (A) As provided in division (A)(17) of section 39944
3747.06 of the Revised Code, the staff of the board of directors 39945
of the Ohio low-level radioactive waste facility development 39946
authority shall negotiate with the legislative authority of the 39947
host community for the purpose of developing a compensation 39948
agreement. The agreement shall include compensation for all of the 39949
following: 39950

(1) Replacement of lost tax revenue due to public ownership 39951
of any property based on the amount of tax revenue that would have 39952
been received if the property had not been acquired by the 39953
authority on behalf of the state for use as a disposal site; 39954

(2) Improvements in the public infrastructure necessary to support development and operation of the facility; 39955
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(3) The hiring of employees to address the increased administrative workload resulting from siting the facility in the host community and to establish a local public information program; 39957
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(4) Enhanced emergency response capability, including, without limitation, personnel and equipment; 39961
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(5) The hiring of an independent, qualified inspector to be located at the facility during the period of construction and operation, with continuing responsibility to monitor all activities associated with closure, institutional control, and long-term care; 39963
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(6) Compensation for additional direct impacts not identified in divisions (A)(1) to (5) of this section that may result from siting the facility in the host community. 39968
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Following the negotiations, the board shall approve, approve with modifications requested by the board, or disapprove the agreement in accordance with division (A)(17) of section 3747.06 of the Revised Code. ~~If the staff of the board and the legislative authority of the host community fail to agree on a compensation agreement, the board shall submit the matter for resolution to the Ohio commission on dispute resolution and conflict management created in Chapter 179. of the Revised Code.~~ 39971
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(B)(1) In addition to entering into an agreement with the board for compensation for direct impacts, the host community may negotiate a benefits agreement with the staff of the board. In accordance with division (A)(17) of section 3747.06 of the Revised Code, the board shall approve, approve with modifications requested by the board, or disapprove any such agreement. 39979
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(2) The legislative authority of the host community may request the board to establish epidemiological health studies in the host community in accordance with division (A)(18) of section 3747.06 of the Revised Code.

(C) An affected community may petition the board for compensation for direct impacts on that community. The staff of the board shall negotiate any such agreement, and the board shall approve, approve with modifications requested by the board, or disapprove the agreement in accordance with division (A)(17) of section 3747.06 of the Revised Code.

(D) At any time after final determination of licensure of the facility and until the expiration of the first five years that the facility is in operation, a property owner within the host community or an affected community who is selling or attempting to sell the property owner's property and who can demonstrate to the board that the property has been devalued as a direct result of the siting of the facility in the host community may petition the board for compensation or for the purchase of the property in accordance with rules adopted under division (A)(13) of section 3747.07 of the Revised Code.

Sec. 3748.07. (A) Every facility that proposes to handle radioactive material or radiation-generating equipment for which licensure or registration, respectively, by its handler is required shall apply in writing to the director of health on forms prescribed and provided by the director for licensure or registration. Terms and conditions of licenses and certificates of registration may be amended in accordance with rules adopted under section 3748.04 of the Revised Code or orders issued by the director pursuant to section 3748.05 of the Revised Code.

(B) Until rules are adopted under section 3748.04 of the Revised Code, an application for a certificate of registration

shall be accompanied by a biennial registration fee of ~~one~~ two 40016
hundred ~~sixty~~ dollars. On and after the effective date of those 40017
rules, an applicant for a license, registration certificate, or 40018
renewal of either shall pay the appropriate fee established in 40019
those rules. 40020

All fees collected under this section shall be deposited in 40021
the state treasury to the credit of the general operations fund 40022
created in section 3701.83 of the Revised Code. The fees shall be 40023
used solely to administer and enforce this chapter and rules 40024
adopted under it. 40025

Any fee required under this section that has not been paid 40026
within ninety days after the invoice date shall be assessed at two 40027
times the original invoiced fee. Any fee that has not been paid 40028
within one hundred eighty days after the invoice date shall be 40029
assessed at five times the original invoiced fee. 40030

(C) The director shall grant a license or registration to any 40031
applicant who has paid the required fee and is in compliance with 40032
this chapter and rules adopted under it. 40033

Until rules are adopted under section 3748.04 of the Revised 40034
Code, certificates of registration shall be effective for two 40035
years from the date of issuance. On and after the effective date 40036
of those rules, licenses and certificates of registration shall be 40037
effective for the applicable period established in those rules. 40038
Licenses and certificates of registration shall be renewed in 40039
accordance with the standard renewal procedure established in 40040
Chapter 4745. of the Revised Code. 40041

Sec. 3748.13. (A) The director of health shall inspect 40042
sources of radiation for which licensure or registration by the 40043
handler is required, and the sources' shielding and surroundings, 40044
according to the schedule established in rules adopted under 40045
division (D) of section 3748.04 of the Revised Code. In accordance 40046

with rules adopted under that section, the director shall inspect 40047
all records and operating procedures of handlers that install 40048
sources of radiation and all sources of radiation for which 40049
licensure of radioactive material or registration of 40050
radiation-generating equipment by the handler is required. The 40051
director may make other inspections upon receiving complaints or 40052
other evidence of violation of this chapter or rules adopted under 40053
it. 40054

The director shall require any hospital registered under 40055
division (A) of section 3701.07 of the Revised Code to develop and 40056
maintain a quality assurance program for all sources of 40057
radiation-generating equipment. A certified radiation expert shall 40058
conduct oversight and maintenance of the program and shall file a 40059
report of audits of the program with the director on forms 40060
prescribed by the director. The audit reports shall become part of 40061
the inspection record. 40062

(B) Until rules are adopted under division (A)(8) of section 40063
3748.04 of the Revised Code, a facility shall pay inspection fees 40064
according to the following schedule and categories: 40065

First dental x-ray tube	\$ 94.00 <u>118.00</u>	40066
Each additional dental x-ray tube at the same location	\$ 47.00 <u>59.00</u>	40067
First medical x-ray tube	\$187.00 <u>235.00</u>	40068
Each additional medical x-ray tube at the same location	\$ 94.00 <u>125.00</u>	40069
Each unit of ionizing radiation-generating equipment capable of operating at or above 250 kilovoltage peak	\$373.00 <u>466.00</u>	40070
First nonionizing radiation-generating equipment of any kind	\$187.00 <u>235.00</u>	40071

Each additional nonionizing radiation-generating equipment of any kind at the same location	\$ 94.00 <u>125.00</u>	40072
Assembler-maintainer inspection consisting of an inspection of records and operating procedures of handlers that install sources of radiation	\$ 233.00 <u>291.00</u>	40073

Until rules are adopted under division (A)(8) of section 40074
3748.04 of the Revised Code, the fee for an inspection to 40075
determine whether violations cited in a previous inspection have 40076
been corrected is fifty per cent of the fee applicable under the 40077
schedule in this division. Until those rules are adopted, the fee 40078
for the inspection of a facility that is not licensed or 40079
registered and for which no license or registration application is 40080
pending at the time of inspection is ~~two~~ three hundred ~~ninety~~ 40081
sixty-three dollars plus the fee applicable under the schedule in 40082
this division. 40083

The director may conduct a review of shielding plans or the 40084
adequacy of shielding on the request of a licensee or registrant 40085
or an applicant for licensure or registration or during an 40086
inspection when the director considers a review to be necessary. 40087
Until rules are adopted under division (A)(8) of section 3748.04 40088
of the Revised Code, the fee for the review is ~~four~~ five hundred 40089
~~sixty-six~~ eighty-three dollars for each room where a source of 40090
radiation is used and is in addition to any other fee applicable 40091
under the schedule in this division. 40092

All fees shall be paid to the department of health no later 40093
than thirty days after the invoice for the fee is mailed. Fees 40094
shall be deposited in the general operations fund created in 40095
section 3701.83 of the Revised Code. The fees shall be used solely 40096
to administer and enforce this chapter and rules adopted under it. 40097

Any fee required under this section that has not been paid 40098
within ninety days after the invoice date shall be assessed at two 40099
times the original invoiced fee. Any fee that has not been paid 40100
within one hundred eighty days after the invoice date shall be 40101
assessed at five times the original invoiced fee. 40102

(C) If the director determines that a board of health of a 40103
city or general health district is qualified to conduct 40104
inspections of radiation-generating equipment, the director may 40105
delegate to the board, by contract, the authority to conduct such 40106
inspections. In making a determination of the qualifications of a 40107
board of health to conduct those inspections, the director shall 40108
evaluate the credentials of the individuals who are to conduct the 40109
inspections of radiation-generating equipment and the radiation 40110
detection and measuring equipment available to them for that 40111
purpose. If a contract is entered into, the board shall have the 40112
same authority to make inspections of radiation-generating 40113
equipment as the director has under this chapter and rules adopted 40114
under it. The contract shall stipulate that only individuals 40115
approved by the director as qualified shall be permitted to 40116
inspect radiation-generating equipment under the contract's 40117
provisions. The contract shall provide for such compensation for 40118
services as is agreed to by the director and the board of health 40119
of the contracting health district. The director may reevaluate 40120
the credentials of the inspection personnel and their radiation 40121
detecting and measuring equipment as often as the director 40122
considers necessary and may terminate any contract with the board 40123
of health of any health district that, in the director's opinion, 40124
is not satisfactorily performing the terms of the contract. 40125

(D) The director may enter at all reasonable times upon any 40126
public or private property to determine compliance with this 40127
chapter and rules adopted under it. 40128

Sec. 3769.087. (A) In addition to the commission of eighteen 40129
per cent retained by each permit holder as provided in section 40130
3769.08 of the Revised Code, each permit holder shall retain an 40131
additional amount equal to four per cent of the total of all 40132
moneys wagered on each racing day on all wagering pools other than 40133
win, place, and show, of which amount retained an amount equal to 40134
three per cent of the total of all moneys wagered on each racing 40135
day on those pools shall be paid by check, draft, or money order 40136
to the tax commissioner, as a tax. Subject to the restrictions 40137
contained in divisions (B), (C), and (M) of section 3769.08 of the 40138
Revised Code, from such additional moneys paid to the tax 40139
commissioner: 40140

(1) Four-sixths shall be allocated to fund distribution as 40141
provided in division (M) of section 3769.08 of the Revised Code. 40142

(2) One-twelfth shall be paid into the Ohio fairs fund 40143
created by section 3769.082 of the Revised Code. 40144

(3) One-twelfth of the additional moneys paid to the tax 40145
commissioner by thoroughbred racing permit holders shall be paid 40146
into the Ohio thoroughbred race fund created by section 3769.083 40147
of the Revised Code. 40148

(4) One-twelfth of the additional moneys paid to the tax 40149
commissioner by harness horse racing permit holders shall be paid 40150
to the Ohio standardbred development fund created by section 40151
3769.085 of the Revised Code. 40152

(5) One-twelfth of the additional moneys paid to the tax 40153
commissioner by quarter horse racing permit holders shall be paid 40154
to the Ohio quarter horse development fund created by section 40155
3769.086 of the Revised Code. 40156

(6) One-sixth shall be paid into the state racing commission 40157
operating fund created by section 3769.03 of the Revised Code. 40158

The remaining one per cent that is retained of the total of 40159
all moneys wagered on each racing day on all pools other than win, 40160
place, and show, shall be retained by racing permit holders, and, 40161
except as otherwise provided in section 3769.089 of the Revised 40162
Code, racing permit holders shall use one-half for purse money and 40163
retain one-half. 40164

(B) In addition to the commission of eighteen per cent 40165
retained by each permit holder as provided in section 3769.08 of 40166
the Revised Code and the additional amount retained by each permit 40167
holder as provided in division (A) of this section, each permit 40168
holder shall retain an additional amount equal to one-half of one 40169
per cent of the total of all moneys wagered on each racing day on 40170
all wagering pools other than win, place, and show. ~~From~~ Except as 40171
provided in division (C) of this section, from the additional 40172
amount retained under this division, each permit holder shall 40173
retain an amount equal to one-quarter of one per cent of the total 40174
of all moneys wagered on each racing day on all pools other than 40175
win, place, and show and shall pay that amount by check, draft, or 40176
money order to the tax commissioner, as a tax. The tax 40177
commissioner shall pay the amount of the tax received under this 40178
division to the state racing commission operating fund created by 40179
section 3769.03 of the Revised Code. 40180

~~The~~ Except as provided in division (C) of this section, the 40181
remaining one-quarter of one per cent that is retained from the 40182
total of all moneys wagered on each racing day on all pools other 40183
than win, place, and show shall be retained by the permit holder, 40184
and the permit holder shall use one-half for purse money and 40185
retain one-half. 40186

(C) During the period commencing on July 1, 2003, and ending 40187
on and including June 30, 2005, the additional amount retained by 40188
each permit holder under division (B) of this section shall be 40189
paid by check, draft, or money order to the tax commissioner, as a 40190

tax. The tax commissioner shall pay the amount of the tax received 40191
under this division to the state racing commission operating fund 40192
created by section 3769.03 of the Revised Code. 40193

Sec. 3770.07. (A)~~(1)~~ Lottery prize awards shall be claimed by 40194
the holder of the winning lottery ticket, or by the executor or 40195
administrator, or the trustee of a trust, of the estate of a 40196
deceased holder of a winning ticket, in a manner to be determined 40197
by the state lottery commission, within one hundred eighty days 40198
after the date on which such prize award was announced if the 40199
lottery game is an on-line game, and within one hundred eighty 40200
days after the close of the game if the lottery game is an instant 40201
game. ~~Except as otherwise provided in division (B) of this~~ 40202
~~section, if~~ If no valid claim to the prize award is made within 40203
the prescribed period, the prize money or the cost of goods and 40204
services awarded as prizes, or if such goods or services are 40205
resold by the commission, the proceeds from such sale, shall be 40206
returned to the state lottery fund and distributed in accordance 40207
with section 3770.06 of the Revised Code. 40208

~~(2)~~(B) If a prize winner, as defined in section 3770.10 of 40209
the Revised Code, is under eighteen years of age, or is under some 40210
other legal disability, and the prize money or the cost of goods 40211
or services awarded as a prize exceeds one thousand dollars, the 40212
director shall order that payment be made to the order of the 40213
legal guardian of that prize winner. If the amount of the prize 40214
money or the cost of goods or services awarded as a prize is one 40215
thousand dollars or less, the director may order that payment be 40216
made to the order of the adult member, if any, of that prize 40217
winner's family legally responsible for the care of that prize 40218
winner. 40219

~~(3)~~(C) No right of any prize winner, as defined in section 40220
3770.10 of the Revised Code, to a prize award shall be the subject 40221

of a security interest or used as collateral. 40222

~~(4)~~~~(a)~~~~(D)~~~~(1)~~ No right of any prize winner, as defined in 40223
section 3770.10 of the Revised Code, to a prize award shall be 40224
assignable, or subject to garnishment, attachment, execution, 40225
withholding, or deduction, except as follows: as provided in 40226
sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the 40227
Revised Code; when the payment is to be made to the executor or 40228
administrator or the trustee of a trust of the estate of a winning 40229
ticket holder; when the award of a prize is disputed, any person 40230
may be awarded a prize award to which another has claimed title, 40231
pursuant to the order of a court of competent jurisdiction; when 40232
the director is to make a payment pursuant to ~~section~~ sections 40233
3770.071 or 3770.073 of the Revised Code; or as provided in 40234
sections 3770.10 to 3770.14 of the Revised Code. 40235

~~(b)~~~~(2)~~ The commission shall adopt rules pursuant to section 40236
3770.03 of the Revised Code concerning the payment of prize awards 40237
upon the death of a prize winner. Upon the death of a prize 40238
winner, as defined in section 3770.10 of the Revised Code, the 40239
remainder of the prize winner's prize award, to the extent it is 40240
not subject to a transfer agreement under sections 3770.10 to 40241
3770.14 of the Revised Code, may be paid to the executor, 40242
administrator, or trustee in the form of a discounted lump sum 40243
cash settlement. 40244

~~(5)~~~~(E)~~ No lottery prize award shall be awarded to or for any 40245
officer or employee of the state lottery commission, any officer 40246
or employee of the auditor of state actively coordinating and 40247
certifying commission drawings, or any blood relative or spouse of 40248
such officer or employee of the commission or auditor of state 40249
living as a member of such officer's or employee's household, nor 40250
shall any such employee, blood relative, or spouse attempt to 40251
claim a lottery prize award. 40252

~~(6)~~~~(F)~~ The director may prohibit vendors to the commission 40253

and their employees from being awarded a lottery prize award. 40254

~~(7)(G)~~ Upon the payment of prize awards pursuant to this 40255
section, the director and the commission are discharged from all 40256
further liability therefor. 40257

~~(B) The commission may adopt rules governing the disbursement 40258
of unclaimed prize awards as all or part of the prize award in a 40259
lottery and may, pursuant to those rules, conduct the lottery and 40260
disburse any such unclaimed prize awards. Any lottery in which all 40261
or any part of the prize award is paid from unclaimed prize awards 40262
shall be conducted in accordance with all of the other 40263
requirements of this chapter, including, but not limited to, the 40264
time and proof requirements for claiming awards and the 40265
disposition of unclaimed prize awards when the prescribed period 40266
for claiming the award has passed. A prize award or any part of a 40267
prize award that is paid from an unclaimed prize award shall not 40268
be reapplied toward the satisfaction of the requirement of 40269
division (A) of section 3770.06 of the Revised Code that at least 40270
fifty per cent of the total revenues from ticket sales be 40271
disbursed for monetary prize awards, if such unclaimed prize award 40272
was previously applied toward the satisfaction of that 40273
requirement. On or before the last day of January and July each 40274
year, the commission shall report to the general assembly the 40275
gross sales and net profits the commission obtained from the 40276
unclaimed prize awards in lotteries conducted pursuant to this 40277
division during the preceding two calendar quarters, including the 40278
amount of money produced by the games funded by the unclaimed 40279
prize awards and the total revenue accruing to the state from the 40280
prize award lotteries conducted pursuant to this division. 40281~~

~~There is hereby established in the state treasury the 40282
unclaimed lottery prizes fund, to which all unclaimed prize awards 40283
shall be transferred. Any interest that accrues on the amounts in 40284
the fund shall become a part of the fund and shall be subject to 40285~~

~~any rules adopted by the commission governing the disbursement of~~ 40286
~~unclaimed prize awards.~~ 40287

Sec. 3770.073. (A) If a person is entitled to a lottery prize 40288
award and is indebted to the state for the payment of any tax, 40289
workers' compensation premium, unemployment contribution, payment 40290
in lieu of unemployment contribution, or charge, penalty, or 40291
interest arising from these debts and the amount of the prize 40292
money or the cost of goods or services awarded as a lottery prize 40293
award is five thousand dollars or more, the director of the state 40294
lottery commission, or the director's designee, shall do either of 40295
the following: 40296

(1) If the prize award will be paid in a lump sum, deduct 40297
from the prize award and pay to the attorney general an amount in 40298
satisfaction of the debt and pay any remainder to that person. If 40299
the amount of the prize award is less than the amount of the debt, 40300
the entire amount of the prize award shall be deducted and paid in 40301
partial satisfaction of the debt. 40302

(2) If the prize award will be paid in annual installments, 40303
on the date the initial installment payment is due, deduct from 40304
that installment and pay to the attorney general an amount in 40305
satisfaction of the debt and, if necessary to collect the full 40306
amount of the debt, do the same for any subsequent annual 40307
installments, at the time the installments become due and owing to 40308
the person, until the debt is fully satisfied. 40309

(B) If a person entitled to a lottery prize award owes more 40310
than one debt, any debt subject to section 5739.33 or division (G) 40311
of section 5747.07 of the Revised Code shall be satisfied first. 40312

(C) This section applies only to debts that have become 40313
final. 40314

Sec. 3770.10. As used in sections 3770.07 and 3770.10 to 40315

3770.14 of the Revised Code: 40316

(A) "Court of competent jurisdiction" means either the 40317
general division or the probate division of the court of common 40318
pleas of the county in which the prize winner resides, or, if the 40319
prize winner is not a resident of this state, either the general 40320
division or the probate division of the court of common pleas of 40321
Franklin county or a federal court having jurisdiction over the 40322
lottery prize award. 40323

(B) "Discounted present value" means the present value of the 40324
future payments of a lottery prize award that is determined by 40325
discounting those payments to the present, using the most recently 40326
published applicable federal rate for determining the present 40327
value of an annuity as issued by the United States internal 40328
revenue service and assuming daily compounding. 40329

(C) "Independent professional advice" means the advice of an 40330
attorney, a certified public accountant, an actuary, or any other 40331
licensed professional adviser if all of the following apply: 40332

(1) The prize winner has engaged the services of the licensed 40333
professional adviser to render advice concerning the legal and 40334
other implications of a transfer of the lottery prize award. 40335

(2) The licensed professional adviser is not affiliated in 40336
any manner with or compensated in any manner by the transferee of 40337
the lottery prize award. 40338

(3) The compensation of the licensed professional adviser is 40339
not affected by whether or not a transfer of a lottery prize award 40340
occurs. 40341

(D) "Prize winner" means any person that holds the right to 40342
receive all or any part of a lottery prize award as a result of 40343
being any of the following: 40344

(1) A person who is a claimant under division (A)~~(1)~~ of 40345

section 3770.07 of the Revised Code; 40346

(2) A person who is entitled to a prize award and who is 40347
under a legal disability as described in division ~~(A)(2)~~(B) of 40348
section 3770.07 of the Revised Code; 40349

(3) A person who was awarded a prize award to which another 40350
has claimed title by a court order under division ~~(A)(4)(a)~~(D)(1) 40351
of section 3770.07 of the Revised Code; 40352

(4) A person who is receiving payments upon the death of a 40353
prize winner as provided in division ~~(A)(4)(b)~~(D)(2) of section 40354
3770.07 of the Revised Code. 40355

(E) "Transfer" means any form of sale, assignment, or 40356
redirection of payment of all or any part of a lottery prize award 40357
for consideration. 40358

(F) "Transfer agreement" means an agreement that is complete 40359
and valid, and that provides for the transfer of all or any part 40360
of a lottery prize award from a transferor to a transferee. A 40361
transfer agreement is incomplete and invalid unless the agreement 40362
contains both of the following: 40363

(1) A statement, signed by the transferor under penalties of 40364
perjury, that the transferor irrevocably agrees that the 40365
transferor is subject to the tax imposed by Chapter 5733. or 5747. 40366
of the Revised Code with respect to gain or income which the 40367
transferor will recognize in connection with the transfer. If the 40368
transferor is a pass-through entity, as defined in section 5733.04 40369
of the Revised Code, each investor in the pass-through entity 40370
shall also sign under penalties of perjury a statement that the 40371
investor irrevocably agrees that the investor is subject to the 40372
tax imposed by Chapter 5733. or 5747. of the Revised Code with 40373
respect to gain or income which the transferor and the investor 40374
will recognize in connection with the transfer. 40375

(2) A statement, signed by the transferee, that the 40376

transferee irrevocably agrees that the transferee is subject to 40377
the withholding requirements imposed by division (C) of section 40378
3770.072 of the Revised Code and is subject to the tax imposed by 40379
Chapter 5733. or 5747. of the Revised Code with respect to gain or 40380
income which the transferee will recognize in connection with 40381
lottery prize awards to be received as a result of the transfer. 40382
If the transferee is a pass-through entity, as defined in section 40383
5733.04 of the Revised Code, each investor in the pass-through 40384
entity shall also sign under penalties of perjury a statement 40385
setting forth that the investor irrevocably agrees that the 40386
investor is subject to the withholding requirements imposed by 40387
division (C) of section 3770.072 of the Revised Code and is 40388
subject to the tax imposed by Chapter 5733. or 5747. of the 40389
Revised Code with respect to gain or income which the transferee 40390
and the investor will recognize in connection with lottery prize 40391
awards to be received as a result of the transfer. 40392

(G) "Transferee" means a party acquiring or proposing to 40393
acquire all or any part of a lottery prize award through a 40394
transfer. 40395

(H) "Transferor" means either a prize winner or a transferee 40396
in an earlier transfer whose interest is acquired by or is sought 40397
to be acquired by a transferee or a new transferee through a 40398
transfer. 40399

Sec. 3770.12. A court of competent jurisdiction ~~may~~ shall 40400
approve a transfer of a lottery prize award only in a final order 40401
that is based on ~~the~~ express findings of the court, ~~and the.~~ The 40402
court shall approve the transfer only if each of the following 40403
conditions that applies is met and is included in the court's 40404
express findings ~~shall include all of the following:~~ 40405

(A) If the transferor is a prize winner, the transferee has 40406
provided to the prize winner a disclosure statement that complies 40407

with section 3770.11 of the Revised Code, and the prize winner has 40408
confirmed the prize winner's receipt of the disclosure statement, 40409
as evidenced by the prize winner's notarized signature on a copy 40410
of the disclosure statement. 40411

~~(B) If the transferor is a prize winner, the prize winner has 40412
established that the transfer is fair and reasonable and in the 40413
best interests of the prize winner. 40414~~

~~(C)~~ If the transferor is a prize winner, the prize winner has 40415
received independent professional advice regarding the legal and 40416
other implications of the transfer. 40417

~~(D)~~(C) The transferee has given written notice of the 40418
transferee's name, address, and taxpayer identification number to 40419
the state lottery commission and has filed a copy of that notice 40420
with the court in which the application for approval of the 40421
transfer was filed. 40422

~~(E)~~(D) The transferee is a trust, limited partnership, 40423
general partnership, corporation, professional association, 40424
limited liability company, or other entity that is qualified to do 40425
business in this state and meets the registration requirements for 40426
that type of entity under Title XVII of the Revised Code. 40427

~~(F)~~(E) The transfer complies with all applicable requirements 40428
of the Revised Code and does not contravene any applicable law. 40429

~~(G)~~(F) The transfer does not include or cover the amounts of 40430
the lottery prize award that are required to be withheld or 40431
deducted pursuant to section 3119.80, 3119.81, 3121.02, 3121.03, 40432
3123.06, 3770.071, or 3770.072 of the Revised Code. 40433

~~(H)~~(G) Any amounts described in division ~~(G)~~(F) of this 40434
section that are required to be withheld or deducted, as of the 40435
date of the court order, will be offset by the commission first 40436
against remaining payments due the transferor and then against 40437
payments due the transferee. 40438

~~(I)~~(H) Except as provided in divisions (F) and (G) and ~~(H)~~ of 40439
this section, that the transferor's interest in each and all of 40440
the future payments from a particular lottery prize award is to be 40441
paid to a single transferee, or, if the payments from the lottery 40442
prize award are to be directed from the state lottery commission 40443
to multiple transferees, the commission has promulgated rules 40444
under section 3770.03 of the Revised Code permitting transfers to 40445
multiple transferees, and the transfer is consistent with those 40446
rules. 40447

~~(J)~~(I) If the lottery prize award has been transferred within 40448
twelve months immediately preceding the effective date of the 40449
proposed transfer, the state lottery commission has not objected 40450
to the proposed transfer. The court shall presume that the 40451
requirements of this division are met unless the commission 40452
notifies the court in writing before the hearing on the 40453
application for transfer, or through counsel at that hearing, that 40454
a transfer of the same lottery prize award has been made within 40455
that twelve-month period and that the commission objects to a 40456
subsequent transfer within that twelve-month period. The court 40457
shall find that the requirements of this division are not met if 40458
the commission provides notice of a prior transfer of the same 40459
lottery prize award within that twelve-month period and its 40460
objection to the proposed transfer, unless the transferor or 40461
transferee shows by clear and convincing evidence that no previous 40462
transfer of the same lottery prize award occurred within that 40463
twelve-month period. 40464

If the court determines that all of the conditions in 40465
divisions (A) to (I) of this section that apply are met, the 40466
transfer of the lottery prize award shall be presumed to be fair 40467
and reasonable and in the best interests of the prize winner. 40468

Sec. 3770.99. (A) Whoever is prohibited from claiming a 40469

lottery prize award under division ~~(A)(5)~~(E) of section 3770.07 of 40470
the Revised Code and attempts to claim or is paid a lottery prize 40471
award is guilty of a minor misdemeanor, and shall provide 40472
restitution to the state lottery commission of any moneys 40473
erroneously paid as a lottery prize award to that person. 40474

(B) Whoever violates division (C) of section 3770.071 or 40475
section 3770.08 of the Revised Code is guilty of a misdemeanor of 40476
the third degree. 40477

Sec. 3773.33. (A) There is hereby created the Ohio athletic 40478
commission. The commission shall consist of five voting members 40479
appointed by the governor with the advice and consent of the 40480
senate, not more than three of whom shall be of the same political 40481
party, and two nonvoting members, one of whom shall be a member of 40482
the senate appointed by and to serve at the pleasure of the 40483
president of the senate and one of whom shall be a member of the 40484
house of representatives appointed by and to serve at the pleasure 40485
of the speaker of the house of representatives. To be eligible for 40486
appointment as a voting member, a person shall be a qualified 40487
elector and a resident of the state for not less than five years 40488
immediately preceding the person's appointment. Two voting members 40489
shall be knowledgeable in boxing, at least one voting member shall 40490
be knowledgeable and experienced in high school athletics, one 40491
voting member shall be knowledgeable and experienced in 40492
professional athletics, and at least one voting member shall be 40493
knowledgeable and experienced in collegiate athletics. One 40494
commission member shall hold the degree of doctor of medicine or 40495
doctor of osteopathy. 40496

(B) No person shall be appointed to the commission or be an 40497
employee of the commission who is licensed, registered, or 40498
regulated by the commission. No member shall have any legal or 40499
beneficial interest, direct or indirect, pecuniary or otherwise, 40500

in any person who is licensed, registered, or regulated by the 40501
commission or who participates in prize fights or public boxing or 40502
wrestling matches or exhibitions. No member shall participate in 40503
any fight, match, or exhibition other than in the member's 40504
official capacity as a member of the commission, or as an 40505
inspector as authorized in section 3773.52 of the Revised Code. 40506

(C) The governor shall appoint the voting members to the 40507
commission. Of the initial appointments, two shall be for terms 40508
ending one year after September 3, 1996, two shall be for terms 40509
ending two years after September 3, 1996, and one shall be for a 40510
term ending three years after September 3, 1996. Thereafter, terms 40511
of office shall be for three years, each term ending the same day 40512
of the same month of the year as did the term which it succeeds. 40513
Each member shall hold office from the date of the member's 40514
appointment until the end of the term for which the member was 40515
appointed. Any member appointed to fill a vacancy occurring prior 40516
to the expiration of the term for which the member's predecessor 40517
was appointed shall hold office for the remainder of the term. Any 40518
member shall continue in office subsequent to the expiration date 40519
of the member's term until the member's successor takes office, or 40520
until a period of sixty days has elapsed, whichever occurs first. 40521

The governor shall name one voting member as chairperson of 40522
the commission at the time of making the appointment of any member 40523
for a full term. Three voting members shall constitute a quorum, 40524
and the affirmative vote of three voting members shall be 40525
necessary for any action taken by the commission. No vacancy on 40526
the commission impairs the authority of the remaining members to 40527
exercise all powers of the commission. 40528

Voting members, when engaged in commission duties, shall 40529
receive a per diem compensation determined in accordance with 40530
division (J) of section 124.15 of the Revised Code, and all 40531
members shall receive their actual and necessary expenses incurred 40532

in the performance of their official duties. 40533

Each voting member, before entering upon the discharge of the 40534
member's duties, shall file a surety bond payable to the treasurer 40535
of state in the sum of ten thousand dollars. Each surety bond 40536
shall be conditioned upon the faithful performance of the duties 40537
of the office, executed by a surety company authorized to transact 40538
business in this state, and filed in the office of the secretary 40539
of state. 40540

The governor may remove any voting member for malfeasance, 40541
misfeasance, or nonfeasance in office after giving the member a 40542
copy of the charges against the member and affording the member an 40543
opportunity for a public hearing, at which the member may be 40544
represented by counsel, upon not less than ten days' notice. If 40545
the member is removed, the governor shall file a complete 40546
statement of all charges made against the member and the 40547
governor's finding ~~thereon~~ on the charges in the office of the 40548
secretary of state, together with a complete report of the 40549
proceedings. The governor's decision shall be final. 40550

~~(D) The commission shall maintain an office in Youngstown and 40551
keep all of its permanent records there. 40552~~

Sec. 3773.43. The Ohio athletic commission shall charge the 40553
following fees: 40554

(A) For an application for or renewal of a promoter's license 40555
for public boxing matches or exhibitions, ~~fifty~~ one hundred 40556
dollars. 40557

(B) For an application for or renewal of a license to 40558
participate in a public boxing match or exhibition as a 40559
contestant, or as a referee, judge, matchmaker, manager, 40560
timekeeper, trainer, or second of a contestant, ~~ten~~ twenty 40561
dollars. 40562

(C) For a permit to conduct a public boxing match or 40563
exhibition, ~~ten~~ fifty dollars. 40564

(D) For an application for or renewal of a promoter's license 40565
for professional wrestling matches or exhibitions, ~~one~~ two hundred 40566
dollars. 40567

(E) For a permit to conduct a professional wrestling match or 40568
exhibition, ~~fifty~~ one hundred dollars. 40569

The commission, subject to the approval of the controlling 40570
board, may establish fees in excess of the amounts provided in 40571
this section, provided that such fees do not exceed the amounts 40572
permitted by this section by more than ~~twenty-five~~ fifty per cent. 40573

The fees prescribed by this section shall be paid to the 40574
treasurer of state, who shall deposit the fees in the occupational 40575
licensing and regulatory fund. 40576

Sec. 3781.07. There is hereby established in the department 40577
of commerce a board of building and fire standards consisting of 40578
~~ten~~ the state fire marshal, the superintendent of the division of 40579
industrial compliance, and thirteen members appointed by the 40580
governor with the advice and consent of the senate. The board 40581
shall appoint a secretary who shall serve in the unclassified 40582
civil service for a term of six years at a salary fixed pursuant 40583
to Chapter 124. of the Revised Code. The board may employ 40584
additional staff in the classified civil service. The secretary 40585
may be removed by the board under the rules the board adopts. 40586
Terms of office of appointed members shall be for four years, 40587
commencing on the fourteenth day of October and ending on the 40588
thirteenth day of October. Each member shall hold office from the 40589
date of appointment until the end of the term for which the member 40590
was appointed. Any member appointed to fill a vacancy occurring 40591
prior to the expiration of the term for which the member's 40592

predecessor was appointed shall hold office for the remainder of 40593
such term. Any member shall continue in office subsequent to the 40594
expiration date of the member's term until the member's successor 40595
takes office, or until a period of sixty days has elapsed, 40596
whichever occurs first. One of the members appointed to the board 40597
shall be an attorney at law, admitted to the bar of this state; 40598
two shall be registered architects; two shall be professional 40599
engineers, one in the field of mechanical and one in the field of 40600
structural engineering, each of whom shall be duly licensed to 40601
practice such profession in this state; one shall be a person of 40602
recognized ability, broad training, and fifteen years experience 40603
in problems and practice incidental to the construction and 40604
equipment of buildings specified in section 3781.06 of the Revised 40605
Code; one shall be a person with recognized ability and experience 40606
in the manufacture and construction of industrialized units as 40607
defined in section 3781.06 of the Revised Code; one shall be a 40608
member of the fire service with recognized ability and broad 40609
training in the field of fire protection and suppression; one 40610
shall be a person with at least ten years of experience and 40611
recognized expertise in building codes and standards and the 40612
manufacture of construction materials; ~~and~~ one shall be a general 40613
contractor with experience in residential and commercial 40614
construction one shall be a building official chosen from a list 40615
of candidates submitted to the governor by the Ohio building 40616
officials association; one shall be a fire chief with recognized 40617
ability and broad training in the field of fire prevention chosen 40618
from a list of candidates submitted to the governor by the Ohio 40619
fire chiefs association; and one shall be a fire fighter with 40620
recognized ability and broad training in the field of fire 40621
protection and suppression systems chosen from a list of 40622
candidates submitted to the governor by the Ohio fire alliance. 40623
Each member of the board, not otherwise required to take an oath 40624
of office, shall take the oath prescribed by the constitution. 40625

Each member shall receive as compensation an amount fixed pursuant 40626
to division (J) of section 124.15 of the Revised Code, and shall 40627
receive actual and necessary expenses in the performance of 40628
official duties. The amount of such expenses shall be certified by 40629
the secretary of the board and paid in the same manner as the 40630
expenses of employees of the department of commerce are paid. 40631

Sec. 3781.071. (A) There is hereby created within the 40632
department of commerce the Ohio building code advisory committee 40633
consisting of the superintendent of industrial compliance or the 40634
superintendent's designee and four persons appointed by the 40635
governor. Of the advisory committee's members, one shall be a 40636
building official recommended by the Ohio building officials 40637
association; one shall be a licensed architect recommended by the 40638
Ohio chapter of the American institute of architects, one shall be 40639
a registered professional engineer recommended by the American 40640
council of engineering companies of Ohio; and one shall be a 40641
registered professional engineer recommended by the Ohio society 40642
of professional engineers. 40643

(B) The governor shall make appointments to the advisory 40644
committee within ninety days after the effective date of this 40645
section. Terms of office shall be for three years, with each term 40646
ending on the date three years after the date of appointment. Each 40647
member shall hold office from the date of appointment until the 40648
end of the term for which the member was appointed. The governor 40649
shall fill a vacancy in the manner provided for initial 40650
appointments. Any member appointed to fill a vacancy in an 40651
unexpired term shall hold office as a member for the remainder of 40652
that term. 40653

(C) Members of the advisory committee shall receive no salary 40654
for the performance of their duties as members, but shall receive 40655
their actual and necessary expenses incurred in the performance of 40656

their duties as members of the advisory committee. 40657

(D) The advisory committee is not subject to divisions (A) 40658
and (B) of section 101.84 of the Revised Code. 40659

(E) The advisory committee shall do all of the following: 40660

(1) Advise the board of building and fire standards 40661
concerning adoption of the building code, including the mechanical 40662
code, plumbing code, fuel gas code, and other codes relative to 40663
buildings and structures other than the fire code; 40664

(2) Advise the board regarding the establishment of standards 40665
for certification of building officials who enforce the building 40666
code; 40667

(3) Assist the board in providing information and guidance to 40668
contractors and building officials who enforce the building code; 40669

(4) Advise the board regarding the interpretation of the 40670
building code adopted by the board pursuant to section 3781.10 of 40671
the Revised Code; 40672

(5) Make recommendations to the board regarding other matters 40673
that may impact upon the specific duties and areas of concern 40674
assigned to the committee; 40675

(6) Provide other assistance as it considers necessary. 40676

(F) In providing advice concerning adoption of the building 40677
code pursuant to division (E)(1) of this section, the advisory 40678
committee and the Ohio fire code advisory committee shall make 40679
joint recommendations to the board as those advisory committees 40680
determine appropriate. 40681

Sec. 3781.072. (A) There is hereby created within the 40682
department of commerce the Ohio fire code advisory committee 40683
consisting of the state fire marshal or the fire marshal's 40684
designee and four persons appointed by the governor. Of the 40685

advisory committee's members, one shall be recommended by the Ohio 40686
association of professional fire fighters; one shall be 40687
recommended by the Ohio state fire fighters association, one shall 40688
be recommended by the Ohio fire chiefs association; and one shall 40689
be recommended by the Ohio fire officials association. 40690

(B) The governor shall make appointments to the advisory 40691
committee within ninety days after the effective date of this 40692
section. Terms of office shall be for three years, with each term 40693
ending on the date three years after the date of appointment. Each 40694
member shall hold office from the date of appointment until the 40695
end of the term for which the member was appointed. The governor 40696
shall fill a vacancy in the manner provided for initial 40697
appointments. Any member appointed to fill a vacancy in an 40698
unexpired term shall hold office as a member for the remainder of 40699
that term. 40700

(C) Members of the advisory committee shall receive no salary 40701
for the performance of their duties as members, but shall receive 40702
their actual and necessary expenses incurred in the performance of 40703
their duties as members of the advisory committee. 40704

(D) The advisory committee is not subject to divisions (A) 40705
and (B) of section 101.84 of the Revised Code. 40706

(E) The advisory committee shall do all of the following: 40707

(1) Advise the board of building and fire standards 40708
concerning adoption of the state fire code; 40709

(2) Advise the board regarding the interpretation of the 40710
state fire code adopted pursuant to section 3737.82 of the Revised 40711
Code; 40712

(3) Make recommendations to the board regarding other matters 40713
that may impact upon the duties and specific areas of concern 40714
assigned to the committee; 40715

(4) Any additional duties required by the board. 40716

(F) In providing advice concerning adoption of the state fire code pursuant to division (E)(1) of this section, the advisory committee and the Ohio building code advisory committee shall make joint recommendations to the board as those advisory committees determine appropriate. 40717
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Sec. 3781.19. There is hereby established in the department of commerce a board of building appeals consisting of ~~five~~ seven 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, one shall be a fire protection engineer, and one shall be a certified building professional. No member of the board of building and fire standards shall be a member of the board of building appeals. Each member shall be paid an amount fixed pursuant to Chapter 124. of 40722
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the Revised Code per diem. The department shall provide and assign 40747
to the board such employees as are required by the board to 40748
perform its functions. The board may adopt its own rules of 40749
procedure not inconsistent with sections 3781.06 to 3781.18 and 40750
3791.04 of the Revised Code, and may change them in its 40751
discretion. The board may establish reasonable fees, based on 40752
actual costs for administration of filing and processing, not to 40753
exceed ~~one~~ two hundred dollars, for the costs of filing and 40754
processing appeals. A full and complete record of all proceedings 40755
of the board shall be kept and be open to public inspection. 40756

In the enforcement by any department of the state or any 40757
political subdivision of this chapter and Chapter 3791., and 40758
sections 3737.41, 3737.42, 4104.02, 4104.06, 4104.44, 4104.45, 40759
4105.011, and 4105.11 of the Revised Code and any rule made 40760
thereunder, such department is the agency referred to in sections 40761
119.07, 119.08, and 119.10 of the Revised Code. 40762

The appropriate municipal or county board of appeals, where 40763
one exists, certified pursuant to section 3781.20 of the Revised 40764
Code shall conduct the adjudication hearing referred to in 40765
sections 119.09 to 119.13 and required by section 3781.031 of the 40766
Revised Code. If there is no certified municipal or county board 40767
of appeals, the board of building appeals shall conduct the 40768
adjudication hearing. If the adjudication hearing concerns section 40769
3781.111 of the Revised Code or any rule made thereunder, 40770
reasonable notice of the time, date, place, and subject of the 40771
hearing shall be given to any local corporation, association, or 40772
other organization composed of or representing handicapped 40773
persons, as defined in section 3781.111 of the Revised Code, or if 40774
there is no local organization, then to any statewide corporation, 40775
association, or other organization composed of or representing 40776
handicapped persons. 40777

In addition to the provisions of Chapter 119. of the Revised 40778

Code, the municipal, county, or state board of building appeals, 40779
as the agency conducting the adjudication hearing, may reverse or 40780
modify the order of the enforcing agency if it finds that the 40781
order is contrary to this chapter and Chapters 3791. and 4104., 40782
and sections 3737.41, 3737.42, 4105.011 and 4105.11 of the Revised 40783
Code and any rule made thereunder or to a fair interpretation or 40784
application of such laws or any rule made thereunder, or that a 40785
variance from the provisions of such laws or any rule made 40786
thereunder, in the specific case, will not be contrary to the 40787
public interest where a literal enforcement of such provisions 40788
will result in unnecessary hardship. 40789

The state board of building appeals or a certified municipal 40790
or county board of appeals shall render its decision within thirty 40791
days after the date of the adjudication hearing. Following the 40792
adjudication hearing, any municipal or county officer, official 40793
municipal or county board, or person who was a party to the 40794
hearing before the municipal or county board of appeals may apply 40795
to the state board of appeals for a de novo hearing before the 40796
state board, or may appeal directly to the court of common pleas 40797
pursuant to section 3781.031 of the Revised Code. 40798

In addition, any local corporation, association, or other 40799
organization composed of or representing handicapped persons as 40800
defined in section 3781.111 of the Revised Code, or, if no local 40801
corporation, association, or organization exists, then any 40802
statewide corporation, association, or other organization composed 40803
of or representing handicapped persons may apply for the de novo 40804
hearing or appeal to the court of common pleas from any decision 40805
of a certified municipal or county board of appeals interpreting, 40806
applying, or granting a variance from section 3781.111 of the 40807
Revised Code and any rule made thereunder. Application for a de 40808
novo hearing before the state board shall be made no later than 40809
thirty days after the municipal or county board renders its 40810

decision. 40811

The state board of building appeals or the appropriate 40812
certified local board of building appeals shall grant variances 40813
and exemptions from the requirements of section 3781.108 of the 40814
Revised Code in accordance with rules adopted by the board of 40815
building standards pursuant to division (J) of section 3781.10 of 40816
the Revised Code. 40817

The state board of building appeals or the appropriate 40818
certified local board of building appeals shall, in granting a 40819
variance or exemption from section 3781.108 of the Revised Code, 40820
in addition to any other considerations the state or the 40821
appropriate local board determines appropriate, consider the 40822
architectural and historical significance of the building. 40823

Sec. 3781.22. Wherever in the Revised Code reference is made 40824
to the board of building standards, the reference is deemed to 40825
mean the board of building and fire standards. The legislative 40826
service commission shall change references to the board of 40827
building standards to the board of building and fire standards as 40828
sections of the Revised Code are amended. 40829

Sec. 3901.491. (A) As used in this section: 40830

(1) "Genetic screening or testing" means a laboratory test of 40831
a person's genes or chromosomes for abnormalities, defects, or 40832
deficiencies, including carrier status, that are linked to 40833
physical or mental disorders or impairments, or that indicate a 40834
susceptibility to illness, disease, or other disorders, whether 40835
physical or mental, which test is a direct test for abnormalities, 40836
defects, or deficiencies, and not an indirect manifestation of 40837
genetic disorders. 40838

(2) "Insurer" means any person authorized under Title XXXIX 40839
of the Revised Code to engage in the business of sickness and 40840

accident insurance. 40841

(3) "Sickness and accident insurance" means sickness and 40842
accident insurance under Chapter 3923. of the Revised Code 40843
excluding disability income insurance and excluding supplemental 40844
policies of sickness and accident insurance. 40845

(B) Upon the repeal of section 3901.49 of the Revised Code ~~by~~ 40846
~~Sub. H.B. No. 71 of the 120th general assembly,~~ no insurer shall 40847
do either of the following: 40848

(1) Consider any information obtained from genetic screening 40849
or testing in processing an application for an individual or group 40850
policy of sickness and accident insurance, or in determining 40851
insurability under such a policy; 40852

(2) Inquire, directly or indirectly, into the results of 40853
genetic screening or testing or use such information, in whole or 40854
in part, to cancel, refuse to issue or renew, or limit benefits 40855
under, a sickness and accident insurance policy. 40856

(C) Any insurer that has engaged in, is engaged in, or is 40857
about to engage in a violation of division (B) of this section is 40858
subject to the jurisdiction of the superintendent of insurance 40859
under section 3901.04 of the Revised Code. 40860

Sec. 3901.501. (A) As used in this section: 40861

(1) "Genetic screening or testing" means a laboratory test of 40862
a person's genes or chromosomes for abnormalities, defects, or 40863
deficiencies, including carrier status, that are linked to 40864
physical or mental disorders or impairments, or that indicate a 40865
susceptibility to illness, disease, or other disorders, whether 40866
physical or mental, which test is a direct test for abnormalities, 40867
defects, or deficiencies, and not an indirect manifestation of 40868
genetic disorders. 40869

(2) "Self-insurer" means any government entity providing 40870

coverage for health care services on a self-insurance basis. 40871

(B) Upon the repeal of section 3901.50 of the Revised Code ~~by~~ 40872
~~Sub. H.B. No. 71 of the 120th general assembly,~~ no self-insurer 40873
shall do either of the following: 40874

(1) Consider any information obtained from genetic screening 40875
or testing in processing an application for coverage under a plan 40876
of self-insurance or in determining insurability under such a 40877
plan; 40878

(2) Inquire, directly or indirectly, into the results of 40879
genetic screening or testing or use such information, in whole or 40880
in part, to cancel, refuse to provide or renew, or limit benefits 40881
under, a plan of self-insurance. 40882

(C) Any self-insurer that has engaged in, is engaged in, or 40883
is about to engage in a violation of division (B) of this section 40884
is subject to the jurisdiction of the superintendent of insurance 40885
under section 3901.04 of the Revised Code. 40886

Sec. 3901.72. Any person may advance to a domestic insurance 40887
company or a health insuring corporation any sum of money 40888
necessary for the purpose of the insurance company's or health 40889
insuring corporation's business, or to enable the insurance 40890
company or health insuring corporation to comply with any law, or 40891
as a cash guarantee fund. Such money, and interest agreed upon, 40892
~~not exceeding ten per cent per annum or the total of four hundred~~ 40893
~~basis points plus the rate on United States treasury notes or~~ 40894
~~bonds closest in maturity to the final repayment date of the money~~ 40895
~~so advanced, whichever is greater,~~ shall not be a liability or 40896
claim against the insurance company or health insuring 40897
corporation, or any of its assets, except as provided in this 40898
section, and shall be repaid only out of the surplus earnings of 40899
such insurance company or health insuring corporation. Except as 40900
ordered by the superintendent of insurance, no part of the 40901

principal or interest thereof shall be repaid until the surplus of 40902
the insurance company or health insuring corporation remaining 40903
after such repayment is equal in amount to the principal of the 40904
money so advanced. Such advancement and repayment shall be subject 40905
to the approval of the superintendent, provided that this section 40906
shall not affect the power to borrow money which any such 40907
insurance company or health insuring corporation possesses under 40908
other laws. No commission or promotion expenses shall be paid by 40909
the insurance company or health insuring corporation, in 40910
connection with the advance of any such money to the insurance 40911
company or health insuring corporation, and the amount of any such 40912
unpaid advance shall be reported in each annual statement. 40913

Sec. 3901.86. (A) When the laws of any other state, district, 40914
territory, or nation impose any taxes, fines, penalties, license 40915
fees, deposits of money, securities, or other obligations or 40916
prohibitions on insurance companies of this state doing business 40917
in that state, district, territory, or nation, or upon their 40918
agents therein, the same obligations and prohibitions shall be 40919
imposed upon insurance companies of the other state, district, or 40920
nation doing business in this state and upon their agents. 40921

When the laws of any other state, district, territory, or 40922
nation impose a requirement for countersignature and payment of a 40923
fee or commission upon agents of this state for placing any 40924
coverage in that state, district, territory, or nation, then the 40925
same requirements of countersignature and fee or commission shall 40926
be imposed upon agents of that state, district, territory, or 40927
nation for placing any coverage in this state. 40928

(B) Beginning on July 1, 1993, twenty per cent of the amount 40929
that is collected under division (A) of this section from foreign 40930
insurance companies that sell fire insurance to residents of this 40931
state shall be paid into the state fire marshal's fund created 40932

under section 3737.71 of the Revised Code. The director of 40933
~~commerce~~ public safety, with the approval of the director of 40934
budget and management, may increase the percentage described in 40935
this division so that it will yield an amount that the director of 40936
~~commerce~~ public safety determines necessary to assist in the 40937
maintenance and administration of the office of the fire marshal 40938
and in defraying the costs of operating the Ohio fire academy 40939
established by section 3737.33 of the Revised Code. 40940

Sec. 4104.01. As used in sections 4104.01 to 4104.20 and 40941
section 4104.99 of the Revised Code: 40942

(A) "Board of building standards" or "board" means the board 40943
established by section 3781.07 of the Revised Code. 40944

(B) "Superintendent" means the superintendent of the division 40945
of industrial compliance created by section 121.04 of the Revised 40946
Code. 40947

(C) "Boiler" means a closed vessel in which water is heated, 40948
steam is generated, steam is superheated, or any combination 40949
thereof, under pressure or vacuum for use externally to itself by 40950
the direct application of heat from the combustion of fuels, or 40951
from electricity or nuclear energy. "Boiler" includes fired units 40952
for heating or vaporizing liquids other than water where these 40953
units are separate from processing systems and are complete within 40954
themselves. 40955

(D) "Power boiler" means a boiler in which steam or other 40956
vapor (to be used externally to itself) is generated at a pressure 40957
of more than fifteen psig. 40958

(E) "High pressure, high temperature water boiler" means a 40959
water heating boiler operating at pressures exceeding one hundred 40960
sixty psig or temperatures exceeding two hundred fifty degrees 40961
Fahrenheit. 40962

(F) "Low pressure boiler" means a steam boiler operating at pressures not exceeding fifteen psig, or a hot water heating boiler operating at pressures not exceeding one hundred sixty psig or temperatures not exceeding two hundred fifty degrees Fahrenheit.

(G) "~~Unfired pressure~~ Pressure vessel" means a container for the containment of pressure, either internal or external. This pressure may be obtained from an external source or by the application of heat from a direct or indirect source or any combination thereof.

(H) "Process boiler" means a boiler to which all of the following apply:

(1) The steam in the boiler is either generated or superheated, or both, under pressure or vacuum for use external to itself.

(2) The source of heat for the boiler is in part or in whole from a process other than the boiler itself.

(3) The boiler is part of a continuous processing unit, such as used in chemical manufacture or petroleum refining, other than a steam-generated process unit.

(I) "Stationary steam engine" means an engine or turbine in which the mechanical force arising from the elasticity and expansion action of steam or from its property of rapid condensation or from a combination of the two is made available as a motive power.

Sec. 4104.02. The board of building standards shall:

(A) Formulate rules for the construction, installation, ~~inspection,~~ repair, conservation of energy, and operation of boilers and the construction, ~~inspection,~~ and repair of unfired pressure vessels and for ascertaining the safe working pressures

to be carried on such boilers and ~~unfired~~ pressure vessels and the 40993
qualification of inspectors of boilers and ~~unfired~~ pressure 40994
vessels; 40995

(B) Prescribe tests, if it is considered necessary, to 40996
ascertain the qualities of materials used in the construction of 40997
boilers and ~~unfired~~ pressure vessels; 40998

(C) Adopt rules regulating the construction and sizes of 40999
safety valves for boilers and ~~unfired~~ pressure vessels of 41000
different sizes and pressures, for the construction, use, and 41001
location of fusible plugs, appliances for indicating the pressure 41002
of steam and level of water in the boiler or ~~unfired~~ pressure 41003
vessels, and such other appliances as the board considers 41004
necessary to safety in operating boilers; 41005

(D) Establish reasonable fees for the performance of reviews, 41006
surveys, or audits of manufacturer's facilities by the division of 41007
industrial compliance for certification by the American society of 41008
mechanical engineers and the national board of boiler and pressure 41009
vessel inspectors; 41010

(E) The definitions and rules adopted by the board for the 41011
construction, installation, ~~inspection~~, repair, conservation of 41012
energy, and operation of boilers and the construction, ~~inspection~~, 41013
and repair of ~~unfired~~ pressure vessels and for ascertaining the 41014
safe working pressures to be used on such boilers and ~~unfired~~ 41015
pressure vessels shall be based upon and follow generally accepted 41016
engineering standards, formulae, and practices established and 41017
pertaining to boilers and ~~unfired~~ pressure vessel construction, 41018
operation, and safety, and the board may, for this purpose, adopt 41019
existing published standards as well as amendments thereto 41020
subsequently published by the same authority. 41021

When a person desires to manufacture a special type of boiler 41022
or ~~unfired~~ pressure vessel, the design of which is not covered by 41023

the rules of the board, the person shall submit drawings and 41024
specifications of such boiler or ~~unfired~~ pressure vessel to the 41025
board for investigation, after which the board may permit its 41026
installation. 41027

The provisions of sections 119.03 and 119.11 of the Revised 41028
Code in particular, and the applicable provisions of Chapter 119. 41029
of the Revised Code in general, shall govern the proceedings of 41030
the board of building standards in adopting, amending, or 41031
rescinding rules pursuant to this section. 41032

Sec. 4104.04. (A) Sections 4104.01 to 4104.20 and section 41033
4104.99 of the Revised Code do not apply to the following boilers 41034
and ~~unfired~~ pressure vessels: 41035

(1) Boilers, ~~unfired~~ pressure vessels, and stationary steam 41036
engines under federal control or subject to inspection under 41037
federal laws; 41038

(2) Air tanks located on vehicles operating under the rules 41039
of other state authorities and used for carrying passengers, or 41040
freight; 41041

(3) Air tanks installed on the right of way of railroads and 41042
used directly in the operation of trains; 41043

(4) ~~Unfired pressure~~ Pressure vessels ~~which that~~ are under 41044
the regulation and control of the state fire marshal under Chapter 41045
3737. of the Revised Code. 41046

(B) The following boilers and ~~unfired~~ pressure vessels are 41047
exempt from the requirements of sections 4104.10, 4104.101, 41048
4104.11, 4104.12, and 4104.13 of the Revised Code, but shall be 41049
equipped with such appliances, to insure safety of operation, as 41050
are prescribed by the board: 41051

(1) Portable boilers or ~~unfired~~ pressure vessels when located 41052
on farms and used solely for agricultural purposes; 41053

(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;	41054 41055 41056
(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;	41057 41058 41059 41060
(4) Unfired pressure <u>Pressure</u> vessels containing only water under pressure for domestic supply purposes, including those containing air, the compression of which serves only as a cushion or airlift pumping system, when located in private residences or in apartment houses of less than six family units;	41061 41062 41063 41064 41065
(5) Portable boilers used in pumping, heating, steaming, and drilling, in the open field, for water, gas, and oil;	41066 41067
(6) Portable boilers used in the construction of and repair to public roads, railroads, and bridges;	41068 41069
(7) Historical steam boilers of riveted construction, preserved, restored, or maintained for hobby or demonstration use.	41070 41071
Sec. 4104.06. (A) The inspection of boilers and their appurtenances and unfired pressure vessels shall be made by the inspectors mentioned in sections 4104.07 to 4104.20 of the Revised Code. The superintendent of industrial compliance shall administer and enforce such sections and rules adopted by the board of building standards pursuant to section 4104.02 of the Revised Code.	41072 41073 41074 41075 41076 41077 41078
(B) The superintendent shall adopt, amend, and repeal rules exclusively for the issuance, renewal, suspension, and revocation of certificates of competency and certificates of operation, for conducting hearings in accordance with Chapter 119. of the Revised Code related to these actions, and for the inspection of boilers	41079 41080 41081 41082 41083

and their appurtenances, and ~~unfired~~ pressure vessels. 41084

(C) Notwithstanding division (B) of this section, the 41085
superintendent shall not adopt rules relating to construction, 41086
maintenance, or repair of boilers and their appurtenances, or 41087
repair of ~~unfired~~ pressure vessels. 41088

(D) The superintendent and each general inspector may enter 41089
any premises and any building or room at all reasonable hours to 41090
perform an examination or inspection. 41091

Sec. 4104.07. (A) An application for examination as an 41092
inspector of boilers and ~~unfired~~ pressure vessels shall be in 41093
writing, accompanied by a fee of fifty dollars, upon a blank to be 41094
furnished by the superintendent of industrial compliance. Any 41095
moneys collected under this section shall be paid into the state 41096
treasury to the credit of the industrial compliance operating fund 41097
created in section 121.084 of the Revised Code. 41098

(B) The superintendent shall determine if an applicant meets 41099
all the requirements for examination in accordance with rules 41100
adopted by the board of building standards under section 4104.02 41101
of the Revised Code. An application shall be rejected which 41102
contains any willful falsification, or untruthful statements. 41103

(C) An applicant shall be examined by the superintendent, by 41104
a written examination, prescribed by the board, dealing with the 41105
construction, installation, operation, maintenance, and repair of 41106
boilers and ~~unfired~~ pressure vessels and their appurtenances, and 41107
the applicant shall be accepted or rejected on the merits of the 41108
applicant's application and examination. 41109

(D) Upon a favorable report by the superintendent of the 41110
result of an examination, the superintendent shall immediately 41111
issue to the successful applicant a certificate of competency to 41112
that effect. 41113

Sec. 4104.08. (A) The director of commerce may appoint from 41114
the holders of certificates of competency provided for in section 41115
4104.07 of the Revised Code, general inspectors of boilers and 41116
~~unfired~~ pressure vessels. 41117

(B) Any company authorized to insure boilers and ~~unfired~~ 41118
pressure vessels against explosion in this state may designate 41119
from holders of certificates of competency issued by the 41120
superintendent of industrial compliance, or holders of 41121
certificates of competency or commissions issued by other states 41122
or nations whose examinations for certificates or commissions have 41123
been approved by the board of building standards, persons to 41124
inspect and stamp boilers and ~~unfired~~ pressure vessels covered by 41125
the company's policies, and the superintendent shall issue to such 41126
persons commissions authorizing them to act as special inspectors. 41127
Special inspectors shall be compensated by the company designating 41128
them. 41129

(C) The director of commerce shall establish an annual fee to 41130
be charged by the superintendent for each certificate of 41131
competency or commission the superintendent issues. 41132

(D) The superintendent shall issue to each general or special 41133
inspector a commission to the effect that the holder thereof is 41134
authorized to inspect boilers and ~~unfired~~ pressure vessels in this 41135
state. 41136

(E) No person shall be authorized to act as a general 41137
inspector or a special inspector who is directly or indirectly 41138
interested in the manufacture or sale of boilers or ~~unfired~~ 41139
pressure vessels. 41140

Sec. 4104.15. (A) All certificates of inspection for boilers, 41141
issued prior to October 15, 1965, are valid and effective for the 41142
period set forth in such certificates unless sooner withdrawn by 41143

the superintendent of industrial compliance. The owner or user of 41144
any such boiler shall obtain an appropriate certificate of 41145
operation for such boiler, and shall not operate such boiler, or 41146
permit it to be operated unless a certificate of operation has 41147
been obtained in accordance with section 4104.17 of the Revised 41148
Code. 41149

(B) If, upon making the internal and external inspection 41150
required under sections 4104.11, 4104.12, and 4104.13 of the 41151
Revised Code, the inspector finds the boiler to be in safe working 41152
order, with the fittings necessary to safety, and properly set up, 41153
upon the inspector's report to the superintendent, the 41154
superintendent shall issue to the owner or user thereof, or renew, 41155
upon application and upon compliance with sections 4104.17 and 41156
4104.18 of the Revised Code, a certificate of operation which 41157
shall state the maximum pressure at which the boiler may be 41158
operated, as ascertained by the rules of the board of building 41159
standards. Such certificates shall also state the name of the 41160
owner or user, the location, size, and number of each boiler, and 41161
the date of issuance, and shall be so placed as to be easily read 41162
in the engine room or boiler room of the plant where the boiler is 41163
located, except that the certificate of operation for a portable 41164
boiler shall be kept on the premises and shall be accessible at 41165
all times. 41166

(C) If an inspector at any inspection finds that the boiler 41167
or ~~unfired~~ pressure vessel is not in safe working condition, or is 41168
not provided with the fittings necessary to safety, or if the 41169
fittings are improperly arranged, the inspector shall immediately 41170
notify the owner or user and person in charge of the boiler and 41171
shall report the same to the superintendent who may revoke, 41172
suspend, or deny the certificate of operation and not renew the 41173
same until the boiler or ~~unfired~~ pressure vessel and its fittings 41174
are put in condition to insure safety of operation, and the owner 41175

or user shall not operate the boiler or ~~unfired~~ pressure vessel, 41176
or permit it to be operated until such certificate has been 41177
granted or restored. 41178

(D) If the superintendent or a general boiler inspector finds 41179
that ~~an unfired~~ a pressure vessel or boiler or a part thereof 41180
poses an explosion hazard that reasonably can be regarded as 41181
posing an imminent danger of death or serious physical harm to 41182
persons, the superintendent or the general boiler inspector shall 41183
seal the ~~unfired~~ pressure vessel or boiler and order, in writing, 41184
the operator or owner of the ~~unfired~~ pressure vessel or boiler to 41185
immediately cease the ~~unfired~~ pressure vessel's or boiler's 41186
operation. The order shall be effective until the nonconformities 41187
are eliminated, corrected, or otherwise remedied, or for a period 41188
of seventy-two hours from the time of issuance, whichever occurs 41189
first. During the seventy-two-hour period, the superintendent may 41190
request that the prosecuting attorney or city attorney of Franklin 41191
county or of the county in which the ~~unfired~~ pressure vessel or 41192
boiler is located obtain an injunction restraining the operator or 41193
owner of the ~~unfired~~ pressure vessel or boiler from continuing its 41194
operation after the seventy-two-hour period expires until the 41195
nonconformities are eliminated, corrected, or otherwise remedied. 41196

(E) Each boiler which has been inspected shall be assigned a 41197
number by the superintendent, which number shall be stamped on a 41198
nonferrous metal tag affixed to the boiler or its fittings by seal 41199
or otherwise. No person except an inspector shall deface or remove 41200
any such number or tag. 41201

(F) If the owner or user of any ~~unfired~~ pressure vessel or 41202
boiler disagrees with the inspector as to the necessity for 41203
shutting down ~~an unfired~~ a pressure vessel or boiler or for making 41204
repairs or alterations in it, or taking any other measures for 41205
safety that are requested by an inspector, the owner or user may 41206
appeal from the decision of the inspector to the superintendent, 41207

who may, after such other inspection by a general inspector or 41208
special inspector as the superintendent deems necessary, decide 41209
the issue. 41210

(G) Neither sections 4104.01 to 4104.20 of the Revised Code, 41211
nor an inspection or report by any inspector, shall relieve the 41212
owner or user of ~~an unfired~~ a pressure vessel or boiler of the 41213
duty of using due care in the inspection, operation, and repair of 41214
the ~~unfired~~ pressure vessel or boiler or of any liability for 41215
damages for failure to inspect, repair, or operate the ~~unfired~~ 41216
pressure vessel or boiler safely. 41217

Sec. 4104.18. (A) The owner or user of a boiler required 41218
under section 4104.12 of the Revised Code to be inspected upon 41219
installation, and the owner or user of a boiler for which a 41220
certificate of inspection has been issued which is replaced with 41221
an appropriate certificate of operation, shall pay to the 41222
superintendent of industrial compliance a fee in the amount of 41223
~~thirty~~ forty-five dollars for boilers subject to annual 41224
inspections under section 4104.11 of the Revised Code, ~~sixty~~ 41225
ninety dollars for boilers subject to biennial inspection under 41226
section 4104.13 of the Revised Code, ~~ninety one hundred~~ 41227
thirty-five dollars for boilers subject to triennial inspection 41228
under section 4104.11 of the Revised Code, or ~~one two~~ hundred 41229
fifty twenty-five dollars for boilers subject to quinquennial 41230
inspection under section 4104.13 of the Revised Code. 41231

A renewal fee in the amount of ~~thirty~~ forty-five dollars 41232
shall be paid to the treasurer of state before the renewal of any 41233
certificate of operation. 41234

(B) The fee for complete inspection during construction by a 41235
general inspector on boilers and ~~unfired~~ pressure vessels 41236
manufactured within the state shall be thirty-five dollars per 41237
hour. Boiler and ~~unfired~~ pressure vessel manufacturers other than 41238

those located in the state may secure inspection by a general 41239
inspector on work during construction, upon application to the 41240
superintendent, and upon payment of a fee of thirty-five dollars 41241
per hour, plus the necessary traveling and hotel expenses incurred 41242
by the inspector. 41243

(C) The application fee for applicants for steam engineer, 41244
high pressure boiler operator, or low pressure boiler operator 41245
licenses is fifty dollars. The fee for each original or renewal 41246
steam engineer, high pressure boiler operator, or low pressure 41247
boiler operator license is thirty-five dollars. 41248

(D) The director of commerce, subject to the approval of the 41249
controlling board, may establish fees in excess of the fees 41250
provided in divisions (A), (B), and (C) of this section, ~~provided~~ 41251
~~that such fees do not exceed the amounts established in this~~ 41252
~~section by more than fifty per cent.~~ Any moneys collected under 41253
this section shall be paid into the state treasury to the credit 41254
of the industrial compliance operating fund created in section 41255
121.084 of the Revised Code. 41256

(E) Any person who fails to pay an invoiced renewal fee or an 41257
invoiced inspection fee required for any inspection conducted by 41258
the division of industrial compliance pursuant to this chapter 41259
within forty-five days of the invoice date shall pay a late 41260
payment fee equal to twenty-five per cent of the invoiced fee. 41261

(F) In addition to the fees assessed in divisions (A) and (B) 41262
of this section, the board of building standards shall assess the 41263
owner or user a fee of three dollars and twenty-five cents for 41264
each certificate of operation or renewal thereof issued under 41265
division (A) of this section and for each inspection conducted 41266
under division (B) of this section. The board shall adopt rules, 41267
in accordance with Chapter 119. of the Revised Code, specifying 41268
the manner by which the superintendent shall collect and remit to 41269
the board the fees assessed under this division and requiring that 41270

remittance of the fees be made at least quarterly. 41271

Sec. 4104.19. (A) Any person seeking a license to operate as 41272
a steam engineer, high pressure boiler operator, or low pressure 41273
boiler operator shall file a written application with the 41274
superintendent of industrial compliance on a form prescribed by 41275
the superintendent with the appropriate application fee as set 41276
forth in section 4104.18 of the Revised Code. The application 41277
shall contain information satisfactory to the superintendent to 41278
demonstrate that the applicant meets the requirements of division 41279
(B) of this section. The application shall be filed with the 41280
superintendent not more than sixty days and not less than thirty 41281
days before the license examination is offered. 41282

(B) To qualify to take the examination required to obtain a 41283
steam engineer, high pressure boiler operator, or low pressure 41284
boiler operator license, a person shall meet both of the following 41285
requirements: 41286

(1) Be at least eighteen years of age; 41287

(2) Have one year of experience in the operation of steam 41288
engines, high pressure boilers, or low pressure boilers as 41289
applicable to the type of license being sought, or a combination 41290
of experience and education for the type of license sought as 41291
determined to be acceptable by the superintendent. 41292

(C) No applicant shall qualify to take an examination or to 41293
renew a license if the applicant has violated this chapter or if 41294
the applicant has obtained or renewed a license issued under this 41295
chapter by fraud, misrepresentation, or deception. 41296

(D) The superintendent shall issue a license to each 41297
applicant who receives a passing score on the examination, as 41298
determined by the superintendent, for the license for which the 41299
applicant applied. 41300

(E) The superintendent ~~shall~~ may select and contract with one 41301
or more persons to do all of the following relative to the 41302
examinations for a license to operate as a steam engineer, high 41303
pressure boiler operator, or low pressure boiler operator: 41304

(1) Prepare, administer, score, and maintain the 41305
confidentiality of the examination; 41306

(2) Maintain responsibility for all expenses required to 41307
fulfill division (E)(1) of this section; 41308

(3) Charge each applicant a fee for administering the 41309
examination, in an amount authorized by the superintendent; 41310

(4) Design the examination for each type of license to 41311
determine an applicant's competence to operate the equipment for 41312
which the applicant is seeking licensure. 41313

(F) Each license issued under this chapter expires one year 41314
after the date of issue. Each person holding a valid, unexpired 41315
license may renew the license, without reexamination, by applying 41316
to the superintendent not more than ninety days before the 41317
expiration of the license, and submitting with the application the 41318
renewal fee established in section 4104.18 of the Revised Code. 41319
Upon receipt of the renewal information and fee, the 41320
superintendent shall issue the licensee a certificate of renewal. 41321

(G) The superintendent, in accordance with Chapter 119. of 41322
the Revised Code, may suspend or revoke any license, or may refuse 41323
to issue a license under this chapter upon finding that a licensee 41324
or an applicant for a license has violated or is violating the 41325
requirements of this chapter. 41326

Sec. 4104.20. No owner or operator of any boiler shall 41327
operate the same in violation of sections 4104.11 to 4104.16, 41328
inclusive, and 4104.18 of the Revised Code, or of any rule or 41329
regulation adopted by the board of building standards, pursuant to 41330

section 4104.02 of the Revised Code, or without having a boiler 41331
inspected and a certificate of operation issued therefor as 41332
provided in such sections or hinder or prevent a general or 41333
special inspector of boilers from entering any premises in or on 41334
which a boiler is situated for the purpose of inspection. No owner 41335
or operator of any ~~unfired~~ pressure vessel shall operate the same 41336
in violation of section 4104.10 of the Revised Code, or of any 41337
rule or regulation adopted by the board of building standards, 41338
pursuant to section 4104.02 of the Revised Code. 41339

Sec. 4104.41. ~~(A)~~ As used in sections 4104.41 to ~~4104.45~~ 41340
4104.48 of the Revised Code: 41341

~~(1)~~(A) "Liquefied petroleum gas" means any material which is 41342
composed predominantly of any of the following hydrocarbons, or 41343
mixtures of the same: propane, propylene, normal butane, or 41344
isobutane or butylenes. 41345

~~(2)~~(B) "Other gaseous piping systems" excludes natural gas 41346
piping gas systems. 41347

~~(B)~~ ~~The director of commerce shall appoint general inspectors~~ 41348
~~of power, refrigerating, hydraulic, heating, and liquefied~~ 41349
~~petroleum gas piping systems. Such inspectors shall be appointed~~ 41350
~~from holders of certificates of competency provided for in section~~ 41351
~~4104.42 of the Revised Code.~~ 41352

~~Salaries shall be appropriated in the same manner as the~~ 41353
~~salaries of other employees of state departments, and expenses of~~ 41354
~~such general inspectors shall be provided for in the same manner~~ 41355
~~as the expenses of other employees of state departments.~~ 41356

Sec. 4104.42. (A) Each manufacturer, contractor, owner, or 41357
user of power, refrigerating, hydraulic, heating and liquefied 41358
petroleum gas, oxygen, or other gaseous piping systems shall 41359
conduct tests required under rules adopted by the board of 41360

building standards under division (A)(1) of section 4104.44 of the 41361
Revised Code and certify in writing on forms provided under 41362
section 4104.43 of the Revised Code by the superintendent of 41363
industrial compliance in the department of commerce that the 41364
welding and brazing procedures used in the construction of those 41365
power, refrigerating, hydraulic, heating and liquefied petroleum 41366
gas, oxygen, or other gaseous piping systems meet the standards 41367
established by the board under division (A)(1) of section 4104.44 41368
of the Revised Code. 41369

(B) Each manufacturer, contractor, owner, or user of power, 41370
refrigerating, hydraulic, heating and liquefied petroleum gas, 41371
oxygen, or other gaseous piping systems who causes welding or 41372
brazing to be performed in the construction of power, 41373
refrigerating, hydraulic, heating and liquefied petroleum gas, 41374
oxygen, or other gaseous piping systems shall maintain at least 41375
one copy of the forms described in division (A) of this section 41376
and make that copy accessible to any individual certified by the 41377
board of building standards pursuant to division (E) of section 41378
3781.10 of the Revised Code. 41379

(C) An individual certified by the board of building 41380
standards pursuant to division (E) of section 3781.10 of the 41381
Revised Code shall examine the forms described in division (A) of 41382
this section to determine compliance with the rules adopted by the 41383
board of building standards under division (A)(1) of section 41384
4104.44 of the Revised Code. 41385

(D) An individual certified by the board of building 41386
standards pursuant to division (E) of section 3781.10 of the 41387
Revised Code with reason to question the certification or ability 41388
of any welder or brazer shall report the concerns to the 41389
superintendent of the division of industrial compliance in the 41390
department of commerce. The superintendent shall investigate those 41391
concerns. If the superintendent finds facts that substantiate the 41392

concerns of the individual certified by the board of building standards pursuant to division (E) of section 3781.10 of the Revised Code, the superintendent may require the welder or brazer in question to become recertified by a private vendor in the same manner by which five-year recertification is required under section 4104.46 of the Revised Code. The superintendent also may utilize the services of an independent testing laboratory to witness the welding or brazing performed on the project in question and to conduct tests on coupons to determine whether the coupons meet the requirements of the rules adopted by the board of building standards under division (A)(1) of section 4104.44 of the Revised Code.

Sec. 4104.43. (A) Each manufacturer, contractor, owner, or user of power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, or other gaseous piping systems who causes welding or brazing to be performed in the construction of a power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, or other gaseous piping system shall file with the superintendent of the division of industrial compliance two complete copies of forms provided by the superintendent that identify the welding and brazing procedure specifications and welder and brazer performance qualifications performed in the construction of that power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, or other gaseous piping system.

(B)(1) Upon receipt of the forms filed under division (A) of this section, the superintendent shall review the welding and brazing procedure specifications and welder and brazer performance qualifications as indicated on the forms to determine compliance with rules adopted by the board of building standards under division (A)(1) of section 4104.44 of the Revised Code.

(2) If the superintendent finds that the welding and brazing

procedure specifications and welder and brazer performance 41424
qualifications comply with the requirements of the rules adopted 41425
by the board of building standards under division (A)(1) of 41426
section 4104.44 of the Revised Code, the superintendent shall 41427
approve the welding and brazing procedure specifications and 41428
welder and brazer performance qualifications as indicated on the 41429
forms and return one copy to the manufacturer, contractor, owner, 41430
or user of power, refrigerating, hydraulic, heating and liquefied 41431
petroleum gas, oxygen, or other gaseous piping systems who 41432
submitted the forms. 41433

(3) If the superintendent finds that the welding and brazing 41434
procedure specifications and welder and brazer performance 41435
qualifications do not comply with the requirements of the rules 41436
adopted by the board of building standards under division (A)(1) 41437
of section 4104.44 of the Revised Code, the superintendent shall 41438
indicate on the forms that the welding and brazing procedure 41439
specifications and welder and brazer performance qualifications 41440
are not approved and return one copy of the form to the 41441
manufacturer, contractor, owner, or user of power, refrigerating, 41442
hydraulic, heating and liquefied petroleum gas, oxygen, or other 41443
gaseous piping systems who submitted the forms with an explanation 41444
of why the welding and brazing procedure specifications and welder 41445
and brazer performance qualifications were not approved. 41446

Sec. 4104.44. (A) The board of building standards, 41447
established by section 3781.07 of the Revised Code, shall: 41448

(1) ~~Formulate~~ Adopt rules governing the design, plan review, 41449
approval, construction, and installation of power, refrigerating, 41450
hydraulic, heating, and liquefied petroleum gas, oxygen, and other 41451
gaseous piping systems. ~~Such~~ The board of building standards may 41452
include the rules for gaseous piping systems with the rules it 41453
adopts for buildings pursuant to section 3781.10 of the Revised 41454

Code or with the rules it adopts for piping systems pursuant to 41455
this section. The rules shall prescribe uniform minimum standards 41456
necessary for the protection of the public health and safety and 41457
shall include rules establishing the safe working pressure to be 41458
carried by any such systems; a program for the certification of 41459
the welding and brazing procedures proposed to be used on any such 41460
system by the owner or operator of any welding or brazing business 41461
and for quinquennial performance testing of welders and brazers 41462
who work on any such system; and measures for the conservation of 41463
energy. ~~Such~~ The rules shall be based upon and follow generally 41464
accepted engineering standards, formulas, and practices 41465
established and pertaining to such piping construction, 41466
installation, and testing. The board may, for this purpose, adopt 41467
existing published standards, as well as amendments thereto 41468
subsequently published by the same authority. 41469

(2) Prescribe the tests, to ascertain the qualities of 41470
materials and welding and brazing materials used in the 41471
construction of power, refrigerating, hydraulic, heating, and 41472
liquefied petroleum gas, oxygen, and other gaseous piping systems; 41473

(3) Make a standard form of certificate of inspection; 41474

~~(4) Prescribe the examinations for applicants for~~ 41475
~~certificates of competency provided for in section 4104.42 of the~~ 41476
~~Revised Code and~~ performance tests to determine the proficiency of 41477
welders and brazers; 41478

(5) Certify municipal and county building departments to 41479
inspect power, refrigerating, hydraulic, heating, and liquefied 41480
petroleum gas, oxygen, and other gaseous piping systems and adopt 41481
rules governing such certification; 41482

~~(6) Establish the fee to be charged for an inspection made by~~ 41483
~~a general inspector and for the filing and auditing of special~~ 41484
~~inspector reports, and collect all fees established in this~~ 41485

section. 41486

The fee for the quinquennial performance tests shall be 41487
fifteen dollars and the fee for certification of welding and 41488
brazing procedures mentioned in division (A) of this section shall 41489
be sixty dollars, except that the board of building standards, 41490
with the approval of the controlling board, may establish fees in 41491
excess of these fees, provided that the fees do not exceed the 41492
amounts of these fees by more than fifty per cent. The fee for 41493
each welding and brazing instruction sheet and procedure 41494
qualification record shall be fifteen dollars. Any moneys 41495
collected under this section shall be paid into the state treasury 41496
to the credit of the industrial compliance operating fund created 41497
in section 121.084 of the Revised Code. 41498

~~(B) Piping is exempt from the requirements for submission of 41499
applications and inspections and the necessity to obtain permits, 41500
as required under this section and section 4104.45 of the Revised 41501
Code, or under rules adopted pursuant to those sections, for 41502
power, refrigerating, hydraulic, heating, and liquefied petroleum 41503
gas, oxygen, and gaseous piping systems if the piping is used: 41504~~

~~(1) In air cooling systems in residential or commercial 41505
buildings and if such systems do not exceed five tons (sixty 41506
thousand British thermal units per hour) per system; or 41507~~

~~(2) In air heating systems in residential or commercial 41508
buildings and if such systems do not exceed one hundred fifty 41509
thousand British thermal units per hour per system. 41510~~

~~(C) The board of building standards may, by rule, exempt from 41511
the rules adopted pursuant to division (A)(1) of this section any 41512
pressure piping power, refrigerating, hydraulic, heating and 41513
liquefied petroleum gas, oxygen, or other gaseous piping systems 41514
which that pose no appreciable danger to the public health and 41515
safety. 41516~~

Sec. 4104.45. (A) Except as otherwise provided in section 41517
4104.44 of the Revised Code, new power, refrigerating, hydraulic, 41518
heating, liquefied petroleum gas, oxygen, and other gaseous piping 41519
systems shall be thoroughly inspected in accordance with the rules 41520
of the board of building standards. Such ~~inspection~~ inspections 41521
shall be performed by ~~one of the following:~~ 41522

~~(1) General inspectors of pressure piping systems;~~ 41523

~~(2) Special inspectors provided for in section 4104.43 of the 41524
Revised Code;~~ 41525

~~(3) Local inspectors provided for in section 4104.43 of the 41526
Revised Code.~~ 41527

~~(B) Owners or users of pressure piping systems required to be 41528
inspected under this section shall pay to the division of 41529
industrial compliance in the department of commerce a fee of one 41530
hundred fifty dollars plus an additional fee determined as 41531
follows:~~ 41532

~~(1) On or before June 30, 2000, two per cent of the actual 41533
cost of the system for each inspection made by a general 41534
inspector;~~ 41535

~~(2) On July 1, 2000, and through June 30, 2001, one and 41536
eight tenths per cent of the actual cost of the system for each 41537
inspection made by a general inspector;~~ 41538

~~(3) On and after July 1, 2001, one per cent of the actual 41539
cost of the system for each inspection made by a general 41540
inspector.~~ 41541

~~(C) The board of building standards, subject to the approval 41542
of the controlling board, may establish a fee in excess of the fee 41543
provided in division (B) of this section, provided that the fee 41544
does not exceed the amount established in this section by more 41545
than fifty per cent.~~ 41546

~~(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.~~

~~(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.~~

~~(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.~~

~~(G)(B) The superintendent of the division of industrial compliance in the department of commerce may issue adjudication orders as necessary for the enforcement of sections 4104.41 to 4104.46 4104.48 of the Revised Code and rules adopted under those sections. No person shall violate or fail to comply with the terms and conditions of an adjudication order issued under this division. Adjudication orders issued pursuant to this division and appeals thereof are governed by section 3781.19 of the Revised Code.~~

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. 41579
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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. 41584
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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. 41590
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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. 41595
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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 fail to comply with any order issued by the superintendent of the 41605
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division of industrial compliance or any judgment or decree issued 41609
by any court in connection with the enforcement of sections 41610
4104.41 to ~~4104.46~~ 4104.48 of the Revised Code. 41611

(B) Every day during which a person violates sections 4104.41 41612
to ~~4104.46~~ 4104.48 of the Revised Code, fails to perform any duty 41613
lawfully enjoined in connection with those sections, or fails to 41614
comply with any order issued by the superintendent of the division 41615
of industrial compliance or any judgment or decree issued by any 41616
court in connection with the enforcement of sections 4104.41 to 41617
~~4104.46~~ 4104.48 of the Revised Code constitutes a separate 41618
offense. 41619

Sec. 4105.17. (A) The fee for each inspection, or attempted 41620
inspection that, due to no fault of a general inspector or the 41621
division of industrial compliance, is not successfully completed, 41622
by a general inspector before the operation of a permanent new 41623
elevator prior to the issuance of a certificate of operation, 41624
before operation of an elevator being put back into service after 41625
a repair, or as a result of the operation of section 4105.08 of 41626
the Revised Code and is an elevator required to be inspected under 41627
this chapter is twenty dollars plus ten dollars for each floor 41628
where the elevator stops. The superintendent of industrial 41629
compliance may assess an additional fee of one hundred twenty-five 41630
dollars plus five dollars for each floor where an elevator stops 41631
for the reinspection of an elevator when a previous attempt to 41632
inspect that elevator has been unsuccessful through no fault of a 41633
general inspector or the division of industrial compliance. 41634

(B) The fee for each inspection, or attempted inspection, 41635
that due to no fault of the general inspector or the division of 41636
industrial compliance, is not successfully completed by a general 41637
inspector before operation of a permanent new escalator or moving 41638
walk prior to the issuance of a certificate of operation, before 41639

operation of an escalator or moving walk being put back in service 41640
after a repair, or as a result of the operation of section 4105.08 41641
of the Revised Code is three hundred dollars. The superintendent 41642
of the division of industrial compliance may assess an additional 41643
fee of one hundred fifty dollars for the reinspection of an 41644
escalator or moving walk when a previous attempt to inspect that 41645
escalator or moving walk has been unsuccessful through no fault of 41646
the general inspector or the division of industrial compliance. 41647

(C) The fee for issuing or renewing a certificate of 41648
operation under section 4105.15 of the Revised Code for an 41649
elevator that is inspected every six months in accordance with 41650
division (A) of section 4105.10 of the Revised Code is ~~one~~ two 41651
hundred ~~five~~ dollars plus ten dollars for each floor where the 41652
elevator stops, except where the elevator has been inspected by a 41653
special inspector in accordance with section 4105.07 of the 41654
Revised Code. 41655

(D) The fee for issuing or renewing a certificate of 41656
operation under section 4105.05 of the Revised Code for an 41657
elevator that is inspected every twelve months in accordance with 41658
division (A) of section 4105.10 of the Revised Code is fifty-five 41659
dollars plus ten dollars for each floor where the elevator stops, 41660
except where the elevator has been inspected by a special 41661
inspector in accordance with section 4105.07 of the Revised Code. 41662

(E) The fee for issuing or renewing a certificate of 41663
operation under section 4105.15 of the Revised Code for an 41664
escalator or moving walk is three hundred dollars, except where 41665
the escalator or moving walk has been inspected by a special 41666
inspector in accordance section 4105.07 of the Revised Code. 41667

(F) All other fees to be charged for any examination given or 41668
other service performed by the division of industrial compliance 41669
pursuant to this chapter shall be prescribed by the director of 41670
commerce. The fees shall be reasonably related to the costs of 41671

such examination or other service. 41672

(G) The director of commerce, subject to the approval of the 41673
controlling board, may establish fees in excess of the fees 41674
provided in divisions (A) ~~and~~, (B), (C), (D), and (E) of this 41675
section, ~~provided that the fees do not exceed the amounts~~ 41676
~~established in divisions (A) and (B) of this section by more than~~ 41677
~~fifty per cent~~. Any moneys collected under this section shall be 41678
paid into the state treasury to the credit of the industrial 41679
compliance operating fund created in section 121.084 of the 41680
Revised Code. 41681

(H) Any person who fails to pay an inspection fee required 41682
for any inspection conducted by the division pursuant to this 41683
chapter within forty-five days after the inspection is conducted 41684
shall pay a late payment fee equal to twenty-five per cent of the 41685
inspection fee. 41686

(I) In addition to the fees assessed in divisions (A), (B), 41687
(C), ~~and~~ (D), and (E) of this section, the board of building 41688
standards shall assess a fee of three dollars and twenty-five 41689
cents for each certificate of operation or renewal thereof issued 41690
under ~~division~~ divisions (A), (B), (C), (D), or (E) of this 41691
section and for each permit issued under section 4105.16 of the 41692
Revised Code. The board shall adopt rules, in accordance with 41693
Chapter 119. of the Revised Code, specifying the manner by which 41694
the superintendent of industrial compliance shall collect and 41695
remit to the board the fees assessed under this division and 41696
requiring that remittance of the fees be made at least quarterly. 41697

(J) For purposes of this section: 41698

(1) "Escalator" means a power driven, inclined, continuous 41699
stairway used for raising or lowering passengers. 41700

(2) "Moving walk" means a passenger carrying device on which 41701
passengers stand or walk, with a passenger carrying surface that 41702

is uninterrupted and remains parallel to its direction of motion. 41703

Sec. 4112.15. There is hereby created in the state treasury 41704
the civil rights commission general reimbursement fund, which 41705
shall be used to pay operating costs of the commission. All 41706
amounts received by the commission, and all amounts awarded by a 41707
court to the commission, for attorney's fees, court costs, expert 41708
witness fees, and other litigation expenses shall be paid into the 41709
state treasury to the credit of the fund. All ~~money paid to~~ 41710
amounts received by the commission for copies of commission 41711
documents and for other goods and services furnished by the 41712
commission shall be ~~credited~~ paid into the state treasury to the 41713
credit of the fund. 41714

Sec. 4115.10. (A) No person, firm, corporation, or public 41715
authority that constructs a public improvement with its own 41716
forces, the total overall project cost of which is fairly 41717
estimated to be more than the amounts set forth in division (B)(1) 41718
or (2) of section 4115.03 of the Revised Code, adjusted biennially 41719
by the director of commerce pursuant to section 4115.034 of the 41720
Revised Code, shall violate the wage provisions of sections 41721
4115.03 to 4115.16 of the Revised Code, or suffer, permit, or 41722
require any employee to work for less than the rate of wages so 41723
fixed, or violate the provisions of section 4115.07 of the Revised 41724
Code. Any employee upon any public improvement, except an employee 41725
to whom or on behalf of whom restitution is made pursuant to 41726
division (C) of section 4115.13 of the Revised Code, who is paid 41727
less than the fixed rate of wages applicable thereto may recover 41728
from such person, firm, corporation, or public authority that 41729
constructs a public improvement with its own forces the difference 41730
between the fixed rate of wages and the amount paid to the 41731
employee and in addition thereto a sum equal to twenty-five per 41732
cent of that difference. The person, firm, corporation, or public 41733

authority who fails to pay the rate of wages so fixed also shall 41734
pay a penalty to the director of seventy-five per cent of the 41735
difference between the fixed rate of wages and the amount paid to 41736
the employees on the public improvement. The director shall 41737
deposit all moneys received from penalties paid to the director 41738
pursuant to this section into the penalty enforcement fund, which 41739
is hereby created in the state treasury. The director shall use 41740
the fund for the enforcement of sections 4115.03 to 4115.16 of the 41741
Revised Code. The employee may file suit for recovery within ~~sixty~~ 41742
ninety days of the director's determination of a violation of 41743
sections 4115.03 to 4115.16 of the Revised Code or is barred from 41744
further action under this division. Where the employee prevails in 41745
a suit, the employer shall pay the costs and reasonable attorney's 41746
fees allowed by the court. 41747

(B) Any employee upon any public improvement who is paid less 41748
than the prevailing rate of wages applicable thereto may file a 41749
complaint in writing with the director upon a form furnished by 41750
the director. ~~At the written request~~ The complaint shall include 41751
documented evidence to demonstrate that the employee was paid less 41752
than the prevailing wage in violation of this chapter. Upon 41753
receipt of a properly completed written complaint of any employee 41754
paid less than the prevailing rate of wages applicable, the 41755
director shall take an assignment of a claim in trust for the 41756
assigning employee and bring any legal action necessary to collect 41757
the claim. The employer shall pay the costs and reasonable 41758
attorney's fees allowed by the court if the employer is found in 41759
violation of sections 4115.03 to 4115.16 of the Revised Code. 41760

(C) If after investigation pursuant to section 4115.13 of the 41761
Revised Code, the director determines there is a violation of 41762
sections 4115.03 to 4115.16 of the Revised Code and a period of 41763
sixty days has elapsed from the date of the determination, and if: 41764

(1) No employee has brought suit pursuant to division (A) of 41765

this section; 41766

(2) No employee has requested that the director take an 41767
assignment of a wage claim pursuant to division (B) of this 41768
section; 41769

The director shall bring any legal action necessary to 41770
collect any amounts owed to employees and the director. The 41771
director shall pay over to the affected employees the amounts 41772
collected to which the affected employees are entitled under 41773
division (A) of this section. In any action in which the director 41774
prevails, the employer shall pay the costs and reasonable 41775
attorney's fees allowed by the court. 41776

(D) Where persons are employed and their rate of wages has 41777
been determined as provided in section 4115.04 of the Revised 41778
Code, no person, either for self or any other person, shall 41779
request, demand, or receive, either before or after the person is 41780
engaged, that the person so engaged pay back, return, donate, 41781
contribute, or give any part or all of the person's wages, salary, 41782
or thing of value, to any person, upon the statement, 41783
representation, or understanding that failure to comply with such 41784
request or demand will prevent the procuring or retaining of 41785
employment, and no person shall, directly or indirectly, aid, 41786
request, or authorize any other person to violate this section. 41787
This division does not apply to any agent or representative of a 41788
duly constituted labor organization acting in the collection of 41789
dues or assessments of such organization. 41790

(E) The director shall enforce sections 4115.03 to 4115.16 of 41791
the Revised Code. 41792

(F) For the purpose of supplementing existing resources and 41793
to assist in enforcing division (E) of this section, the director 41794
may contract with a person registered as a public accountant under 41795
Chapter 4701. of the Revised Code to conduct an audit of a person, 41796

firm, corporation, or public authority. 41797

Sec. 4115.21. A person who files a complaint with the 41798
director of commerce alleging a violation of sections 4115.03 to 41799
4115.16 of the Revised Code shall file the complaint within two 41800
years after the completion of the public improvement upon which 41801
the violation is alleged to have occurred or be barred from 41802
further administrative action under this chapter. 41803

Sec. 4117.02. (A) There is hereby created the state 41804
employment relations board, consisting of three members to be 41805
appointed by the governor with the advice and consent of the 41806
senate. Members shall be knowledgeable about labor relations or 41807
personnel practices. No more than two of the three members shall 41808
belong to the same political party. A member of the board during 41809
the member's period of service shall hold no other public office 41810
or public or private employment and shall allow no other 41811
responsibilities to interfere or conflict with the member's duties 41812
as a full-time board member. Of the initial appointments made to 41813
the board, one shall be for a term ending October 6, 1984, one 41814
shall be for a term ending October 6, 1985, and one shall be for a 41815
term ending October 6, 1986. Thereafter, terms of office shall be 41816
for six years, each term ending on the same day of the same month 41817
of the year as did the term that it succeeds. Each member shall 41818
hold office from the date of the member's appointment until the 41819
end of the term for which the member is appointed. Any member 41820
appointed to fill a vacancy occurring prior to the expiration of 41821
the term for which the member's predecessor was appointed shall 41822
hold office for the remainder of the term. Any member shall 41823
continue in office subsequent to the expiration of the member's 41824
term until the member's successor takes office or until a period 41825
of sixty days has elapsed, whichever occurs first. The 41826

~~The governor shall designate one member to serve as~~ 41827

~~chairperson of the board.~~ The governor may remove any member of 41828
the board, upon notice and public hearing, for neglect of duty or 41829
malfeasance in office, but for no other cause. 41830

(B) ~~A~~ (1) The governor shall designate one member of the 41831
board to serve as chairperson of the board. The chairperson is the 41832
head of the board and its chief executive officer. 41833

(2) The chairperson shall exercise all administrative powers 41834
and duties conferred upon the board under this chapter and shall 41835
do all of the following: 41836

(a) Except as provided in division (F)(2) of this section, 41837
employ, promote, supervise, and remove all employees of the board, 41838
and establish, change, or abolish positions and assign or reassign 41839
the duties of those employees as the chairperson determines 41840
necessary to achieve the most efficient performance of the board's 41841
duties under this chapter; 41842

(b) Maintain the office of the board in Columbus and manage 41843
the office's daily operations, including securing facilities, 41844
equipment, and supplies necessary to house the board, employees of 41845
the board, and files and records under the board's control; 41846

(c) Prepare and submit to the office of budget and management 41847
a budget for each biennium according to section 107.03 of the 41848
Revised Code, and include in the budget the costs of the board and 41849
its staff and the board's costs in discharging any duty imposed by 41850
law upon the board, the chairperson, or any of the board's 41851
employees or agents. 41852

(C) The vacancy on the board does not impair the right of the 41853
remaining members to exercise all the powers of the board, and two 41854
members of the board, at all times, constitute a quorum. The board 41855
shall have an official seal of which courts shall take judicial 41856
notice. 41857

~~(C)~~(D) The board shall make an annual report in writing to 41858

the governor and to the general assembly, stating in detail the 41859
work it has done. 41860

~~(D)~~(E) Compensation of the chairperson and members shall be 41861
in accordance with division (J) of section 124.15 of the Revised 41862
Code. The chairperson and the members are eligible for 41863
reappointment. In addition to such compensation, all members shall 41864
be reimbursed for their necessary expenses incurred in the 41865
performance of their work as members. 41866

~~(E)~~(F)(1) The chairperson, after consulting with the other 41867
board members and receiving the consent of at least one other 41868
board member, shall appoint an executive director and. The 41869
chairperson also shall appoint attorneys, and attorney-trial 41870
examiners, mediators, arbitrators, members of fact finding panels, 41871
directors for local areas, and other employees as it finds 41872
necessary for the proper performance of its duties and may 41873
prescribe their duties. The 41874

(2) The board shall appoint mediators, arbitrators, members 41875
of fact-finding panels, and directors for local areas, and shall 41876
prescribe their job duties. 41877

(G)(1) The executive director shall serve at the pleasure of 41878
the chairperson. The executive director, under the direction of 41879
the chairperson, shall do all of the following: 41880

(a) Act as chief administrative officer for the board; 41881

(b) Ensure that all employees of the board comply with the 41882
rules of the board; 41883

(c) Do all things necessary for the efficient and effective 41884
implementation of the duties of the board. 41885

(2) The duties of the executive director described in 41886
division (G)(1) of this section do not relieve the chairperson 41887
from final responsibility for the proper performance of the duties 41888

described in that division. 41889

(H) The attorney general shall be the legal adviser of the 41890
board and shall appear for and represent the board and its agents 41891
in all legal proceedings. The board may utilize regional, local, 41892
or other agencies, and utilize voluntary and uncompensated 41893
services as needed. The board may contract with the federal 41894
mediation and conciliation service for the assistance of 41895
mediators, arbitrators, and other personnel the service makes 41896
available. The board and the chairperson, respectively, shall 41897
appoint all employees on the basis of training, practical 41898
experience, education, and character, notwithstanding the 41899
requirements established by section 119.09 of the Revised Code. 41900
The board shall give special regard to the practical training and 41901
experience that employees have for the particular position 41902
involved. All full-time employees of the board excepting the 41903
executive director, the head of the bureau of mediation, and the 41904
personal secretaries and assistants of the board members are in 41905
the classified service. All employees of the board shall be paid 41906
in accordance with Chapter 124. of the Revised Code. 41907

~~(F)~~(I) The board shall select and assign examiners and other 41908
agents whose functions are to conduct hearings with due regard to 41909
their impartiality, judicial temperament, and knowledge. If in any 41910
proceeding under this chapter, any party prior to five days before 41911
the hearing thereto files with the board a sworn statement 41912
charging that the examiner or other agent designated to conduct 41913
the hearing is biased or partial in the proceeding, the board may 41914
disqualify the person and designate another examiner or agent to 41915
conduct the proceeding. At least ten days before any hearing, the 41916
board shall notify all parties to a proceeding of the name of the 41917
examiner or agent designated to conduct the hearing. 41918

~~(G)~~(J) The principal office of the board is in Columbus, but 41919
it may meet and exercise any or all of its powers at any other 41920

place within the state. The board may, by one or more of its 41921
employees, or any agents or agencies it designates, conduct in any 41922
part of this state any proceeding, hearing, investigation, 41923
inquiry, or election necessary to the performance of its 41924
functions; provided, that no person so designated may later sit in 41925
determination of an appeal of the decision of that cause or 41926
matter. 41927

~~(H)~~(K) In addition to the powers and functions provided in 41928
other sections of this chapter, the board shall do all of the 41929
following: 41930

(1) Create a bureau of mediation within the state employment 41931
relations board, to perform the functions provided in section 41932
4117.14 of the Revised Code. This bureau shall also establish, 41933
after consulting representatives of employee organizations and 41934
public employers, panels of qualified persons to be available to 41935
serve as members of fact-finding panels and arbitrators. 41936

(2) Conduct studies of problems involved in representation 41937
and negotiation and make recommendations for legislation; 41938

(3) Hold hearings pursuant to this chapter and, for the 41939
purpose of the hearings and inquiries, administer oaths and 41940
affirmations, examine witnesses and documents, take testimony and 41941
receive evidence, compel the attendance of witnesses and the 41942
production of documents by the issuance of subpoenas, and delegate 41943
these powers to any members of the board or any attorney-trial 41944
examiner appointed by the board for the performance of its 41945
functions; 41946

(4) Train representatives of employee organizations and 41947
public employers in the rules and techniques of collective 41948
bargaining procedures; 41949

(5) Make studies and analyses of, and act as a clearinghouse 41950
of information relating to, conditions of employment of public 41951

employees throughout the state and request assistance, services, 41952
and data from any public employee organization, public employer, 41953
or governmental unit. Public employee organizations, public 41954
employers, and governmental units shall provide such assistance, 41955
services, and data as will enable the board to carry out its 41956
functions and powers. 41957

(6) Make available to employee organizations, public 41958
employers, mediators, fact-finding panels, arbitrators, and joint 41959
study committees statistical data relating to wages, benefits, and 41960
employment practices in public and private employment applicable 41961
to various localities and occupations to assist them to resolve 41962
issues in negotiations; 41963

(7) Notwithstanding section 119.13 of the Revised Code, 41964
establish standards of persons who practice before it; 41965

(8) Adopt, amend, and rescind rules and procedures and 41966
exercise other powers appropriate to carry out this chapter. 41967
Before the adoption, amendment, or rescission of rules and 41968
procedures under this section, the board shall do all of the 41969
following: 41970

(a) Maintain a list of interested public employers and 41971
employee organizations and mail notice to such groups of any 41972
proposed rule or procedure, amendment thereto, or rescission 41973
thereof at least thirty days before any public hearing thereon; 41974

(b) Mail a copy of each proposed rule or procedure, amendment 41975
thereto, or rescission thereof to any person who requests a copy 41976
within five days after receipt of the request therefor; 41977

(c) Consult with appropriate statewide organizations 41978
representing public employers or employees who would be affected 41979
by the proposed rule or procedure. 41980

Although the board is expected to discharge these duties 41981
diligently, failure to mail any notice or copy, or to so consult 41982

with any person, is not jurisdictional and shall not be construed 41983
to invalidate any proceeding or action of the board. 41984

~~(I)~~(L) In case of neglect or refusal to obey a subpoena 41985
issued to any person, the court of common pleas of the county in 41986
which the investigation or the public hearing occurs, upon 41987
application by the board, may issue an order requiring the person 41988
to appear before the board and give testimony about the matter 41989
under investigation. The court may punish a failure to obey the 41990
order as contempt. 41991

~~(J)~~(M) Any subpoena, notice of hearing, or other process or 41992
notice of the board issued under this section may be served 41993
personally, by certified mail, or by leaving a copy at the 41994
principal office or personal residence of the respondent required 41995
to be served. A return, made and verified by the individual making 41996
the service and setting forth the manner of service, is proof of 41997
service, and a return post office receipt, when certified mail is 41998
used, is proof of service. All process in any court to which 41999
application is made under this chapter may be served in the county 42000
wherein the persons required to be served reside or are found. 42001

~~(K)~~(N) All expenses of the board, including all necessary 42002
traveling and subsistence expenses incurred by the members or 42003
employees of the board under its orders, shall be paid pursuant to 42004
itemized vouchers approved by the chairperson of the board, the 42005
executive director, or both, or such other person as the ~~board~~ 42006
chairperson designates for that purpose. 42007

~~(L)~~(O) Whenever the board determines that a substantial 42008
controversy exists with respect to the application or 42009
interpretation of this chapter and the matter is of public or 42010
great general interest, the board shall certify its final order 42011
directly to the court of appeals having jurisdiction over the area 42012
in which the principal office of the public employer directly 42013
affected by the application or interpretation is located. The 42014

chairperson shall file with the clerk of the court a certified 42015
copy of the transcript of the proceedings before the board 42016
pertaining to the final order. If upon hearing and consideration 42017
the court decides that the final order of the board is unlawful or 42018
is not supported by substantial evidence on the record as a whole, 42019
the court shall reverse and vacate the final order or modify it 42020
and enter final judgment in accordance with the modification; 42021
otherwise, the court shall affirm the final order. The notice of 42022
the final order of the board to the interested parties shall 42023
contain a certification by the chairperson of the board that the 42024
final order is of public or great general interest and that a 42025
certified transcript of the record of the proceedings before the 42026
board had been filed with the clerk of the court as an appeal to 42027
the court. For the purposes of this division, the board has 42028
standing to bring its final order properly before the court of 42029
appeals. 42030

~~(M)~~(P) Except as otherwise specifically provided in this 42031
section, the board is subject to Chapter 119. of the Revised Code, 42032
including the procedure for submission of proposed rules to the 42033
general assembly for legislative review under division (H) of 42034
section 119.03 of the Revised Code. 42035

Sec. 4117.14. (A) The procedures contained in this section 42036
govern the settlement of disputes between an exclusive 42037
representative and a public employer concerning the termination or 42038
modification of an existing collective bargaining agreement or 42039
negotiation of a successor agreement, or the negotiation of an 42040
initial collective bargaining agreement. 42041

(B)(1) In those cases where there exists a collective 42042
bargaining agreement, any public employer or exclusive 42043
representative desiring to terminate, modify, or negotiate a 42044
successor collective bargaining agreement shall: 42045

(a) Serve written notice upon the other party of the proposed 42046
termination, modification, or successor agreement. The party must 42047
serve the notice not less than sixty days prior to the expiration 42048
date of the existing agreement or, in the event the existing 42049
collective bargaining agreement does not contain an expiration 42050
date, not less than sixty days prior to the time it is proposed to 42051
make the termination or modifications or to make effective a 42052
successor agreement. 42053

(b) Offer to bargain collectively with the other party for 42054
the purpose of modifying or terminating any existing agreement or 42055
negotiating a successor agreement; 42056

(c) Notify the state employment relations board of the offer 42057
by serving upon the board a copy of the written notice to the 42058
other party and a copy of the existing collective bargaining 42059
agreement. 42060

(2) In the case of initial negotiations between a public 42061
employer and an exclusive representative, where a collective 42062
bargaining agreement has not been in effect between the parties, 42063
any party may serve notice upon the board and the other party 42064
setting forth the names and addresses of the parties and offering 42065
to meet, for a period of ninety days, with the other party for the 42066
purpose of negotiating a collective bargaining agreement. 42067

If the settlement procedures specified in divisions (B), (C), 42068
and (D) of this section govern the parties, where those procedures 42069
refer to the expiration of a collective bargaining agreement, it 42070
means the expiration of the sixty-day period to negotiate a 42071
collective bargaining agreement referred to in this subdivision, 42072
or in the case of initial negotiations, it means the ninety day 42073
period referred to in this subdivision. 42074

(3) The parties shall continue in full force and effect all 42075
the terms and conditions of any existing collective bargaining 42076

agreement, without resort to strike or lock-out, for a period of 42077
sixty days after the party gives notice or until the expiration 42078
date of the collective bargaining agreement, whichever occurs 42079
later, or for a period of ninety days where applicable. 42080

(4) Upon receipt of the notice, the parties shall enter into 42081
collective bargaining. 42082

(C) In the event the parties are unable to reach an 42083
agreement, they may submit, at any time prior to forty-five days 42084
before the expiration date of the collective bargaining agreement, 42085
the issues in dispute to any mutually agreed upon dispute 42086
settlement procedure which supersedes the procedures contained in 42087
this section. 42088

(1) The procedures may include: 42089

(a) Conventional arbitration of all unsettled issues; 42090

(b) Arbitration confined to a choice between the last offer 42091
of each party to the agreement as a single package; 42092

(c) Arbitration confined to a choice of the last offer of 42093
each party to the agreement on each issue submitted; 42094

(d) The procedures described in division (C)(1)(a), (b), or 42095
(c) of this section and including among the choices for the 42096
arbitrator, the recommendations of the fact finder, if there are 42097
recommendations, either as a single package or on each issue 42098
submitted; 42099

(e) Settlement by a citizens' conciliation council composed 42100
of three residents within the jurisdiction of the public employer. 42101
The public employer shall select one member and the exclusive 42102
representative shall select one member. The two members selected 42103
shall select the third member who shall chair the council. If the 42104
two members cannot agree upon a third member within five days 42105
after their appointments, the board shall appoint the third 42106

member. Once appointed, the council shall make a final settlement 42107
of the issues submitted to it pursuant to division (G) of this 42108
section. 42109

(f) Any other dispute settlement procedure mutually agreed to 42110
by the parties. 42111

(2) If, fifty days before the expiration date of the 42112
collective bargaining agreement, the parties are unable to reach 42113
an agreement, any party may request the state employment relations 42114
board to intervene. The request shall set forth the names and 42115
addresses of the parties, the issues involved, and, if applicable, 42116
the expiration date of any agreement. 42117

The board shall intervene and investigate the dispute to 42118
determine whether the parties have engaged in collective 42119
bargaining. 42120

If an impasse exists or forty-five days before the expiration 42121
date of the collective bargaining agreement if one exists, the 42122
board shall appoint a mediator to assist the parties in the 42123
collective bargaining process. 42124

(3) ~~If the mediator after assisting the parties advises the~~ 42125
~~board that the parties have reached an impasse, or not later than~~ 42126
~~thirty one days prior to the expiration date of the agreement~~ Any 42127
time after the appointment of a mediator, either party may request 42128
the appointment of a fact-finding panel. Within fifteen days after 42129
receipt of a request for a fact-finding panel, the board shall 42130
appoint ~~within one day~~ a fact-finding panel of not more than three 42131
members who have been selected by the parties in accordance with 42132
rules established by the board, from a list of qualified persons 42133
maintained by the board. 42134

(a) The fact-finding panel shall, in accordance with rules 42135
and procedures established by the board that include the 42136
regulation of costs and expenses of fact-finding, gather facts and 42137

make recommendations for the resolution of the matter. The board 42138
shall by its rules require each party to specify in writing the 42139
unresolved issues and its position on each issue to the 42140
fact-finding panel. The fact-finding panel shall make final 42141
recommendations as to all the unresolved issues. 42142

(b) The board may continue mediation, order the parties to 42143
engage in collective bargaining until the expiration date of the 42144
agreement, or both. 42145

(4) The following guidelines apply to fact-finding: 42146

(a) The fact-finding panel may establish times and place of 42147
hearings which shall be, where feasible, in the jurisdiction of 42148
the state. 42149

(b) The fact-finding panel shall conduct the hearing pursuant 42150
to rules established by the board. 42151

(c) Upon request of the fact-finding panel, the board shall 42152
issue subpoenas for hearings conducted by the panel. 42153

(d) The fact-finding panel may administer oaths. 42154

(e) The board shall prescribe guidelines for the fact-finding 42155
panel to follow in making findings. In making its recommendations, 42156
the fact-finding panel shall take into consideration the factors 42157
listed in divisions (G)(7)(a) to (f) of this section. 42158

(f) The fact-finding panel may attempt mediation at any time 42159
during the fact-finding process. From the time of appointment 42160
until the fact-finding panel makes a final recommendation, it 42161
shall not discuss the recommendations for settlement of the 42162
dispute with parties other than the direct parties to the dispute. 42163

(5) The fact-finding panel, acting by a majority of its 42164
members, shall transmit its findings of fact and recommendations 42165
on the unresolved issues to the public employer and employee 42166
organization involved and to the board no later than fourteen days 42167

after the appointment of the fact-finding panel, unless the 42168
parties mutually agree to an extension. The ~~state parties~~ shall 42169
~~pay one half share~~ the cost of the fact-finding panel. ~~The parties~~ 42170
~~each shall pay one half of the remaining costs in a manner agreed~~ 42171
~~to by the parties.~~ 42172

(6)(a) Not later than seven days after the findings and 42173
recommendations are sent, the legislative body, by a three-fifths 42174
vote of its total membership, and in the case of the public 42175
employee organization, the membership, by a three-fifths vote of 42176
the total membership, may reject the recommendations; if neither 42177
rejects the recommendations, the recommendations shall be deemed 42178
agreed upon as the final resolution of the issues submitted and a 42179
collective bargaining agreement shall be executed between the 42180
parties, including the fact-finding panel's recommendations, 42181
except as otherwise modified by the parties by mutual agreement. 42182
If either the legislative body or the public employee organization 42183
rejects the recommendations, the board shall publicize the 42184
findings of fact and recommendations of the fact-finding panel. 42185
The board shall adopt rules governing the procedures and methods 42186
for public employees to vote on the recommendations of the 42187
fact-finding panel. 42188

(b) As used in division (C)(6)(a) of this section, 42189
"legislative body" means the controlling board when the state or 42190
any of its agencies, authorities, commissions, boards, or other 42191
branch of public employment is party to the fact-finding process. 42192

(D) If the parties are unable to reach agreement within seven 42193
days after the publication of findings and recommendations from 42194
the fact-finding panel or the collective bargaining agreement, if 42195
one exists, has expired, then the: 42196

(1) Public employees, who are members of a police or fire 42197
department, members of the state highway patrol, deputy sheriffs, 42198
dispatchers employed by a police, fire or sheriff's department or 42199

the state highway patrol or civilian dispatchers employed by a 42200
public employer other than a police, fire, or sheriff's department 42201
to dispatch police, fire, sheriff's department, or emergency 42202
medical or rescue personnel and units, an exclusive nurse's unit, 42203
employees of the state school for the deaf or the state school for 42204
the blind, employees of any public employee retirement system, 42205
corrections officers, guards at penal or mental institutions, 42206
special police officers appointed in accordance with sections 42207
5119.14 and 5123.13 of the Revised Code, psychiatric attendants 42208
employed at mental health forensic facilities, or youth leaders 42209
employed at juvenile correctional facilities, shall submit the 42210
matter to a final offer settlement procedure pursuant to a board 42211
order issued forthwith to the parties to settle by a conciliator 42212
selected by the parties. The parties shall request from the board 42213
a list of five qualified conciliators and the parties shall select 42214
a single conciliator from the list by alternate striking of names. 42215
If the parties cannot agree upon a conciliator within five days 42216
after the board order, the board shall on the sixth day after its 42217
order appoint a conciliator from a list of qualified persons 42218
maintained by the board or shall request a list of qualified 42219
conciliators from the American arbitration association and appoint 42220
therefrom. 42221

(2) Public employees other than those listed in division 42222
(D)(1) of this section have the right to strike under Chapter 42223
4117. of the Revised Code provided that the employee organization 42224
representing the employees has given a ten-day prior written 42225
notice of an intent to strike to the public employer and to the 42226
board, and further provided that the strike is for full, 42227
consecutive work days and the beginning date of the strike is at 42228
least ten work days after the ending date of the most recent prior 42229
strike involving the same bargaining unit; however, the board, at 42230
its discretion, may attempt mediation at any time. 42231

(E) Nothing in this section shall be construed to prohibit 42232
the parties, at any time, from voluntarily agreeing to submit any 42233
or all of the issues in dispute to any other alternative dispute 42234
settlement procedure. An agreement or statutory requirement to 42235
arbitrate or to settle a dispute pursuant to a final offer 42236
settlement procedure and the award issued in accordance with the 42237
agreement or statutory requirement is enforceable in the same 42238
manner as specified in division (B) of section 4117.09 of the 42239
Revised Code. 42240

(F) Nothing in this section shall be construed to prohibit a 42241
party from seeking enforcement of a collective bargaining 42242
agreement or a conciliator's award as specified in division (B) of 42243
section 4117.09 of the Revised Code. 42244

(G) The following guidelines apply to final offer settlement 42245
proceedings under division (D)(1) of this section: 42246

(1) The parties shall submit to final offer settlement those 42247
issues that are subject to collective bargaining as provided by 42248
section 4117.08 of the Revised Code and upon which the parties 42249
have not reached agreement and other matters mutually agreed to by 42250
the public employer and the exclusive representative; except that 42251
the conciliator may attempt mediation at any time. 42252

(2) The conciliator shall hold a hearing within thirty days 42253
of the board's order to submit to a final offer settlement 42254
procedure, or as soon thereafter as is practicable. 42255

(3) The conciliator shall conduct the hearing pursuant to 42256
rules developed by the board. The conciliator shall establish the 42257
hearing time and place, but it shall be, where feasible, within 42258
the jurisdiction of the state. Not later than five calendar days 42259
before the hearing, each of the parties shall submit to the 42260
conciliator, to the opposing party, and to the board, a written 42261
report summarizing the unresolved issues, the party's final offer 42262

as to the issues, and the rationale for that position. 42263

(4) Upon the request by the conciliator, the board shall 42264
issue subpoenas for the hearing. 42265

(5) The conciliator may administer oaths. 42266

(6) The conciliator shall hear testimony from the parties and 42267
provide for a written record to be made of all statements at the 42268
hearing. The board shall submit for inclusion in the record and 42269
for consideration by the conciliator the written report and 42270
recommendation of the fact-finders. 42271

(7) After hearing, the conciliator shall resolve the dispute 42272
between the parties by selecting, on an issue-by-issue basis, from 42273
between each of the party's final settlement offers, taking into 42274
consideration the following: 42275

(a) Past collectively bargained agreements, if any, between 42276
the parties; 42277

(b) Comparison of the issues submitted to final offer 42278
settlement relative to the employees in the bargaining unit 42279
involved with those issues related to other public and private 42280
employees doing comparable work, giving consideration to factors 42281
peculiar to the area and classification involved; 42282

(c) The interests and welfare of the public, the ability of 42283
the public employer to finance and administer the issues proposed, 42284
and the effect of the adjustments on the normal standard of public 42285
service; 42286

(d) The lawful authority of the public employer; 42287

(e) The stipulations of the parties; 42288

(f) Such other factors, not confined to those listed in this 42289
section, which are normally or traditionally taken into 42290
consideration in the determination of the issues submitted to 42291
final offer settlement through voluntary collective bargaining, 42292

mediation, fact-finding, or other impasse resolution procedures in 42293
the public service or in private employment. 42294

(8) Final offer settlement awards made under Chapter 4117. of 42295
the Revised Code are subject to Chapter 2711. of the Revised Code. 42296

(9) If more than one conciliator is used, the determination 42297
must be by majority vote. 42298

(10) The conciliator shall make written findings of fact and 42299
promulgate a written opinion and order upon the issues presented 42300
to the conciliator, and upon the record made before the 42301
conciliator and shall mail or otherwise deliver a true copy 42302
thereof to the parties and the board. 42303

(11) Increases in rates of compensation and other matters 42304
with cost implications awarded by the conciliator may be effective 42305
only at the start of the fiscal year next commencing after the 42306
date of the final offer settlement award; provided that if a new 42307
fiscal year has commenced since the issuance of the board order to 42308
submit to a final offer settlement procedure, the awarded 42309
increases may be retroactive to the commencement of the new fiscal 42310
year. The parties may, at any time, amend or modify a 42311
conciliator's award or order by mutual agreement. 42312

(12) The parties shall bear equally the cost of the final 42313
offer settlement procedure. 42314

(13) Conciliators appointed pursuant to this section shall be 42315
residents of the state. 42316

(H) All final offer settlement awards and orders of the 42317
conciliator made pursuant to Chapter 4117. of the Revised Code are 42318
subject to review by the court of common pleas having jurisdiction 42319
over the public employer as provided in Chapter 2711. of the 42320
Revised Code. If the public employer is located in more than one 42321
court of common pleas district, the court of common pleas in which 42322
the principal office of the chief executive is located has 42323

jurisdiction. 42324

(I) The issuance of a final offer settlement award 42325
constitutes a binding mandate to the public employer and the 42326
exclusive representative to take whatever actions are necessary to 42327
implement the award. 42328

Sec. 4123.27. Information contained in the annual statement 42329
provided for in section 4123.26 of the Revised Code, and such 42330
other information as may be furnished to the bureau of workers' 42331
compensation by employers in pursuance of that section, is for the 42332
exclusive use and information of the bureau in the discharge of 42333
its official duties, and shall not be open to the public nor be 42334
used in any court in any action or proceeding pending therein 42335
unless the bureau is a party to the action or proceeding; but the 42336
information contained in the statement may be tabulated and 42337
published by the bureau in statistical form for the use and 42338
information of other state departments and the public. No person 42339
in the employ of the bureau, except those who are authorized by 42340
the administrator of workers' compensation, shall divulge any 42341
information secured by the person while in the employ of the 42342
bureau in respect to the transactions, property, claim files, 42343
records, or papers of the bureau or in respect to the business or 42344
mechanical, chemical, or other industrial process of any company, 42345
firm, corporation, person, association, partnership, or public 42346
utility to any person other than the administrator or to the 42347
superior of such employee of the bureau. 42348

Notwithstanding the restrictions imposed by this section, the 42349
governor, select or standing committees of the general assembly, 42350
the auditor of state, the attorney general, or their designees, 42351
pursuant to the authority granted in this chapter and Chapter 42352
4121. of the Revised Code, may examine any records, claim files, 42353
or papers in possession of the industrial commission or the 42354

bureau. They also are bound by the privilege that attaches to 42355
these papers. 42356

The administrator shall report to the director of job and 42357
family services or to the county director of job and family 42358
services the name, address, and social security number or other 42359
identification number of any person receiving workers' 42360
compensation whose name or social security number or other 42361
identification number is the same as that of a person required by 42362
a court or child support enforcement agency to provide support 42363
payments to a recipient or participant of public assistance, and 42364
whose name is submitted to the administrator by the director under 42365
section 5101.36 of the Revised Code. The administrator also shall 42366
inform the director of the amount of workers' compensation paid to 42367
the person during such period as the director specifies. 42368

Within fourteen days after receiving from the director of job 42369
and family services a list of the names and social security 42370
numbers of recipients or participants of public assistance 42371
pursuant to section 5101.181 of the Revised Code, the 42372
administrator shall inform the auditor of state of the name, 42373
current or most recent address, and social security number of each 42374
person receiving workers' compensation pursuant to this chapter 42375
whose name and social security number are the same as that of a 42376
person whose name or social security number was submitted by the 42377
director. The administrator also shall inform the auditor of state 42378
of the amount of workers' compensation paid to the person during 42379
such period as the director specifies. 42380

The bureau and its employees, except for purposes of 42381
furnishing the auditor of state with information required by this 42382
section, shall preserve the confidentiality of recipients or 42383
participants of public assistance in compliance with division (A) 42384
of section 5101.181 of the Revised Code. 42385

For the purposes of this section, "public assistance" means 42386

medical assistance provided through the medical assistance program 42387
established under section 5111.01 of the Revised Code, Ohio works 42388
first provided under Chapter 5107. of the Revised Code, 42389
prevention, retention, and contingency benefits and services 42390
provided under Chapter 5108. of the Revised Code, ~~or~~ disability 42391
financial assistance provided under Chapter 5115. of the Revised 42392
Code, or disability medical assistance provided under Chapter 42393
5115. of the Revised Code. 42394

Sec. 4123.41. (A) By the first day of January of each year, 42395
the bureau of workers' compensation shall furnish to the county 42396
auditor of each county and the chief fiscal officer of each taxing 42397
district in a county and of each district activity and institution 42398
mentioned in section 4123.39 of the Revised Code forms containing 42399
the premium rates applicable to the county, district, district 42400
activity, or institution as an employer, on which to report the 42401
amount of money expended by the county, district, district 42402
activity, or institution during the previous twelve calendar 42403
months for the services of employees under this chapter. 42404

(B) Each county auditor and each fiscal officer of a 42405
district, district activity, and institution shall calculate on 42406
the form it receives from the bureau under division (A) of this 42407
section the premium due as its proper contribution to the public 42408
insurance fund and issue ~~his~~ a warrant in favor of the bureau for 42409
the amount due from the county, district, district activity, or 42410
institution to the public insurance fund according to the 42411
following schedule: 42412

(1) On or before the fifteenth day of May of each year, no 42413
less than forty-five per cent of the amount due; 42414

(2) On or before the first day of September of each year, no 42415
less than the total amount due. 42416

The legislative body of any county, district, district 42417

activity, or institution may reimburse the fund from which the 42418
contribution is made by transferring to the fund from any other 42419
fund of the county, district, district activity, or institution, 42420
the proportionate amount of the contribution that should be 42421
chargeable to the fund, whether the fund is derived from taxation 42422
or otherwise. The proportionate amount of the contribution 42423
chargeable to the fund may be based on payroll, relative exposure, 42424
relative loss experience, or any combination of these factors, as 42425
determined by the legislative body. Within sixty days before a 42426
legislative body changes the method used for calculating the 42427
proportionate amount of the contribution chargeable to the fund, 42428
it shall notify, consult with, and give information supporting the 42429
change to any elected official affected by the change. A transfer 42430
made pursuant to division (B)(2) of this section is not subject to 42431
section 5705.16 of the Revised Code. 42432

(C) The bureau may investigate the correctness of the 42433
information provided by the county auditor and chief fiscal 42434
officer under division (B) of this section, and if the bureau 42435
determines at any time that the county, district, district 42436
activity, or institution has not reported the correct information, 42437
the administrator of workers' compensation may make deductions or 42438
additions as the facts warrant and take those facts into 42439
consideration in determining the current or future contributions 42440
to be made by the county, district, district activity, or 42441
institution. If the county, district, district activity, or 42442
institution does not furnish the report in the time required by 42443
this section, the administrator may fix the amount of contribution 42444
the county, district, district activity, or institution must make 42445
and certify that amount for payment. 42446

(D) The administrator shall provide a discount to any county, 42447
district, district activity, or institution that pays its total 42448
amount due to the public insurance fund on or before the fifteenth 42449

day of May of each year as its proper contribution for premiums. 42450
The administrator shall base the discount provided under this 42451
division on the savings generated by the early payment to the 42452
public insurance fund. The administrator may provide the discount 42453
through a refund to the county, district, district activity, or 42454
institution or an offset against the future contributions due to 42455
the public insurance fund from the county, district, district 42456
activity, or institution. 42457

(E) The administrator may impose an interest penalty for late 42458
payment of any amount due from a county, district, district 42459
activity, and institution at the interest rate established by the 42460
state tax commissioner pursuant to section 5703.47 of the Revised 42461
Code. 42462

Sec. 4141.04. The director of job and family services shall 42463
maintain or ensure the existence of public employment offices that 42464
are free to the general public. These offices shall exist in such 42465
number and in such places as are necessary for the proper 42466
administration of this chapter, to perform such duties as are 42467
within the purview of the act of congress entitled "an act to 42468
provide for the establishment of a national employment system and 42469
for cooperation with the states in the promotion of such system, 42470
and for other purposes," approved June 6, 1933, as amended, which 42471
is known as the "Wagner-Peyser Act." The director shall cooperate 42472
with any official or agency of the United States having powers or 42473
duties under that act of congress and shall do and perform all 42474
things necessary to secure to this state the benefits of that act 42475
of congress in the promotion and maintenance of a system of public 42476
employment offices. That act of congress is hereby accepted by 42477
this state, in conformity with that act of congress and Title III 42478
of the "Social Security Act," and the "Federal Unemployment Tax 42479
Act," 26 U.S.C.A. 3301, as amended, and this state will observe 42480
and comply with the requirements thereof. The department of job 42481

and family services is hereby designated and constituted the 42482
agency of this state for the purposes of that act of congress. 42483

The director may cooperate with or enter into agreements with 42484
the railroad retirement board with respect to the establishment, 42485
maintenance, and use of employment service facilities that are 42486
free to the general public. 42487

All moneys received by this state under the act of congress 42488
known as the Wagner-Peyser Act shall be ~~paid~~ deposited into the 42489
state treasury to the credit of the special employment service 42490
account in the ~~unemployment compensation administration~~ federal 42491
operating fund, which is hereby created. Those moneys are hereby 42492
made available to the director to be expended as provided by this 42493
section and by that act of congress. For the purpose of 42494
establishing and maintaining public employment offices that are 42495
free to the general public, the director may enter into agreements 42496
with the railroad retirement board or any other agency of the 42497
United States charged with the administration of an unemployment 42498
compensation law, with any political subdivision of this state, or 42499
with any private, nonprofit organization and as a part of any such 42500
agreement the director may accept moneys, services, or quarters as 42501
a contribution to the employment service account. 42502

The director shall maintain labor market information and 42503
employment statistics as necessary for the administration of this 42504
chapter. 42505

The director shall appoint an employee of the department to 42506
serve as an ex officio member of the governor's council to 42507
maintain a liaison between the department and the governor's 42508
council on people with disabilities. 42509

Sec. 4141.09. (A) There is hereby created an unemployment 42510
compensation fund to be administered by the state without 42511
liability on the part of the state beyond the amounts paid into 42512

the fund and earned by the fund. The unemployment compensation 42513
fund shall consist of all contributions, payments in lieu of 42514
contributions described in sections 4141.241 and 4141.242 of the 42515
Revised Code, reimbursements of the federal share of extended 42516
benefits described in section 4141.301 of the Revised Code, 42517
collected under sections 4141.01 to 4141.46 of the Revised Code, 42518
together with all interest earned upon any moneys deposited with 42519
the secretary of the treasury of the United States to the credit 42520
of the account of this state in the unemployment trust fund 42521
established and maintained pursuant to section 904 of the "Social 42522
Security Act," any property or securities acquired through the use 42523
of moneys belonging to the fund, and all earnings of such property 42524
or securities. The unemployment compensation fund shall be used to 42525
pay benefits and refunds as provided by such sections and for no 42526
other purpose. 42527

(B) The treasurer of state shall be the custodian of the 42528
unemployment compensation fund and shall administer such fund in 42529
accordance with the directions of the director of job and family 42530
services. All disbursements therefrom shall be paid by the 42531
treasurer of state on warrants drawn by the director. Such 42532
warrants may bear the facsimile signature of the director printed 42533
thereon and that of a deputy or other employee of the director 42534
charged with the duty of keeping the account of the unemployment 42535
compensation fund and with the preparation of warrants for the 42536
payment of benefits to the persons entitled thereto. Moneys in the 42537
clearing and benefit accounts shall not be commingled with other 42538
state funds, except as provided in division (C) of this section, 42539
but shall be maintained in separate accounts on the books of the 42540
depository bank. Such money shall be secured by the depository 42541
bank to the same extent and in the same manner as required by 42542
sections 135.01 to 135.21 of the Revised Code; and collateral 42543
pledged for this purpose shall be kept separate and distinct from 42544
any collateral pledged to secure other funds of this state. All 42545

sums recovered for losses sustained by the unemployment 42546
compensation fund shall be deposited therein. The treasurer of 42547
state shall be liable on the treasurer's official bond for the 42548
faithful performance of the treasurer's duties in connection with 42549
the unemployment compensation fund, such liability to exist in 42550
addition to any liability upon any separate bond. 42551

(C) The treasurer of state shall maintain within the 42552
unemployment compensation fund three separate accounts which shall 42553
be a clearing account, an unemployment trust fund account, and a 42554
benefit account. All moneys payable to the unemployment 42555
compensation fund, upon receipt thereof by the director, shall be 42556
forwarded to the treasurer of state, who shall immediately deposit 42557
them in the clearing account. Refunds of contributions, or 42558
payments in lieu of contributions, payable pursuant to division 42559
(E) of this section may be paid from the clearing account upon 42560
warrants signed by a deputy or other employee of the director 42561
charged with the duty of keeping the record of the clearing 42562
account and with the preparation of warrants for the payment of 42563
refunds to persons entitled thereto. After clearance thereof, all 42564
moneys in the clearing account shall be deposited with the 42565
secretary of the treasury of the United States to the credit of 42566
the account of this state in the unemployment trust fund 42567
established and maintained pursuant to section 904 of the "Social 42568
Security Act," in accordance with requirements of the "Federal 42569
Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301, 42570
3304(a)(3), any law in this state relating to the deposit, 42571
administration, release, or disbursement of moneys in the 42572
possession or custody of this state to the contrary 42573
notwithstanding. The benefit account shall consist of all moneys 42574
requisitioned from this state's account in the unemployment trust 42575
fund. Federal funds, other than funds received by the director 42576
under divisions (I) and (J) of this section, received for payment 42577
of federal benefits may be deposited into the benefit account 42578

solely for payment of benefits under a federal program 42579
administered by this state. Moneys so requisitioned shall be used 42580
solely for the payment of benefits and for no other purpose. 42581
Moneys in the clearing and benefit accounts may be deposited by 42582
the treasurer of state, under the direction of the director, in 42583
any bank or public depository in which general funds of the state 42584
may be deposited, but no public deposit insurance charge or 42585
premium shall be paid out of the fund. 42586

(D) Moneys shall be requisitioned from this state's account 42587
in the unemployment trust fund solely for the payment of benefits 42588
and in accordance with regulations prescribed by the director. The 42589
director shall requisition from the unemployment trust fund such 42590
amounts, not exceeding the amount standing to this state's account 42591
therein, as are deemed necessary for the payment of benefits for a 42592
reasonable future period. Upon receipt thereof, the treasurer of 42593
state shall deposit such moneys in the benefit account. 42594
Expenditures of such money in the benefit account and refunds from 42595
the clearing account shall not require specific appropriations or 42596
other formal release by state officers of money in their custody. 42597
Any balance of moneys requisitioned from the unemployment trust 42598
fund which remains unclaimed or unpaid in the benefit account 42599
after the expiration of the period for which such sums were 42600
requisitioned shall either be deducted from estimates for and may 42601
be utilized for the payment of benefits during succeeding periods, 42602
or, in the discretion of the director, shall be redeposited with 42603
the secretary of the treasury of the United States to the credit 42604
of this state's account in the unemployment trust fund, as 42605
provided in division (C) of this section. Unclaimed or unpaid 42606
federal funds redeposited with the secretary of the treasury of 42607
the United States shall be credited to the appropriate federal 42608
account. 42609

(E) No claim for an adjustment or a refund on contribution, 42610

payment in lieu of contributions, interest, or forfeiture alleged 42611
to have been erroneously or illegally assessed or collected, or 42612
alleged to have been collected without authority, and no claim for 42613
an adjustment or a refund of any sum alleged to have been 42614
excessive or in any manner wrongfully collected shall be allowed 42615
unless an application, in writing, therefor is made within four 42616
years from the date on which such payment was made. If the 42617
director ~~determines~~ determines that such contribution, payment in 42618
lieu of contributions, ~~interest~~ interest, or forfeiture, or any 42619
portion ~~thereof~~ thereof, was erroneously collected, the director 42620
shall allow such employer to make an adjustment thereof without 42621
interest in connection with subsequent contribution payments, or 42622
payments in lieu of contributions, by the employer, or the 42623
director may refund said amount, without interest, from the 42624
clearing account of the unemployment compensation fund, except as 42625
provided in division (B) of section 4141.11 of the Revised Code. 42626
For like cause and within the same period, adjustment or refund 42627
may be so made on the director's own initiative. An overpayment of 42628
contribution, payment in lieu of contributions, interest, or 42629
forfeiture for which an employer has not made application for 42630
refund prior to the date of sale of the employer's business shall 42631
accrue to the employer's successor in interest. 42632

An application for an adjustment or a refund, or any portion 42633
thereof, that is rejected is binding upon the employer unless, 42634
within thirty days after the mailing of a written notice of 42635
rejection to the employer's last known address, or, in the absence 42636
of mailing of such notice, within thirty days after the delivery 42637
of such notice, the employer files an application for a review and 42638
redetermination setting forth the reasons therefor. The director 42639
shall promptly examine the application for review and 42640
redetermination, and if a review is granted, the employer shall be 42641
promptly notified thereof, and shall be granted an opportunity for 42642
a prompt hearing. 42643

(F) If the director finds that contributions have been paid 42644
to the director in error, and that such contributions should have 42645
been paid to a department of another state or of the United States 42646
charged with the administration of an unemployment compensation 42647
law, the director may upon request by such department or upon the 42648
director's own initiative transfer to such department the amount 42649
of such contributions, less any benefits paid to claimants whose 42650
wages were the basis for such contributions. The director may 42651
request and receive from such department any contributions or 42652
adjusted contributions paid in error to such department which 42653
should have been paid to the director. 42654

(G) In accordance with section 303(c)(3) of the Social 42655
Security Act, and section 3304(a)(17) of the Internal Revenue Code 42656
of 1954 for continuing certification of Ohio unemployment 42657
compensation laws for administrative grants and for tax credits, 42658
any interest required to be paid on advances under Title XII of 42659
the Social Security Act shall be paid in a timely manner and shall 42660
not be paid, directly or indirectly, by an equivalent reduction in 42661
the Ohio unemployment taxes or otherwise, by the state from 42662
amounts in the unemployment compensation fund. 42663

(H) The treasurer of state, under the direction of the 42664
director and in accordance with the "Cash Management Improvement 42665
Act of 1990," 104 Stat. 1061, 31 U.S.C.A. 335, 6503, shall deposit 42666
amounts of interest earned by the state on funds in the benefit 42667
account established pursuant to division (C) of this section into 42668
the department of job and family services banking fees fund, which 42669
is hereby created in the state treasury for the purpose of paying 42670
related banking costs incurred by the state for the period for 42671
which the interest is calculated, except that if the deposited 42672
interest exceeds the banking costs incurred by the state for the 42673
period for which the interest is calculated, the treasurer of 42674
state shall deposit the excess interest into the unemployment 42675

trust fund. 42676

(I) The treasurer of state, under the direction of the 42677
director, shall deposit federal funds received by the director for 42678
the payment of benefits, job search, relocation, transportation, 42679
and subsistence allowances pursuant to the "Trade Act of 1974," 88 42680
Stat. 1978, 19 U.S.C.A. 2101, as amended; the "North American 42681
Free Trade Implementation Act of 1993," 107 Stat. 2057, 19 42682
U.S.C.A. 3301, as amended; and the "Trade Act of 2002," 116 Stat. 42683
993, 19 U.S.C.A. 3801, as amended, into the Trade Act benefit 42684
account, which is hereby created for the purpose of ~~paying for~~ 42685
~~benefits, training, and support services~~ making payments specified 42686
under ~~that act~~ those acts. 42687

(J) The treasurer of state, under the direction of the 42688
director, shall deposit federal funds received by the director for 42689
training and administration pursuant to the "Trade Act of 1974," 42690
88 Stat. 1978, 19 U.S.C.A. 2101, as amended; the "North American 42691
Free Trade Agreement Implementation Act," 107 Stat. 2057 (1993), 42692
19 U.S.C.A. 3301, as amended; and the "Trade Act of 2002," 116 42693
Stat. 993, 19 U.S.C.A. 3801, as amended, into the ~~North American~~ 42694
~~Free Trade Act~~ training and administration account, which is 42695
hereby created for the purpose of ~~paying for benefits, training,~~ 42696
~~and support services~~ making payments specified under ~~that act~~ 42697
those acts. 42698

Sec. 4141.201. (A) If an employer submits a form, report, 42699
record, or makes any other filing required under this chapter and 42700
the filing contains incorrect information, the employer shall not 42701
be required to pay any penalty with respect to the submission, 42702
provided that the employer has voluntarily identified and 42703
corrected the incorrect information. 42704

(B) This section does not apply to any false information 42705
knowingly included by the employer in a form, report, record, or 42706

other filing for the principal purpose of avoiding any payment 42707
required under this chapter. 42708

Sec. 4141.23. (A) Contributions shall accrue and become 42709
payable by each employer for each calendar year or other period as 42710
prescribed by this chapter. Such contributions become due and 42711
shall be paid by each employer to the director of job and family 42712
services for the unemployment compensation fund in accordance with 42713
such regulations as the director prescribes, and shall not be 42714
deducted, in whole or in part, from the remuneration of 42715
individuals in the employer's employ. 42716

In the payment of any contributions, a fractional part of a 42717
dollar may be disregarded unless it amounts to fifty cents or 42718
more, in which case it may be increased to the next higher dollar. 42719

(B)(1) Any contribution or payment in lieu of contribution, 42720
due from an employer on or before December 31, 1992, shall, if not 42721
paid when due, bear interest at the rate of ten per cent per 42722
annum. In such computation any fraction of a month shall be 42723
considered as a full month. 42724

(2) Any contribution, payment in lieu of contribution, 42725
interest, forfeiture, or fine due from an employer on or after 42726
January 1, 1993, shall, if not paid when due, bear interest at the 42727
annual rate of fourteen per cent compounded monthly on the 42728
aggregate receivable balance due. In such computation any fraction 42729
of a month shall be considered as a full month. 42730

(C) The director may waive the interest assessed under 42731
division (B)(2) of this section if the employer meets all of the 42732
following conditions within thirty days after the date the 42733
director mails or delivers the notice of assessment of interest: 42734

(1) Provides to the director a written request for a waiver 42735
of interest clearly demonstrating that the employer's failure to 42736

timely pay contributions, payments in lieu of contributions, 42737
interest, forfeiture, and fines was a result of circumstances 42738
beyond the control of the employer or the employer's agent, except 42739
that negligence on the part of the employer or the employer's 42740
agent shall not be considered beyond the control of the employer 42741
or the employer's agent; 42742

(2) Furnishes to the director all quarterly reports required 42743
under section 4141.20 of the Revised Code; 42744

(3) Pays in full all contributions, payments in lieu of 42745
contributions, interest, forfeiture, and fines for each quarter 42746
for which such payments are due. 42747

The director shall deny an employer's request for a waiver of 42748
interest after finding that the employer's failure to timely 42749
furnish reports or make payments as required under this chapter 42750
was due to an attempt to evade payment. 42751

(D) Any contribution, interest, forfeiture, or fine required 42752
to be paid under this chapter by any employer shall, if not paid 42753
when due, become a lien upon the real and personal property of 42754
such employer. Upon failure of such employer to pay the 42755
contributions, interest, forfeiture, or fine required to be paid 42756
under this chapter, the director shall file notice of such lien, 42757
for which there shall be no charge, in the office of the county 42758
recorder of the county in which it is ascertained that such 42759
employer owns real estate or personal property. The director shall 42760
notify the employer by mail of the lien. The absence of proof that 42761
the notice was sent does not affect the validity of the lien. Such 42762
lien shall not be valid as against the claim of any mortgagee, 42763
pledgee, purchaser, judgment creditor, or other lienholder of 42764
record at the time such notice is filed. 42765

If the employer acquires real or personal property after 42766
notice of lien is filed, such lien shall not be valid as against 42767

the claim of any mortgagee, pledgee, subsequent bona fide 42768
purchaser for value, judgment creditor, or other lienholder of 42769
record to such after-acquired property, unless the notice of lien 42770
is refiled after such property was acquired by the employer and 42771
before the competing lien attached to such after-acquired property 42772
or before the conveyance to such subsequent bona fide purchaser 42773
for value. 42774

Such notice shall be recorded in a book kept by the recorder 42775
called the "unemployment compensation lien record" and indexed 42776
therein in an alphabetical index under the name of such employer. 42777
When such unpaid contributions, interest, forfeiture, or fines 42778
have been paid, the employer may record with the recorder of the 42779
county in which such notice of lien has been filed and recorded, 42780
notice of such payment. For recording ~~such~~ the notice of payment 42781
the recorder shall charge and receive from the employer a base fee 42782
of two dollars for services and a housing trust fund fee of two 42783
dollars pursuant to section 317.36 of the Revised Code. 42784

(E) Notwithstanding other provisions in this section, the 42785
director may reduce, in whole or in part, the amount of interest, 42786
forfeiture, or fines required to be paid under this chapter if the 42787
director determines that the reduction is in the best interest of 42788
the unemployment compensation fund. 42789

(F) Assessment of contributions shall not be made after four 42790
years from the date on which such contributions became payable, 42791
and no action in court for the collection of contributions without 42792
assessment of such contributions shall be begun after the 42793
expiration of five years from the date such contributions became 42794
payable. In case of a false or fraudulent report or of a willful 42795
attempt in any manner to evade contributions, such contributions 42796
may be assessed or a proceeding in court for the collection of 42797
such contributions may be begun without assessment at any time. 42798
When the assessment of contributions has been made within such 42799

four-year period provided, action in court to collect such 42800
contributions may be begun within, but not later than, six years 42801
after such assessment. 42802

(G) In the event of a distribution of an employer's assets, 42803
pursuant to an order of any court under the law of this state, 42804
including any receivership, assignment for benefit of creditors, 42805
adjudicated insolvency, or similar proceedings, contributions, 42806
interest, forfeiture, or fine then or thereafter due have the same 42807
priority as provided by law for the payment of taxes due the state 42808
and shall be paid out of the trust fund in the same manner as 42809
provided for other claims for unpaid taxes due the state. 42810

(H) If the attorney general finds after investigation that 42811
any claim for delinquent contributions, interest, forfeitures, or 42812
fines owing to the director is uncollectible, in whole or in part, 42813
the attorney general shall recommend to the director the 42814
cancellation of such claim or any part thereof. The director may 42815
thereupon effect such cancellation. 42816

Sec. 4301.03. The liquor control commission may adopt and 42817
promulgate, repeal, rescind, and amend, in the manner required by 42818
this section, rules, standards, requirements, and orders necessary 42819
to carry out this chapter and Chapter 4303. of the Revised Code, 42820
but all rules of the board of liquor control ~~which~~ that were in 42821
effect immediately prior to April 17, 1963, shall remain in full 42822
force and effect as rules of the liquor control commission until 42823
and unless amended or repealed by the liquor control commission. 42824
The rules of the commission may include the following: 42825

(A) Rules with reference to applications for and the issuance 42826
of permits for the manufacture, distribution, transportation, and 42827
sale of beer and intoxicating liquor, and the sale of alcohol; and 42828
rules governing the procedure of the division of liquor control in 42829
the suspension, revocation, and cancellation of those permits; 42830

(B) Rules and orders providing in detail for the conduct of 42831
any retail business authorized under permits issued pursuant to 42832
this chapter and Chapter 4303. of the Revised Code, with a view to 42833
ensuring compliance with those chapters and laws relative to them, 42834
and the maintenance of public decency, sobriety, and good order in 42835
any place licensed under the permits. No rule or order shall 42836
prohibit the sale of lottery tickets issued pursuant to Chapter 42837
3770. of the Revised Code by any retail business authorized under 42838
permits issued pursuant to that chapter. 42839

No rule or order shall prohibit pari-mutuel wagering on 42840
simulcast horse races at a satellite facility that has been issued 42841
a D liquor permit under Chapter 4303. of the Revised Code. No rule 42842
or order shall prohibit a charitable organization that holds a D-4 42843
permit from selling or serving beer or intoxicating liquor under 42844
its permit in a portion of its premises merely because that 42845
portion of its premises is used at other times for the conduct of 42846
a ~~charitable~~ bingo game, as described in division (S) of section 42847
2915.01 of the Revised Code. However, such an organization shall 42848
not sell or serve beer or intoxicating liquor or permit beer or 42849
intoxicating liquor to be consumed or seen in the same location in 42850
its premises where a ~~charitable~~ bingo game, as described in 42851
division (S)(1) of section 2915.01 of the Revised Code, is being 42852
conducted while the game is being conducted. As used in this 42853
division, "charitable organization" has the same meaning as in 42854
division (H) of section 2915.01 of the Revised Code, ~~and~~ 42855
~~"charitable bingo game" has the same meaning as in division (R) of~~ 42856
~~that section~~. No rule or order pertaining to visibility into the 42857
premises of a permit holder after the legal hours of sale shall be 42858
adopted or maintained by the commission. 42859

(C) Standards, not in conflict with those prescribed by any 42860
law of this state or the United States, to secure the use of 42861
proper ingredients and methods in the manufacture of beer, mixed 42862

beverages, and wine to be sold within this state;	42863
(D) Rules determining the nature, form, and capacity of all packages and bottles to be used for containing beer or intoxicating liquor, except for spirituous liquor to be kept or sold, governing the form of all seals and labels to be used on those packages and bottles, and requiring the label on every package, bottle, and container to state the ingredients in the contents and, except on beer, the terms of weight, volume, or proof spirits, and whether the same is beer, wine, alcohol, or any intoxicating liquor except for spirituous liquor;	42864 42865 42866 42867 42868 42869 42870 42871 42872
(E) Uniform rules governing all advertising with reference to the sale of beer and intoxicating liquor throughout the state and advertising upon and in the premises licensed for the sale of beer or intoxicating liquor;	42873 42874 42875 42876
(F) Rules restricting and placing conditions upon the transfer of permits;	42877 42878
(G) Rules and orders limiting the number of permits of any class within the state or within any political subdivision of the state; and, for that purpose, adopting reasonable classifications of persons or establishments to which any authorized class of permits may be issued within any political subdivision;	42879 42880 42881 42882 42883
(H) Rules and orders with reference to sales of beer and intoxicating liquor on Sundays and holidays and with reference to the hours of the day during which and the persons to whom intoxicating liquor of any class may be sold, and rules with reference to the manner of sale;	42884 42885 42886 42887 42888
(I) Rules requiring permit holders buying beer to pay and permit holders selling beer to collect minimum cash deposits for kegs, cases, bottles, or other returnable containers of the beer; requiring the repayment, or credit, of the minimum cash deposit charges upon the return of the empty containers; and requiring the	42889 42890 42891 42892 42893

posting of such form of indemnity or such other conditions with 42894
respect to the charging, collection, and repayment of minimum cash 42895
deposit charges for returnable containers of beer as are necessary 42896
to ensure the return of the empty containers or the repayment upon 42897
that return of the minimum cash deposits paid; 42898

(J) Rules establishing the method by which alcohol products 42899
may be imported for sale by wholesale distributors and the method 42900
by which manufacturers and suppliers may sell alcohol products to 42901
wholesale distributors. 42902

Every rule, standard, requirement, or order of the commission 42903
and every repeal, amendment, or rescission of them shall be posted 42904
for public inspection in the principal office of the commission 42905
and the principal office of the division of liquor control, and a 42906
certified copy of them shall be filed in the office of the 42907
secretary of state. An order applying only to persons named in it 42908
shall be served on the persons affected by personal delivery of a 42909
certified copy, or by mailing a certified copy to each person 42910
affected by it or, in the case of a corporation, to any officer or 42911
agent of the corporation upon whom a service of summons may be 42912
served in a civil action. The posting and filing required by this 42913
section constitutes sufficient notice to all persons affected by 42914
such rule or order which is not required to be served. General 42915
rules of the commission promulgated pursuant to this section shall 42916
be published in the manner the commission determines. 42917

Sec. 4301.19. The division of liquor control shall sell 42918
spirituous liquor only, whether from a warehouse or from a state 42919
liquor store. All sales shall be in sealed containers and for 42920
resale as authorized by ~~Chapters 4301-~~ this chapter and Chapter 42921
4303. of the Revised Code or for consumption off the premises 42922
only. Except as otherwise provided in this section, sale of 42923
containers holding one-half pint or less of spirituous liquor by 42924

the division shall be made at retail only, and not for the purpose 42925
of resale by any purchaser, by special order placed with a state 42926
retail liquor store and subject to rules established by the 42927
superintendent of liquor control. The division ~~shall~~ may sell at 42928
wholesale spirituous liquor in fifty milliliter sealed containers 42929
to ~~hotels that sell spirituous liquor by means of a controlled~~ 42930
~~access alcohol and beverage cabinet in accordance with division~~ 42931
~~(B) of section 4301.21~~ any holder of a permit issued under Chapter 42932
4303. of the Revised Code, ~~but only for purposes of resale by the~~ 42933
~~hotel in sealed containers by means of a controlled access alcohol~~ 42934
~~and beverage cabinet~~ that authorizes the sale of spirituous liquor 42935
for consumption on the premises where sold. A person appointed by 42936
the division to act as an agent for the sale of spirituous liquor 42937
pursuant to section 4301.17 of the Revised Code may provide and 42938
accept gift certificates and may accept credit cards and debit 42939
cards for the retail purchase of spirituous liquor. Deliveries 42940
shall be made in ~~such~~ the manner ~~as~~ the superintendent determines 42941
by rule. 42942

If any ~~persons desire~~ person desires to purchase any variety 42943
or brand of spirituous liquor which is not in stock at the state 42944
liquor store where the ~~same~~ variety or brand is ordered, the 42945
division shall immediately procure the ~~same~~ variety or brand after 42946
a reasonable deposit is made by the purchaser in such proportion 42947
of the approximate cost of the order as is prescribed by the rules 42948
of the superintendent. The purchaser shall be immediately notified 42949
upon the arrival of the spirituous liquor at the store at which it 42950
was ordered. Unless ~~such~~ the purchaser pays for the ~~same~~ variety 42951
or brand and accepts delivery within five days after the giving of 42952
~~such~~ the notice, the division may place ~~such~~ the spirituous liquor 42953
in stock for general sale, and the deposit of the purchaser shall 42954
be forfeited. 42955

Sec. 4303.02. Permit A-1 may be issued to a manufacturer to 42956

manufacture beer and sell beer products in bottles or containers 42957
for home use and to retail and wholesale permit holders under 42958
rules promulgated by the division of liquor control. The fee for 42959
this permit is three thousand ~~one~~ nine hundred ~~twenty-five~~ six 42960
dollars for each plant during the year covered by the permit. 42961

Sec. 4303.021. Permit A-1-A may be issued to the holder of an 42962
A-1 or A-2 permit to sell beer and any intoxicating liquor at 42963
retail, only by the individual drink in glass or from a container, 42964
provided such A-1-A permit premises are situated on the same 42965
parcel or tract of land as the related A-1 or A-2 manufacturing 42966
permit premises or are separated therefrom only by public streets 42967
or highways or by other lands owned by the holder of the A-1 or 42968
A-2 permit and used by the holder in connection with or in 42969
promotion of the holder's A-1 or A-2 permit business. The fee for 42970
this permit is three thousand ~~one~~ nine hundred ~~twenty-five~~ six 42971
dollars. The holder of an A-1-A permit may sell beer and any 42972
intoxicating liquor during the same hours as the holders of D-5 42973
permits under this chapter or Chapter 4301. of the Revised Code or 42974
the rules of the liquor control commission and shall obtain a 42975
license as a retail food establishment or a food service operation 42976
pursuant to Chapter 3717. of the Revised Code and operate as a 42977
restaurant for purposes of this chapter. 42978

Except as otherwise provided in this section, no new A-1-A 42979
permit shall be issued to the holder of an A-1 or A-2 permit 42980
unless the sale of beer and intoxicating liquor under class D 42981
permits is permitted in the precinct in which the A-1 or A-2 42982
permit is located and, in the case of an A-2 permit, unless the 42983
holder of the A-2 permit manufactures or has a storage capacity of 42984
at least twenty-five thousand gallons of wine per year. The 42985
immediately preceding sentence does not prohibit the issuance of 42986
an A-1-A permit to an applicant for such a permit who is the 42987
holder of an A-1 permit and whose application was filed with the 42988

division of liquor control before June 1, 1994. The liquor control 42989
commission shall not restrict the number of A-1-A permits which 42990
may be located within a precinct. 42991

Sec. 4303.03. Permit A-2 may be issued to a manufacturer to 42992
manufacture wine from grapes or other fruits grown in the state, 42993
if obtainable, otherwise to import such fruits after submitting an 42994
affidavit of nonavailability to the division of liquor control; to 42995
import and purchase wine in bond for blending purposes, the total 42996
amount of wine so imported during the year covered by the permit 42997
not to exceed forty per cent of all the wine manufactured and 42998
imported; to manufacture, purchase, and import brandy for 42999
fortifying purposes; and to sell such products either in glass or 43000
container for consumption on the premises where manufactured, for 43001
home use, and to retail and wholesale permit holders under such 43002
rules as are adopted by the division. 43003

The fee for this permit is ~~sixty-three~~ one hundred twenty-six 43004
dollars for each plant producing one hundred wine barrels, of 43005
fifty gallons each, or less annually. ~~Such~~ This initial fee shall 43006
be increased at the rate of ten cents per such barrel for all wine 43007
manufactured in excess of one hundred barrels during the year 43008
covered by the permit. 43009

Sec. 4303.04. Permit A-3 may be issued to a manufacturer to 43010
manufacture alcohol and spirituous liquor and sell such products 43011
to the division of liquor control or to the holders of a like 43012
permit or to the holders of A-4 permits for blending or 43013
manufacturing purposes; to import alcohol into this state upon 43014
such terms as are prescribed by the division; to sell alcohol to 43015
manufacturers, hospitals, infirmaries, medical or educational 43016
institutions using it for medicinal, mechanical, chemical, or 43017
scientific purposes, and to holders of I permits; to import into 43018
this state spirituous liquor and wine for blending or other 43019

manufacturing purposes; and to export spirituous liquor from this 43020
state for sale outside the state. 43021

The fee for this permit is three thousand ~~one~~ nine hundred 43022
~~twenty-five~~ six dollars for each plant; but, if a plant's 43023
production capacity is less than five hundred wine barrels of 43024
fifty gallons each, annually, the fee is two dollars per barrel. 43025

Sec. 4303.05. Permit A-4 may be issued to a manufacturer to 43026
manufacture prepared highballs, cocktails, cordials, and other 43027
mixed drinks containing not less than four per cent of alcohol by 43028
volume and not more than twenty-one per cent of alcohol by volume, 43029
and to sell such products to wholesale and retail permit holders 43030
in sealed containers only under such rules as are adopted by the 43031
division of liquor control. The holder of such permit may import 43032
into the state spirituous liquor and wine only for blending or 43033
other manufacturing purposes under such rules as are prescribed by 43034
the division. 43035

The holder of such permit may also purchase spirituous liquor 43036
for manufacturing and blending purposes from the holder of an A-3 43037
permit issued by the division. The formulas and the beverages 43038
manufactured by the holder of an A-4 permit ~~must~~ shall be 43039
submitted to the division for its analysis and approval before 43040
~~such~~ the beverages may be sold to or distributed in this state by 43041
holders of retail and wholesale permits. All labels and 43042
advertising matter used by the holders of ~~such~~ A-4 permits ~~must~~ 43043
shall be approved by the division before they may be used in this 43044
state. The fee for ~~this~~ an A-4 permit is three thousand ~~one~~ nine 43045
hundred ~~twenty-five~~ six dollars for each plant. 43046

Sec. 4303.06. Permit B-1 may be issued to a wholesale 43047
distributor of beer to purchase from the holders of A-1 permits 43048
and to import and distribute or sell beer for home use and to 43049

retail permit holders under rules adopted by the division of 43050
liquor control. The fee for this permit is ~~two~~ three thousand ~~five~~ 43051
one hundred twenty-five dollars for each distributing plant or 43052
warehouse during the year covered by the permit. 43053

Sec. 4303.07. Permit B-2 may be issued to a wholesale 43054
distributor of wine to purchase from holders of A-2 and B-5 43055
permits and distribute or sell such product, in the original 43056
container in which it was placed by the B-5 permit holder or 43057
manufacturer at the place where manufactured, to A-1-A, C-2, D-2, 43058
D-3, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, 43059
D-5h, D-5i, D-5j, D-5k, and E permit holders, and for home use. 43060
The fee for this permit is ~~two~~ five hundred ~~fifty~~ dollars for each 43061
distributing plant or warehouse. The initial fee shall be 43062
increased ten cents per wine barrel of fifty gallons for all wine 43063
distributed and sold in this state in excess of twelve hundred 43064
fifty such barrels during the year covered by the permit. 43065

Sec. 4303.08. Permit B-3 may be issued to a wholesale 43066
distributor of wine to bottle, distribute, or sell sacramental 43067
wine for religious rites upon an application signed, dated, and 43068
approved as required by section 4301.23 of the Revised Code. The 43069
fee for this permit is ~~sixty-two~~ one hundred twenty-four dollars. 43070

Sec. 4303.09. Permit B-4 may be issued to a wholesale 43071
distributor to purchase from the holders of A-4 permits and to 43072
import, distribute, and sell prepared and bottled highballs, 43073
cocktails, cordials, and other mixed beverages containing not less 43074
than four per cent of alcohol by volume and not more than 43075
twenty-one per cent of alcohol by volume to retail permit holders, 43076
and for home use, under ~~such~~ rules ~~as are~~ adopted by the division 43077
of liquor control. The formula and samples of all such beverages 43078
to be handled by the permit holder ~~must~~ shall be submitted to the 43079

division for analysis and the approval of the division before such 43080
beverages may be sold and distributed in this state. All labels 43081
and advertising matter used by the holders of ~~such permits must~~ 43082
this permit shall be approved by the division before they may be 43083
used in this state. The fee for this permit shall be computed on 43084
the basis of annual sales, and the initial fee is ~~two~~ five hundred 43085
~~fifty~~ dollars for each distributing plant or warehouse. ~~Such~~ The 43086
initial fee shall be increased at the rate of ten cents per wine 43087
barrel of fifty gallons for all such beverages distributed and 43088
sold in this state in excess of one thousand such barrels during 43089
the year covered by the permit. 43090

Sec. 4303.10. Permit B-5 may be issued to a wholesale 43091
distributor of wine to purchase wine from the holders of A-2 43092
permits, to purchase and import wine in bond or otherwise, in bulk 43093
or in containers of any size, and to bottle wine for distribution 43094
and sale to holders of A-1-A, B-2, B-3, B-5, C-2, D-2, D-3, D-4, 43095
D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, 43096
D-5j, D-5k, and E permits and for home use in sealed containers. 43097
No wine shall be bottled by a B-5 permit holder in containers 43098
supplied by any person who intends the wine for home use. The fee 43099
for this permit is one thousand ~~two~~ five hundred ~~fifty~~ sixty-three 43100
dollars. 43101

Sec. 4303.11. Permit C-1 may be issued to the owner or 43102
operator of a retail store to sell beer in containers and not for 43103
consumption on the premises where sold in original containers 43104
having a capacity of not more than five and one-sixth gallons. The 43105
fee for this permit is ~~one~~ two hundred ~~twenty-six~~ fifty-two 43106
dollars for each location. 43107

Sec. 4303.12. Permit C-2 may be issued to the owner or 43108
operator of a retail store to sell wine in sealed containers only 43109

and not for consumption on the premises where sold in original 43110
containers. The holder of ~~such~~ this permit may also sell and 43111
distribute in original packages and not for consumption on the 43112
premises where sold or for resale, prepared and bottled highballs, 43113
cocktails, cordials, and other mixed beverages manufactured and 43114
distributed by holders of A-4 and B-4 permits, and containing not 43115
less than four per cent of alcohol by volume, and not more than 43116
twenty-one per cent of alcohol by volume. The fee for this permit 43117
is ~~one~~ three hundred ~~eighty-eight~~ seventy-six dollars for each 43118
location. 43119

Sec. 4303.121. Effective October 1, 1982, permit C-2x shall 43120
be issued to the holder of a C-2 permit who does not also hold a 43121
C-1 permit, to sell beer only not for consumption on the premises 43122
where sold, in original containers having a capacity of not more 43123
than five and one-sixth gallons. Applicants for a C-2 permit as of 43124
October 1, 1982 shall be issued a C-2x permit subject to the 43125
restrictions for the issuance of the C-2 permit. The fee for a 43126
C-2x permit is ~~one~~ two hundred ~~twenty-six~~ fifty-two dollars. 43127

Sec. 4303.13. Permit D-1 may be issued to the owner or 43128
operator of a hotel ~~or,~~ of a retail food establishment or a food 43129
service operation licensed pursuant to Chapter 3717. of the 43130
Revised Code that operates as a restaurant for purposes of this 43131
chapter, or of a club, amusement park, drugstore, lunch stand, 43132
boat, or vessel, ~~and shall be issued to a person described in~~ 43133
~~division (B) of this section,~~ to sell beer at retail either in 43134
glass or container, for consumption on the premises where sold; 43135
~~and, except as otherwise provided in division (B) of this section,~~ 43136
to sell beer at retail in other receptacles or in original 43137
containers having a capacity of not more than five and one-sixth 43138
gallons not for consumption on the premises where sold. The fee 43139
for this permit is ~~one~~ three hundred ~~eighty-eight~~ seventy-six 43140

dollars for each location, boat, or vessel. 43141

Sec. 4303.14. Permit D-2 may be issued to the owner or 43142
operator of a hotel ~~or~~ of a retail food establishment or a food 43143
service operation licensed pursuant to Chapter 3717. of the 43144
Revised Code that operates as a restaurant for purposes of this 43145
chapter, or of a club, boat, or vessel, to sell wine and prepared 43146
and bottled cocktails, cordials, and other mixed beverages 43147
manufactured and distributed by holders of A-4 and B-4 permits at 43148
retail, either in glass or container, for consumption on the 43149
premises where sold. The holder of ~~such~~ this permit may also sell 43150
wine and prepared and bottled cocktails, cordials, and other mixed 43151
beverages in original packages and not for consumption on the 43152
premises where sold or for resale. The fee for this permit is ~~two~~ 43153
five hundred ~~eighty-two~~ sixty-four dollars for each location, 43154
boat, or vessel. 43155

Sec. 4303.141. Effective October 1, 1982, permit D-2x shall 43156
be issued to the holder of a D-2 permit who does not also hold a 43157
D-1 permit, to sell beer at retail either in glass or container 43158
for consumption on the premises where sold and to sell beer at 43159
retail in other receptacles or original containers having a 43160
capacity of not more than five and one-sixth gallons not for 43161
consumption on the premises where sold. Applicants for a D-2 43162
permit as of October 1, 1982, shall be issued a D-2x permit 43163
subject to the quota restrictions for the issuance of the D-2 43164
permit. The fee for a D-2x permit is ~~one~~ three hundred 43165
~~eighty-eight~~ seventy-six dollars. 43166

Sec. 4303.15. Permit D-3 may be issued to the owner or 43167
operator of a hotel ~~or~~ of a retail food establishment or a food 43168
service operation licensed pursuant to Chapter 3717. of the 43169
Revised Code that operates as a restaurant for purposes of this 43170

chapter, or of a club, boat, or vessel, to sell spirituous liquor 43171
at retail, only by the individual drink in glass or from the 43172
container, for consumption on the premises where sold. No sales of 43173
intoxicating liquor shall be made by a holder of a D-3 permit 43174
after one a.m. The fee for this permit is ~~six~~ seven hundred fifty 43175
dollars for each location, boat, or vessel. 43176

Sec. 4303.151. On October 1, 1982, permit D-3x shall be 43177
issued to the holder of a D-3 permit, to sell wine by the 43178
individual drink in glass or from the container, for consumption 43179
on the premises where sold. Applications for a D-3 permit on 43180
October 1, 1982, may be issued a D-3x permit subject to the quota 43181
restrictions for the issuance of a D-3 permit. The fee for a D-3x 43182
permit is ~~one~~ three hundred fifty dollars. 43183

Sec. 4303.16. Permit D-3a may be issued to the holder of a 43184
D-3 permit whenever ~~his~~ the holder's place of business is operated 43185
after one a.m. and spirituous liquor is sold or consumed after 43186
~~such~~ that hour. The holder of such permit may sell spirituous 43187
liquor during the same hours as the holders of D-5 permits under 43188
this chapter and Chapter 4301. of the Revised Code or the rules of 43189
the liquor control commission. The fee for a D-3a permit is ~~seven~~ 43190
nine hundred ~~fifty~~ thirty-eight dollars in addition to the fee 43191
required for a D-3 permit. 43192

If the holder of a D-3a permit is also the holder of a D-1 43193
permit, ~~he~~ the holder may sell beer after one a.m. and during the 43194
same hours as the holder of a D-5 permit. If the holder of a D-3a 43195
permit is also the holder of a D-2 permit, ~~he~~ the holder may sell 43196
intoxicating liquor after one a.m. and during the same hours as 43197
the holder of a D-5 permit. The holder of a D-3a permit may 43198
furnish music and entertainment to ~~his~~ the holder's patrons, 43199
subject to the same rules as govern D-5 permit holders. 43200

Sec. 4303.17. Permit D-4 may be issued to a club ~~which~~ that 43201
has been in existence for three years or more prior to the 43202
issuance of ~~such~~ the permit to sell beer and any intoxicating 43203
liquor to its members only, in glass or container, for consumption 43204
on the premises where sold. The fee for this permit is ~~three~~ four 43205
hundred ~~seventy-five~~ sixty-nine dollars. No such permit shall be 43206
granted or retained until all elected officers of such 43207
organization controlling such club have filed with the division of 43208
liquor control a statement certifying that such club is operated 43209
in the interest of the membership of a reputable organization, 43210
which is maintained by a dues paying membership, setting forth the 43211
amount of initiation fee and yearly dues. All such matters shall 43212
be contained in a statement signed under oath and accompanied by a 43213
surety bond in the sum of one thousand dollars. Such bond shall be 43214
declared forfeited in the full amount of the penal sum of the bond 43215
for any false statement contained in such certificate and the 43216
surety shall pay the amount of the bond to the division. The 43217
roster of membership of a D-4 permit holder shall be submitted 43218
under oath on the request of the superintendent of liquor control. 43219
Any information acquired by the superintendent or the division 43220
with respect to such membership shall not be open to public 43221
inspection or examination and may be divulged by the 43222
superintendent and the division only in hearings before the liquor 43223
control commission or in a court action in which the division or 43224
the superintendent is named a party. 43225

The requirement that a club shall have been in existence for 43226
three years in order to qualify for a D-4 permit does not apply to 43227
units of organizations chartered by congress or to a subsidiary 43228
unit of a national fraternal organization if the parent 43229
organization has been in existence for three years or more at the 43230
time application for a permit is made by such unit. 43231

No rule or order of the division or commission shall prohibit 43232
a charitable organization that holds a D-4 permit from selling or 43233
serving beer or intoxicating liquor under its permit in a portion 43234
of its premises merely because that portion of its premises is 43235
used at other times for the conduct of a ~~charitable~~ bingo game as 43236
described in division (S) of section 2915.01 of the Revised Code. 43237
However, such an organization shall not sell or serve beer or 43238
intoxicating liquor or permit beer or intoxicating liquor to be 43239
consumed or seen in the same location in its premises where a 43240
~~charitable~~ bingo game, as described in division (S)(1) of section 43241
2915.01 of the Revised Code, is being conducted while the game is 43242
being conducted. As used in this section, "charitable 43243
organization" has the same meaning as in division (H) of section 43244
2915.01 ~~and "charitable bingo game" has the same meaning as in~~ 43245
~~division (R) of section 2915.01~~ of the Revised Code. 43246

Sec. 4303.171. Permit D-4a may be issued to an airline 43247
company ~~which~~ that leases and operates a premises exclusively for 43248
the benefit of the members and their guests of a private club 43249
sponsored by the airline company, at a publicly owned airport, as 43250
defined in section 4563.01 of the Revised Code, at which 43251
commercial airline companies operate regularly scheduled flights 43252
on which space is available to the public, to sell beer and any 43253
intoxicating liquor to members of the private club and their 43254
guests, only by the individual drink in glass and from the 43255
container, for consumption on the premises where sold. In addition 43256
to the privileges authorized in this section, the holder of a D-4a 43257
permit may exercise the same privileges as a holder of a D-4 43258
permit. The holder of a D-4a permit shall make no sales of beer or 43259
intoxicating liquor after two-thirty a.m. 43260

A D-4a permit shall not be transferred to another location. 43261
No quota restriction shall be placed upon the number of such 43262

permits which may be issued. 43263

The fee for this permit is ~~six~~ seven hundred fifty dollars. 43264

Sec. 4303.18. Permit D-5 may be issued to the owner or 43265
operator of a retail food establishment or a food service 43266
operation licensed pursuant to Chapter 3717. of the Revised Code 43267
that operates as a restaurant or night club for purposes of this 43268
chapter, to sell beer and any intoxicating liquor at retail, only 43269
by the individual drink in glass and from the container, for 43270
consumption on the premises where sold, and to sell the same 43271
products in the same manner and amounts not for consumption on the 43272
premises as may be sold by holders of D-1 and D-2 permits. A 43273
person who is the holder of both a D-3 and D-3a permit need not 43274
obtain a D-5 permit. The fee for this permit is ~~one~~ two thousand 43275
~~eight~~ three hundred ~~seventy-five~~ forty-four dollars. 43276

Sec. 4303.181. (A) Permit D-5a may be issued either to the 43277
owner or operator of a hotel or motel that is required to be 43278
licensed under section 3731.03 of the Revised Code, that contains 43279
at least fifty rooms for registered transient guests, and that 43280
qualifies under the other requirements of this section, or to the 43281
owner or operator of a restaurant specified under this section, to 43282
sell beer and any intoxicating liquor at retail, only by the 43283
individual drink in glass and from the container, for consumption 43284
on the premises where sold, and to registered guests in their 43285
rooms, which may be sold by means of a controlled access alcohol 43286
and beverage cabinet in accordance with division (B) of section 43287
4301.21 of the Revised Code; and to sell the same products in the 43288
same manner and amounts not for consumption on the premises as may 43289
be sold by holders of D-1 and D-2 permits. The premises of the 43290
hotel or motel shall include a retail food establishment or a food 43291
service operation licensed pursuant to Chapter 3717. of the 43292
Revised Code that operates as a restaurant for purposes of this 43293

chapter and that is affiliated with the hotel or motel and within 43294
or contiguous to the hotel or motel, and that serves food within 43295
the hotel or motel, but the principal business of the owner or 43296
operator of the hotel or motel shall be the accommodation of 43297
transient guests. In addition to the privileges authorized in this 43298
division, the holder of a D-5a permit may exercise the same 43299
privileges as the holder of a D-5 permit. 43300

The owner or operator of a hotel, motel, or restaurant who 43301
qualified for and held a D-5a permit on August 4, 1976, may, if 43302
the owner or operator held another permit before holding a D-5a 43303
permit, either retain a D-5a permit or apply for the permit 43304
formerly held, and the division of liquor control shall issue the 43305
permit for which the owner or operator applies and formerly held, 43306
notwithstanding any quota. 43307

A D-5a permit shall not be transferred to another location. 43308
No quota restriction shall be placed on the number of such permits 43309
that may be issued. 43310

The fee for this permit is ~~one~~ two thousand ~~eight~~ three 43311
hundred ~~seventy-five~~ forty-four dollars. 43312

(B) Permit D-5b may be issued to the owner, operator, tenant, 43313
lessee, or occupant of an enclosed shopping center to sell beer 43314
and intoxicating liquor at retail, only by the individual drink in 43315
glass and from the container, for consumption on the premises 43316
where sold; and to sell the same products in the same manner and 43317
amount not for consumption on the premises as may be sold by 43318
holders of D-1 and D-2 permits. In addition to the privileges 43319
authorized in this division, the holder of a D-5b permit may 43320
exercise the same privileges as a holder of a D-5 permit. 43321

A D-5b permit shall not be transferred to another location. 43322

One D-5b permit may be issued at an enclosed shopping center 43323
containing at least two hundred twenty-five thousand, but less 43324

than four hundred thousand, square feet of floor area. 43325

Two D-5b permits may be issued at an enclosed shopping center 43326
containing at least four hundred thousand square feet of floor 43327
area. No more than one D-5b permit may be issued at an enclosed 43328
shopping center for each additional two hundred thousand square 43329
feet of floor area or fraction of that floor area, up to a maximum 43330
of five D-5b permits for each enclosed shopping center. The number 43331
of D-5b permits that may be issued at an enclosed shopping center 43332
shall be determined by subtracting the number of D-3 and D-5 43333
permits issued in the enclosed shopping center from the number of 43334
D-5b permits that otherwise may be issued at the enclosed shopping 43335
center under the formulas provided in this division. Except as 43336
provided in this section, no quota shall be placed on the number 43337
of D-5b permits that may be issued. Notwithstanding any quota 43338
provided in this section, the holder of any D-5b permit first 43339
issued in accordance with this section is entitled to its renewal 43340
in accordance with section 4303.271 of the Revised Code. 43341

The holder of a D-5b permit issued before April 4, 1984, 43342
whose tenancy is terminated for a cause other than nonpayment of 43343
rent, may return the D-5b permit to the division of liquor 43344
control, and the division shall cancel that permit. Upon 43345
cancellation of that permit and upon the permit holder's payment 43346
of taxes, contributions, premiums, assessments, and other debts 43347
owing or accrued upon the date of cancellation to this state and 43348
its political subdivisions and a filing with the division of a 43349
certification of that payment, the division shall issue to that 43350
person either a D-5 permit, or a D-1, a D-2, and a D-3 permit, as 43351
that person requests. The division shall issue the D-5 permit, or 43352
the D-1, D-2, and D-3 permits, even if the number of D-1, D-2, 43353
D-3, or D-5 permits currently issued in the municipal corporation 43354
or in the unincorporated area of the township where that person's 43355
proposed premises is located equals or exceeds the maximum number 43356

of such permits that can be issued in that municipal corporation 43357
or in the unincorporated area of that township under the 43358
population quota restrictions contained in section 4303.29 of the 43359
Revised Code. Any D-1, D-2, D-3, or D-5 permit so issued shall not 43360
be transferred to another location. If a D-5b permit is canceled 43361
under the provisions of this paragraph, the number of D-5b permits 43362
that may be issued at the enclosed shopping center for which the 43363
D-5b permit was issued, under the formula provided in this 43364
division, shall be reduced by one if the enclosed shopping center 43365
was entitled to more than one D-5b permit under the formula. 43366

The fee for this permit is ~~one two thousand eight three~~ 43367
hundred ~~seventy-five~~ forty-four dollars. 43368

(C) Permit D-5c may be issued to the owner or operator of a 43369
retail food establishment or a food service operation licensed 43370
pursuant to Chapter 3717. of the Revised Code that operates as a 43371
restaurant for purposes of this chapter and that qualifies under 43372
the other requirements of this section to sell beer and any 43373
intoxicating liquor at retail, only by the individual drink in 43374
glass and from the container, for consumption on the premises 43375
where sold, and to sell the same products in the same manner and 43376
amounts not for consumption on the premises as may be sold by 43377
holders of D-1 and D-2 permits. In addition to the privileges 43378
authorized in this division, the holder of a D-5c permit may 43379
exercise the same privileges as the holder of a D-5 permit. 43380

To qualify for a D-5c permit, the owner or operator of a 43381
retail food establishment or a food service operation licensed 43382
pursuant to Chapter 3717. of the Revised Code that operates as a 43383
restaurant for purposes of this chapter, shall have operated the 43384
restaurant at the proposed premises for not less than twenty-four 43385
consecutive months immediately preceding the filing of the 43386
application for the permit, have applied for a D-5 permit no later 43387
than December 31, 1988, and appear on the division's quota waiting 43388

list for not less than six months immediately preceding the filing 43389
of the application for the permit. In addition to these 43390
requirements, the proposed D-5c permit premises shall be located 43391
within a municipal corporation and further within an election 43392
precinct that, at the time of the application, has no more than 43393
twenty-five per cent of its total land area zoned for residential 43394
use. 43395

A D-5c permit shall not be transferred to another location. 43396
No quota restriction shall be placed on the number of such permits 43397
that may be issued. 43398

Any person who has held a D-5c permit for at least two years 43399
may apply for a D-5 permit, and the division of liquor control 43400
shall issue the D-5 permit notwithstanding the quota restrictions 43401
contained in section 4303.29 of the Revised Code or in any rule of 43402
the liquor control commission. 43403

The fee for this permit is one thousand ~~two~~ five hundred 43404
~~fifty~~ sixty-three dollars. 43405

(D) Permit D-5d may be issued to the owner or operator of a 43406
retail food establishment or a food service operation licensed 43407
pursuant to Chapter 3717. of the Revised Code that operates as a 43408
restaurant for purposes of this chapter and that is located at an 43409
airport operated by a board of county commissioners pursuant to 43410
section 307.20 of the Revised Code, at an airport operated by a 43411
port authority pursuant to Chapter 4582. of the Revised Code, or 43412
at an airport operated by a regional airport authority pursuant to 43413
Chapter 308. of the Revised Code. The holder of a D-5d permit may 43414
sell beer and any intoxicating liquor at retail, only by the 43415
individual drink in glass and from the container, for consumption 43416
on the premises where sold, and may sell the same products in the 43417
same manner and amounts not for consumption on the premises where 43418
sold as may be sold by the holders of D-1 and D-2 permits. In 43419
addition to the privileges authorized in this division, the holder 43420

of a D-5d permit may exercise the same privileges as the holder of 43421
a D-5 permit. 43422

A D-5d permit shall not be transferred to another location. 43423
No quota restrictions shall be placed on the number of such 43424
permits that may be issued. 43425

The fee for this permit is ~~one~~ two thousand ~~eight~~ three 43426
hundred ~~seventy-five~~ forty-four dollars. 43427

(E) Permit D-5e may be issued to any nonprofit organization 43428
that is exempt from federal income taxation under the "Internal 43429
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as 43430
amended, or that is a charitable organization under any chapter of 43431
the Revised Code, and that owns or operates a riverboat that meets 43432
all of the following: 43433

(1) Is permanently docked at one location; 43434

(2) Is designated as an historical riverboat by the Ohio 43435
historical society; 43436

(3) Contains not less than fifteen hundred square feet of 43437
floor area; 43438

(4) Has a seating capacity of fifty or more persons. 43439

The holder of a D-5e permit may sell beer and intoxicating 43440
liquor at retail, only by the individual drink in glass and from 43441
the container, for consumption on the premises where sold. 43442

A D-5e permit shall not be transferred to another location. 43443
No quota restriction shall be placed on the number of such permits 43444
that may be issued. The population quota restrictions contained in 43445
section 4303.29 of the Revised Code or in any rule of the liquor 43446
control commission shall not apply to this division, and the 43447
division shall issue a D-5e permit to any applicant who meets the 43448
requirements of this division. However, the division shall not 43449
issue a D-5e permit if the permit premises or proposed permit 43450

premises are located within an area in which the sale of 43451
spirituous liquor by the glass is prohibited. 43452

The fee for this permit is ~~nine~~ one thousand two hundred 43453
~~seventy-five~~ nineteen dollars. 43454

(F) Permit D-5f may be issued to the owner or operator of a 43455
retail food establishment or a food service operation licensed 43456
under Chapter 3717. of the Revised Code that operates as a 43457
restaurant for purposes of this chapter and that meets all of the 43458
following: 43459

(1) It contains not less than twenty-five hundred square feet 43460
of floor area. 43461

(2) It is located on or in, or immediately adjacent to, the 43462
shoreline of, a navigable river. 43463

(3) It provides docking space for twenty-five boats. 43464

(4) It provides entertainment and recreation, provided that 43465
not less than fifty per cent of the business on the permit 43466
premises shall be preparing and serving meals for a consideration. 43467

In addition, each application for a D-5f permit shall be 43468
accompanied by a certification from the local legislative 43469
authority that the issuance of the D-5f permit is not inconsistent 43470
with that political subdivision's comprehensive development plan 43471
or other economic development goal as officially established by 43472
the local legislative authority. 43473

The holder of a D-5f permit may sell beer and intoxicating 43474
liquor at retail, only by the individual drink in glass and from 43475
the container, for consumption on the premises where sold. 43476

A D-5f permit shall not be transferred to another location. 43477

The division of liquor control shall not issue a D-5f permit 43478
if the permit premises or proposed permit premises are located 43479
within an area in which the sale of spirituous liquor by the glass 43480

is prohibited. 43481

A fee for this permit is ~~one~~ two thousand ~~eight~~ three hundred 43482
~~seventy-five~~ forty-four dollars. 43483

As used in this division, "navigable river" means a river 43484
that is also a "navigable water" as defined in the "Federal Power 43485
Act," 94 Stat. 770 (1980), 16 U.S.C. 796. 43486

(G) Permit D-5g may be issued to a nonprofit corporation that 43487
is either the owner or the operator of a national professional 43488
sports museum. The holder of a D-5g permit may sell beer and any 43489
intoxicating liquor at retail, only by the individual drink in 43490
glass and from the container, for consumption on the premises 43491
where sold. The holder of a D-5g permit shall sell no beer or 43492
intoxicating liquor for consumption on the premises where sold 43493
after one a.m. A D-5g permit shall not be transferred to another 43494
location. No quota restrictions shall be placed on the number of 43495
D-5g permits that may be issued. The fee for this permit is one 43496
thousand ~~five~~ eight hundred ~~seventy-five~~ dollars. 43497

(H) Permit D-5h may be issued to any nonprofit organization 43498
that is exempt from federal income taxation under the "Internal 43499
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as 43500
amended, that owns or operates a fine arts museum and has no less 43501
than five thousand bona fide members possessing full membership 43502
privileges. The holder of a D-5h permit may sell beer and any 43503
intoxicating liquor at retail, only by the individual drink in 43504
glass and from the container, for consumption on the premises 43505
where sold. The holder of a D-5h permit shall sell no beer or 43506
intoxicating liquor for consumption on the premises where sold 43507
after one a.m. A D-5h permit shall not be transferred to another 43508
location. No quota restrictions shall be placed on the number of 43509
D-5h permits that may be issued. The fee for this permit is one 43510
thousand ~~five~~ eight hundred ~~seventy-five~~ dollars. 43511

(I) Permit D-5i may be issued to the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that meets all of the following requirements:

(1) It is located in a municipal corporation or a township with a population of fifty thousand or less.

(2) It has inside seating capacity for at least one hundred forty persons.

(3) It has at least four thousand square feet of floor area.

(4) It offers full-course meals, appetizers, and sandwiches.

(5) Its receipts from beer and liquor sales do not exceed twenty-five per cent of its total gross receipts.

(6) The value of its real and personal property exceeds seven hundred twenty-five thousand dollars.

The holder of a D-5i permit shall cause an independent audit to be performed at the end of one full year of operation following issuance of the permit in order to verify the requirements of division (I)(5) of this section. The results of the independent audit shall be transmitted to the division. Upon determining that the receipts of the holder from beer and liquor sales exceeded twenty-five per cent of its total gross receipts, the division shall suspend the permit of the permit holder under section 4301.25 of the Revised Code and may allow the permit holder to elect a forfeiture under section 4301.252 of the Revised Code.

The holder of a D-5i permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and may sell the same products in the same manner and amounts not for consumption on the premises where sold as may be

sold by the holders of D-1 and D-2 permits. The holder of a D-5i 43542
permit shall sell no beer or intoxicating liquor for consumption 43543
on the premises where sold after two-thirty a.m. In addition to 43544
the privileges authorized in this division, the holder of a D-5i 43545
permit may exercise the same privileges as the holder of a D-5 43546
permit. 43547

A D-5i permit shall not be transferred to another location. 43548
The division of liquor control shall not renew a D-5i permit 43549
unless the food service operation for which it is issued continues 43550
to meet the requirements described in divisions (I)(1) to (6) of 43551
this section. No quota restrictions shall be placed on the number 43552
of D-5i permits that may be issued. The fee for this permit is ~~one~~ 43553
two thousand eight ~~three~~ hundred ~~seventy-five~~ forty-four dollars. 43554

(J)(1) Permit D-5j may be issued to the owner or the operator 43555
of a retail food establishment or a food service operation 43556
licensed under Chapter 3717. of the Revised Code to sell beer and 43557
intoxicating liquor at retail, only by the individual drink in 43558
glass and from the container, for consumption on the premises 43559
where sold and to sell beer and intoxicating liquor in the same 43560
manner and amounts not for consumption on the premises where sold 43561
as may be sold by the holders of D-1 and D-2 permits. The holder 43562
of a D-5j permit may exercise the same privileges, and shall 43563
observe the same hours of operation, as the holder of a D-5 43564
permit. 43565

(2) The D-5j permit shall be issued only within a community 43566
entertainment district that is designated under section 4301.80 of 43567
the Revised Code and that is located in a municipal corporation 43568
with a population of at least one hundred thousand. 43569

(3) The location of a D-5j permit may be transferred only 43570
within the geographic boundaries of the community entertainment 43571
district in which it was issued and shall not be transferred 43572
outside the geographic boundaries of that district. 43573

(4) Not more than one D-5j permit shall be issued within each community entertainment district for each five acres of land located within the district. Not more than fifteen D-5j permits may be issued within a single community entertainment district. Except as otherwise provided in division (J)(4) of this section, no quota restrictions shall be placed upon the number of D-5j permits that may be issued.

(5) The fee for a D-5j permit is ~~one~~ two thousand ~~eight~~ three hundred ~~seventy-five~~ forty-four dollars.

(K)(1) Permit D-5k may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, that is the owner or operator of a botanical garden recognized by the American association of botanical gardens and arboreta, and that has not less than twenty-five hundred bona fide members.

(2) The holder of a D-5k permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, on the premises where sold.

(3) The holder of a D-5k permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after one a.m.

(4) A D-5k permit shall not be transferred to another location.

(5) No quota restrictions shall be placed on the number of D-5k permits that may be issued.

(6) The fee for the D-5k permit is one thousand ~~five~~ eight hundred ~~seventy-five~~ dollars.

Sec. 4303.182. (A) Except as otherwise provided in divisions (B) to (G) of this section, permit D-6 shall be issued to the

holder of an A-1-A, A-2, C-2, D-2, D-3, D-4, D-4a, D-5, D-5a, 43604
D-5b, D-5c, D-5d, D-5e, D-5f, ~~D-5g~~, D-5h, D-5i, D-5j, D-5k, or D-7 43605
permit to allow sale under that permit between the hours of ten 43606
a.m. and midnight, or between the hours of one p.m. and midnight, 43607
on Sunday, as applicable, if that sale has been authorized under 43608
section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised 43609
Code and under the restrictions of that authorization. 43610

(B) Permit D-6 shall be issued to the holder of any permit, 43611
including a D-4a and D-5d permit, authorizing the sale of 43612
intoxicating liquor issued for a premises located at any publicly 43613
owned airport, as defined in section 4563.01 of the Revised Code, 43614
at which commercial airline companies operate regularly scheduled 43615
flights on which space is available to the public, to allow sale 43616
under such permit between the hours of ten a.m. and midnight on 43617
Sunday, whether or not that sale has been authorized under section 43618
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 43619

(C) Permit D-6 shall be issued to the holder of a D-5a 43620
permit, and to the holder of a D-3 or D-3a permit who is the owner 43621
or operator of a hotel or motel that is required to be licensed 43622
under section 3731.03 of the Revised Code, that contains at least 43623
fifty rooms for registered transient guests, and that has on its 43624
premises a retail food establishment or a food service operation 43625
licensed pursuant to Chapter 3717. of the Revised Code that 43626
operates as a restaurant for purposes of this chapter and is 43627
affiliated with the hotel or motel and within or contiguous to the 43628
hotel or motel and serving food within the hotel or motel, to 43629
allow sale under such permit between the hours of ten a.m. and 43630
midnight on Sunday, whether or not that sale has been authorized 43631
under section 4301.361, 4301.364, 4301.365, or 4301.366 of the 43632
Revised Code. 43633

(D) The holder of a D-6 permit that is issued to a sports 43634
facility may make sales under the permit between the hours of 43635

eleven a.m. and midnight on any Sunday on which a professional 43636
baseball, basketball, football, hockey, or soccer game is being 43637
played at the sports facility. As used in this division, "sports 43638
facility" means a stadium or arena that has a seating capacity of 43639
at least four thousand and that is owned or leased by a 43640
professional baseball, basketball, football, hockey, or soccer 43641
franchise or any combination of those franchises. 43642

(E) Permit D-6 shall be issued to the holder of any permit 43643
that authorizes the sale of beer or intoxicating liquor and that 43644
is issued to a premises located in or at the Ohio historical 43645
society area or the state fairgrounds, as defined in division (B) 43646
of section 4301.40 of the Revised Code, to allow sale under that 43647
permit between the hours of ten a.m. and midnight on Sunday, 43648
whether or not that sale has been authorized under section 43649
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 43650

(F) Permit D-6 shall be issued to the holder of any permit 43651
that authorizes the sale of intoxicating liquor and that is issued 43652
to an outdoor performing arts center to allow sale under that 43653
permit between the hours of one p.m. and midnight on Sunday, 43654
whether or not that sale has been authorized under section 43655
4301.361 of the Revised Code. A D-6 permit issued under this 43656
division is subject to the results of an election, held after the 43657
D-6 permit is issued, on question (B)(4) as set forth in section 43658
4301.351 of the Revised Code. Following the end of the period 43659
during which an election may be held on question (B)(4) as set 43660
forth in that section, sales of intoxicating liquor may continue 43661
at an outdoor performing arts center under a D-6 permit issued 43662
under this division, unless an election on that question is held 43663
during the permitted period and a majority of the voters voting in 43664
the precinct on that question vote "no." 43665

As used in this division, "outdoor performing arts center" 43666
means an outdoor performing arts center that is located on not 43667

less than eight hundred acres of land and that is open for 43668
performances from the first day of April to the last day of 43669
October of each year. 43670

(G) Permit D-6 shall be issued to the holder of any permit 43671
that authorizes the sale of beer or intoxicating liquor and that 43672
is issued to a golf course owned by the state, a conservancy 43673
district, a park district created under Chapter 1545. of the 43674
Revised Code, or another political subdivision to allow sale under 43675
that permit between the hours of ten a.m. and midnight on Sunday, 43676
whether or not that sale has been authorized under section 43677
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 43678

(H) Permit D-6 shall be issued to the holder of a D-5g permit 43679
to allow sale under that permit between the hours of ten a.m. and 43680
midnight on Sunday, whether or not that sale has been authorized 43681
under section 4301.361, 4301.364, 4301.365, or 4301.366 of the 43682
Revised Code. 43683

(I) If the restriction to licensed premises where the sale of 43684
food and other goods and services exceeds fifty per cent of the 43685
total gross receipts of the permit holder at the premises is 43686
applicable, the division of liquor control may accept an affidavit 43687
from the permit holder to show the proportion of the permit 43688
holder's gross receipts derived from the sale of food and other 43689
goods and services. If the liquor control commission determines 43690
that affidavit to have been false, it shall revoke the permits of 43691
the permit holder at the premises concerned. 43692

~~(I)~~(J) The fee for the D-6 permit is ~~two~~ five hundred ~~fifty~~ 43693
dollars when it is issued to the holder of an A-1-A, A-2, D-2, 43694
D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, 43695
D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 permit. The fee for the D-6 43696
permit is ~~two~~ four hundred dollars when it is issued to the holder 43697
of a C-2 permit. 43698

Sec. 4303.183. Permit D-7 may be issued to the holder of any 43699
D-2 permit issued by the division of liquor control, or if there 43700
is an insufficient number of D-2 permit holders to fill the resort 43701
quota, to the operator of a retail food establishment or a food 43702
service operation required to be licensed under Chapter 3717. of 43703
the Revised Code that operates as a restaurant for purposes of 43704
this chapter and which qualifies under the other requirements of 43705
this section, to sell beer and any intoxicating liquor at retail, 43706
only by the individual drink in glass and from the container, for 43707
consumption on the premises where sold. Not less than fifty per 43708
cent of the business on the permit premises shall be preparing and 43709
serving meals for a consideration in order to qualify for and 43710
continue to hold such D-7 permit. The permit premises shall be 43711
located in a resort area. 43712

"Resort area" means a municipal corporation, township, 43713
county, or any combination thereof, which provides entertainment, 43714
recreation, and transient housing facilities specifically intended 43715
to provide leisure time activities for persons other than those 43716
whose permanent residence is within the "resort area" and who 43717
increase the population of the "resort area" on a seasonal basis, 43718
and which experiences seasonal peaks of employment and 43719
governmental services as a direct result of population increase 43720
generated by the transient, recreating public. A resort season 43721
shall begin on the first day of May and end on the last day of 43722
October. Notwithstanding section 4303.27 of the Revised Code, such 43723
permits may be issued for resort seasons without regard to the 43724
calendar year or permit year. Quota restrictions on the number of 43725
such permits shall take into consideration the transient 43726
population during the resort season, the custom and habits of 43727
visitors and tourists, and the promotion of the resort and tourist 43728
industry. The fee for this permit is ~~three~~ four hundred 43729
~~seventy-five~~ sixty-nine dollars per month. 43730

Any suspension of a D-7 permit shall be satisfied during the 43731
resort season in which such suspension becomes final. If such 43732
suspension becomes final during the off-season, or if the period 43733
of the suspension extends beyond the last day of October, the 43734
suspension or remainder thereof shall be satisfied during the next 43735
resort season. 43736

The ownership of a D-7 permit may be transferred from one 43737
permit holder to another. The holder of a D-7 permit may file an 43738
application to transfer such permit to a new location within the 43739
same resort area, provided that such permit holder shall be the 43740
owner or operator of a retail food establishment or a food service 43741
operation, required to be licensed under Chapter 3717. of the 43742
Revised Code, that operates as a restaurant for purposes of this 43743
chapter, at such new location. 43744

Sec. 4303.184. (A) Subject to division (B) of this section, a 43745
D-8 permit may be issued to the holder of a C-1, C-2, or C-2x 43746
permit issued to a retail store that has either of the following 43747
characteristics: 43748

(1) The store has at least five thousand five hundred square 43749
feet of floor area, and it generates more than sixty per cent of 43750
its sales in general merchandise items and food for consumption 43751
off the premises where sold. 43752

(2) Wine constitutes at least sixty per cent of the value of 43753
the store's inventory. 43754

(B) A D-8 permit may be issued to the holder of a C-1, C-2, 43755
or C-2x permit only if the premises of the permit holder are 43756
located in a precinct, or at a particular location in a precinct, 43757
in which the sale of beer, wine, or mixed beverages is permitted 43758
for consumption off the premises where sold. Sales under a D-8 43759
permit are not affected by whether sales for consumption on the 43760

premises where sold are permitted in the precinct or at the 43761
particular location where the D-8 premises are located. 43762

(C) The holder of a D-8 permit may sell tasting samples of 43763
beer, wine, and mixed beverages, but not spirituous liquor, at 43764
retail, for consumption on the premises where sold in an amount 43765
not to exceed two ounces or another amount designated by rule of 43766
the liquor control commission. A tasting sample shall not be sold 43767
for general consumption. No D-8 permit holder shall allow any 43768
authorized purchaser to consume more than four tasting samples of 43769
beer, wine, or mixed beverages, or any combination of beer, wine, 43770
or mixed beverages, per day. 43771

(D) The privileges authorized under a D-8 permit may only be 43772
exercised in conjunction with and during the hours of operation 43773
authorized by a C-1, C-2, C-2x, or D-6 permit. 43774

(E) A D-8 permit shall not be transferred to another 43775
location. 43776

(F) The fee for the D-8 permit is ~~two~~ five hundred ~~fifty~~ 43777
dollars. 43778

(G) The holder of a D-8 permit shall cause an independent 43779
audit to be performed at the end of the first full year of 43780
operation following issuance of the permit, and at the end of each 43781
second year thereafter, in order to verify that the permit holder 43782
satisfies the applicable requirement of division (A)(1) or (2) of 43783
this section. The permit holder shall transmit the results of the 43784
independent audit to the division of liquor control. If the 43785
results of the audit indicate noncompliance with division (A) of 43786
this section, the division shall not renew the D-8 permit of the 43787
permit holder. 43788

Sec. 4303.19. Permit E may be issued to the owner or operator 43789
of any railroad, a sleeping car company operating dining cars, 43790

buffet cars, club cars, lounge cars, or similar equipment, or an 43791
airline providing charter or regularly scheduled aircraft 43792
transportation service with dining, buffet, club, lounge, or 43793
similar facilities, to sell beer or any intoxicating liquor in any 43794
such car or aircraft to bona fide passengers at retail in glass 43795
and from the container for consumption in such car or aircraft, 43796
including sale on Sunday between the hours of one p.m. and 43797
midnight. The fee for this permit is ~~two~~ five hundred ~~fifty~~ 43798
dollars. 43799

Sec. 4303.20. Permit F may be issued to an association of ten 43800
or more persons, a labor union, or a charitable organization, or 43801
to an employer of ten or more persons sponsoring a function for 43802
~~his~~ the employer's employees, to purchase from the holders of A-1 43803
and B-1 permits and to sell beer for a period lasting not to 43804
exceed five days. No more than two such permits may be issued to 43805
the same applicant in any thirty-day period. 43806

The special function for which ~~such~~ the permit is issued 43807
shall include a social, recreational, benevolent, charitable, 43808
fraternal, political, patriotic, or athletic purpose but shall not 43809
include any function the proceeds of which are for the profit or 43810
gain of any individual. The fee for this permit is ~~twenty~~ forty 43811
dollars. 43812

Sec. 4303.201. (A) As used in this section: 43813

(1) "Convention facility" means any structure owned or leased 43814
by a municipal corporation or county which was expressly designed 43815
and constructed and is currently used for the purpose of 43816
presenting conventions, public meetings, and exhibitions. 43817

(2) "Nonprofit organization" means any unincorporated 43818
association or nonprofit corporation that is not formed for the 43819
pecuniary gain or profit of, and whose net earnings or any part 43820

thereof is not distributable to, its members, trustees, officers, 43821
or other private persons; provided, that the payment of reasonable 43822
compensation for services rendered and the distribution of assets 43823
on dissolution shall not be considered pecuniary gain or profit or 43824
distribution of earnings in an association or corporation all of 43825
whose members are nonprofit corporations. Distribution of earnings 43826
to member organizations does not deprive it of the status of a 43827
nonprofit organization. 43828

(B) An F-1 permit may be issued to any nonprofit organization 43829
to allow the nonprofit organization and its members and their 43830
guests to lawfully bring beer, wine, and intoxicating liquor in 43831
its original package, flasks, or other containers into a 43832
convention facility for consumption therein, if both of the 43833
following requirements are met: 43834

(1) The superintendent of liquor control is satisfied the 43835
organization meets the definition of a nonprofit organization as 43836
set forth in division (A)(2) of this section, the nonprofit 43837
organization's membership includes persons residing in two or more 43838
states, and the organization's total membership is in excess of 43839
five hundred. The superintendent may accept a sworn statement by 43840
the president or other chief executive officer of the nonprofit 43841
organization as proof of the matters required in this division. 43842

(2) The managing official or employee of the convention 43843
facility has given written consent to the use of the convention 43844
facility and to the application for the F-1 permit, as shown in 43845
the nonprofit organization's application to the superintendent. 43846

(C) The superintendent shall specify individually the 43847
effective period of each F-1 permit on the permit, which shall not 43848
exceed three days. The fee for an F-1 permit is ~~one~~ two hundred 43849
~~twenty-five~~ fifty dollars. The superintendent shall prepare and 43850
make available application forms to request F-1 permits and may 43851
require applicants to furnish such information as the 43852

superintendent determines to be necessary for the administration 43853
of this section. 43854

(D) No holder of an F-1 permit shall make a specific charge 43855
for beer, wine, or intoxicating liquor by the drink, or in its 43856
original package, flasks, or other containers in connection with 43857
its use of the convention facility under the permit. 43858

Sec. 4303.202. (A) The division of liquor control may issue 43859
an F-2 permit to an association or corporation, or to a recognized 43860
subordinate lodge, chapter, or other local unit of an association 43861
or corporation, to sell beer or intoxicating liquor by the 43862
individual drink at an event to be held on premises located in a 43863
political subdivision or part thereof where the sale of beer or 43864
intoxicating liquor on that day is otherwise permitted by law. 43865

The division of liquor control may issue an F-2 permit to an 43866
association or corporation, or to a recognized subordinate lodge, 43867
chapter, or other local unit of an association or corporation, to 43868
sell beer, wine, and spirituous liquor by the individual drink at 43869
an event to be held on premises located in a political subdivision 43870
or part thereof where the sale of beer and wine, but not 43871
spirituous liquor, is otherwise permitted by law on that day. 43872

Notwithstanding section 1711.09 of the Revised Code, this 43873
section applies to any association or corporation or a recognized 43874
subordinate lodge, chapter, or other local unit of an association 43875
or corporation. 43876

In order to receive an F-2 permit, the association, 43877
corporation, or local unit shall be organized not for profit, 43878
shall be operated for a charitable, cultural, fraternal, or 43879
educational purpose, and shall not be affiliated with the holder 43880
of any class of liquor permit, other than a D-4 permit. 43881

The premises on which the permit is to be used shall be 43882

clearly defined and sufficiently restricted to allow proper 43883
supervision of the permit use by state and local law enforcement 43884
personnel. An F-2 permit may be issued for the same premises for 43885
which another class of permit is issued. 43886

No F-2 permit shall be effective for more than forty-eight 43887
consecutive hours, and sales shall be confined to the same hours 43888
permitted to the holder of a D-3 permit. The division shall not 43889
issue more than two F-2 permits in one calendar year to the same 43890
association, corporation, or local unit of an association or 43891
corporation. The fee for an F-2 permit is ~~seventy-five~~ one hundred 43892
fifty dollars. 43893

If an applicant wishes the holder of a D-3, D-4, or D-5 43894
permit to conduct the sale of beer and intoxicating liquor at the 43895
event, the applicant may request that the F-2 permit be issued 43896
jointly to the association, corporation, or local unit and the 43897
D-permit holder. If a permit is issued jointly, the association, 43898
corporation, or local unit and the D-permit holder shall both be 43899
held responsible for any conduct that violates laws pertaining to 43900
the sale of alcoholic beverages, including sales by the D-permit 43901
holder; otherwise, the association, corporation, or local unit 43902
shall be held responsible. In addition to the permit fee paid by 43903
the association, corporation, or local unit, the D-permit holder 43904
shall pay a fee of ten dollars. A D-permit holder may receive an 43905
unlimited number of joint F-2 permits. 43906

Any association, corporation, or local unit applying for an 43907
F-2 permit shall file with the application a statement of the 43908
organizational purpose of the association, corporation, or local 43909
unit, the location and purpose of the event, and a list of its 43910
officers. The application form shall contain a notice that a 43911
person who knowingly makes a false statement on the application or 43912
statement is guilty of the crime of falsification, a misdemeanor 43913
of the first degree. In ruling on an application, the division 43914

shall consider, among other things, the past activities of the 43915
association, corporation, or local unit and any D-permit holder 43916
while operating under other F-2 permits, the location of the event 43917
for which the current application is made, and any objections of 43918
local residents or law enforcement authorities. If the division 43919
approves the application, it shall send copies of the approved 43920
application to the proper law enforcement authorities prior to the 43921
scheduled event. 43922

Using the procedures of Chapter 119. of the Revised Code, the 43923
liquor control commission may adopt such rules as are necessary to 43924
administer this section. 43925

(B) No association, corporation, local unit of an association 43926
or corporation, or D-permit holder who holds an F-2 permit shall 43927
sell beer or intoxicating liquor beyond the hours of sale allowed 43928
by the permit. This division imposes strict liability on the 43929
holder of such permit and on any officer, agent, or employee of 43930
such permit holder. 43931

Sec. 4303.203. (A) As used in this section: 43932

(1) "Convention facility" and "nonprofit corporation" have 43933
the same meanings as in section 4303.201 of the Revised Code. 43934

(2) "Hotel" means a hotel described in section 3731.01 of the 43935
Revised Code that has at least fifty rooms for registered 43936
transient guests and that is required to be licensed pursuant to 43937
section 3731.03 of the Revised Code. 43938

(B) An F-3 permit may be issued to an organization whose 43939
primary purpose is to support, promote, and educate members of the 43940
beer, wine, or mixed beverage industries, to allow the 43941
organization to bring beer, wine, or mixed beverages in their 43942
original packages or containers into a convention facility or 43943
hotel for consumption in the facility or hotel, if all of the 43944

following requirements are met: 43945

(1) The superintendent of liquor control is satisfied that 43946
the organization is a nonprofit organization and that the 43947
organization's membership is in excess of two hundred fifty 43948
persons. 43949

(2) The general manager or the equivalent officer of the 43950
convention facility or hotel provides a written consent for the 43951
use of a portion of the facility or hotel by the organization and 43952
a written statement that the facility's or hotel's permit 43953
privileges will be suspended in the portion of the facility or 43954
hotel in which the F-3 permit is in force. 43955

(3) The organization provides a written description that 43956
clearly sets forth the portion of the convention facility or hotel 43957
in which the F-3 permit will be used. 43958

(4) The organization provides a written statement as to its 43959
primary purpose and the purpose of its event at the convention 43960
facility or hotel. 43961

(5) Division (C) of this section does not apply. 43962

(C) No F-3 permit shall be issued to any nonprofit 43963
organization that is created by or for a specific manufacturer, 43964
supplier, distributor, or retailer of beer, wine, or mixed 43965
beverages. 43966

(D) Notwithstanding division (E) of section 4301.22 of the 43967
Revised Code, a holder of an F-3 permit may obtain by donation 43968
beer, wine, or mixed beverages from any manufacturer or producer 43969
of beer, wine, or mixed beverages. 43970

(E) Nothing in this chapter prohibits the holder of an F-3 43971
permit from bringing into the portion of the convention facility 43972
or hotel covered by the permit beer, wine, or mixed beverages 43973
otherwise not approved for sale in this state. 43974

(F) Notwithstanding division (E) of section 4301.22 of the Revised Code, no holder of an F-3 permit shall make any charge for 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 and may sell such wine by the glass for consumption on the premises where sold. The holder of an A-2 permit that is participating in the event for which the F-4 permit is issued may sell wine that it has manufactured, in sealed containers for consumption off the premises where sold. Wine may be furnished or sold on the premises of the event for which the F-4 permit is issued only where and when the sale of wine is otherwise permitted by law.

(C) The premises of the event for which the F-4 permit is issued shall be clearly defined and sufficiently restricted to allow proper enforcement of the permit by state and local law enforcement officers. If an F-4 permit is issued for all or a portion of the same premises for which another class of permit is issued, that permit holder's privileges will be suspended in that portion of the premises in which the F-4 permit is in effect.

(D) No F-4 permit shall be effective for more than seventy-two consecutive hours. No sales or furnishing of wine shall take place under an F-4 permit after one a.m.

(E) The division shall not issue more than six F-4 permits to the same not-for-profit association or corporation in any one calendar year.

(F) An applicant for an F-4 permit shall apply for the permit not later than thirty days prior to the first day of the event for which the permit is sought. The application for the permit shall list all of the A-2 permit holders that will participate in the event for which the F-4 permit is sought. The fee for the F-4 permit is ~~thirty~~ sixty dollars per day.

The division shall prepare and make available an F-4 permit

application form and may require applicants for and holders of the 44036
F-4 permit to provide information that is in addition to that 44037
required by this section and that is necessary for the 44038
administration of this section. 44039

(G)(1) The holder of an F-4 permit is responsible for, and is 44040
subject to penalties for, any violations of this chapter or 44041
Chapter 4301. of the Revised Code or the rules adopted under this 44042
and that chapter. 44043

(2) An F-4 permit holder shall not allow an A-2 permit holder 44044
to participate in the event for which the F-4 permit is issued if 44045
the A-2 or A-1-A permit of that A-2 permit holder is under 44046
suspension. 44047

(3) The division may refuse to issue an F-4 permit to an 44048
applicant who has violated any provision of this chapter or 44049
Chapter 4301. of the Revised Code during the applicant's previous 44050
operation under an F-4 permit, for a period of up to two years 44051
after the date of the violation. 44052

(H)(1) Notwithstanding division (E) of section 4301.22 of the 44053
Revised Code, an A-2 permit holder that participates in an event 44054
for which an F-4 permit is issued may donate wine that it has 44055
manufactured to the holder of that F-4 permit. The holder of an 44056
F-4 permit may return unused and sealed containers of wine to the 44057
A-2 permit holder that donated the wine at the conclusion of the 44058
event for which the F-4 permit was issued. 44059

(2) The participation by an A-2 permit holder or its 44060
employees in an event for which an F-4 permit is issued does not 44061
violate section 4301.24 of the Revised Code. 44062

Sec. 4303.21. Permit G may be issued to the owner of a 44063
pharmacy in charge of a licensed pharmacist to be named in ~~such~~ 44064
the permit for the sale at retail of alcohol for medicinal 44065

purposes in quantities at each sale of not more than one gallon 44066
upon the written prescription of a physician or dentist who is 44067
lawfully and regularly engaged in the practice of the physician's 44068
or dentist's profession in this state, and for the sale of 44069
industrial alcohol for mechanical, chemical, or scientific 44070
purposes to a person known by the seller to be engaged in ~~such~~ 44071
mechanical, chemical, or scientific pursuits; all subject to 44072
section 4303.34 of the Revised Code. The fee for this permit ~~is~~ 44073
~~fifty~~ is one hundred dollars. 44074

Sec. 4303.22. Permit H may be issued for a fee of ~~one~~ three 44075
hundred ~~fifty~~ dollars to a carrier by motor vehicle who also holds 44076
a license issued by the public utilities commission to transport 44077
beer, intoxicating liquor, and alcohol, or any of them, in this 44078
state for delivery or use in this state. This section does not 44079
prevent the division of liquor control from contracting with 44080
common or contract carriers for the delivery or transportation of 44081
liquor for the division, and any contract or common carrier so 44082
contracting with the division is eligible for an H permit. 44083
Manufacturers or wholesale distributors of beer or intoxicating 44084
liquor other than spirituous liquor who transport or deliver their 44085
own products to or from their premises licensed under this chapter 44086
and Chapter 4301. of the Revised Code by their own trucks as an 44087
incident to the purchase or sale of such beverages need not obtain 44088
an H permit. Carriers by rail shall receive an H permit upon 44089
application for it. 44090

This section does not prevent the division from issuing, upon 44091
the payment of the permit fee, an H permit to any person, 44092
partnership, firm, or corporation licensed by any other state to 44093
engage in the business of manufacturing and brewing or producing 44094
beer, wine, and mixed beverages or any person, partnership, firm, 44095
or corporation licensed by the United States or any other state to 44096
engage in the business of importing beer, wine, and mixed 44097

beverages manufactured outside the United States. The 44098
manufacturer, brewer, or importer of products manufactured outside 44099
the United States, upon the issuance of an H permit, may 44100
transport, ship, and deliver only its own products to holders of 44101
B-1 or B-5 permits in Ohio in motor trucks and equipment owned and 44102
operated by such class H permit holder. No H permit shall be 44103
issued by the division to such applicant until the applicant files 44104
with the division a liability insurance certificate or policy 44105
satisfactory to the division, in a sum of not less than one 44106
thousand nor more than five thousand dollars for property damage 44107
and for not less than five thousand nor more than fifty thousand 44108
dollars for loss sustained by reason of injury or death and with 44109
such other terms as the division considers necessary to adequately 44110
protect the interest of the public, having due regard for the 44111
number of persons and amount of property affected. The certificate 44112
or policy shall insure the manufacturer, brewer, or importer of 44113
products manufactured outside the United States against loss 44114
sustained by reason of the death of or injury to persons, and for 44115
loss of or damage to property, from the negligence of such class H 44116
permit holder in the operation of its motor vehicles or equipment 44117
in this state. 44118

Sec. 4303.23. Permit I may be issued to wholesale druggists 44119
to purchase alcohol from the holders of A-3 permits and to import 44120
alcohol into ~~Ohio~~ this state subject to ~~such~~ terms as ~~are~~ imposed 44121
by the division of liquor control; to sell at wholesale to 44122
physicians, dentists, druggists, veterinary surgeons, 44123
manufacturers, hospitals, infirmaries, and medical or educational 44124
institutions using such alcohol for medicinal, mechanical, 44125
chemical, or scientific purposes, and to holders of G permits for 44126
nonbeverage purposes only; and to sell alcohol at retail in total 44127
quantities at each sale of not more than one quart, upon the 44128
written prescription of a physician or dentist who is lawfully and 44129

regularly engaged in the practice of ~~his~~ the physician's or 44130
dentist's profession in this state. The sale of alcohol under this 44131
section is subject to section 4303.34 of the Revised Code. The fee 44132
for this permit is ~~one~~ two hundred dollars. 44133

"Wholesale druggists," as used in this section includes all 44134
persons holding federal wholesale liquor dealers' licenses and who 44135
are engaged in the sale of medicinal drugs, proprietary medicines, 44136
and surgical and medical appliances and apparatus, at wholesale. 44137

Sec. 4303.231. Permit W may be issued to a manufacturer or 44138
supplier of beer or intoxicating liquor to operate a warehouse for 44139
the storage of beer or intoxicating liquor within this state and 44140
to sell ~~such~~ those products from the warehouse only to holders of 44141
B permits in this state and to other customers outside this state 44142
under rules promulgated by the liquor control commission. Each 44143
holder of a B permit with a consent to import on file with the 44144
division of liquor control may purchase beer or intoxicating 44145
liquor if designated by the permit to make ~~such~~ those purchases, 44146
from the holder of a W permit. The fee for a W permit is one 44147
thousand ~~two~~ five hundred ~~fifty~~ sixty-three dollars for each 44148
warehouse during the year covered by the permit. 44149

Sec. 4501.06. The taxes, fees, and fines levied, charged, or 44150
referred to in division (C)(1) of section 4503.10, division (D) of 44151
section 4503.182, and sections 4505.11, 4505.111, 4506.08, 44152
4506.09, 4507.23, 4508.05, 4923.12, and 5502.12 of the Revised 44153
Code, unless otherwise designated by law, shall be deposited in 44154
the state treasury to the credit of the state highway safety fund, 44155
which is hereby created, and shall, after receipt of 44156
certifications from the commissioners of the sinking fund 44157
certifying, as required by sections 5528.15 and 5528.35 of the 44158
Revised Code, that there are sufficient moneys to the credit of 44159
the highway improvement bond retirement fund created by section 44160

5528.12 of the Revised Code to meet in full all payments of 44161
interest, principal, and charges for the retirement of bonds and 44162
other obligations issued pursuant to Section 2g of Article VIII, 44163
Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised 44164
Code due and payable during the current calendar year, and that 44165
there are sufficient moneys to the credit of the highway 44166
obligations bond retirement fund created by section 5528.32 of the 44167
Revised Code to meet in full all payments of interest, principal, 44168
and charges for the retirement of highway obligations issued 44169
pursuant to Section 2i of Article VIII, Ohio Constitution, and 44170
sections 5528.30 and 5528.31 of the Revised Code due and payable 44171
during the current calendar year, be used for the purpose of 44172
enforcing and paying the expenses of administering the law 44173
relative to the registration and operation of motor vehicles on 44174
the public roads or highways. Amounts credited to the fund may 44175
also be used to pay the expenses of administering and enforcing 44176
the laws under which such fees were collected. All investment 44177
earnings of the state highway safety fund shall be credited to the 44178
fund. 44179

Sec. 4503.101. (A) The registrar of motor vehicles shall 44180
adopt rules to establish a system of motor vehicle registration 44181
based upon the type of vehicle to be registered, the type of 44182
ownership of the vehicle, the class of license plate to be issued, 44183
and any other factor the registrar determines to be relevant. 44184
Except for commercial cars, buses, trailers, and semitrailers 44185
taxed under section 4503.042 of the Revised Code; except for 44186
rental vehicles owned by motor vehicle renting dealers; and except 44187
as otherwise provided by rule, motor vehicles owned by an 44188
individual shall be registered based upon the motor vehicle 44189
owner's date of birth. Beginning with the 2004 registration year, 44190
the registrar shall assign motor vehicles to the registration 44191
periods established by rules adopted under this section. 44192

(B) The registrar shall adopt rules to permit motor vehicle owners residing together at one address to select the date of birth of any one of the owners as the date to register any or all of the vehicles at that residence address, as shown in the records of the bureau of motor vehicles.

(C) The registrar shall adopt rules to assign and reassign all commercial cars, ~~buses~~, trailers, and semitrailers taxed under section 4503.042 of the Revised Code and all rental vehicles owned by motor vehicle renting dealers to a system of registration so that the registrations of approximately one-twelfth of all such vehicles expire on the last day of each month of a calendar year. To effect a reassignment from the registration period in effect on ~~the effective date of this amendment~~ June 30, 2003, to the new registration periods established by the rules adopted under this section as amended, the rules may require the motor vehicle to be registered for more or less than a twelve-month period at the time the motor vehicle's registration is subject to its initial renewal following the effective date of such rules. If necessary to effect an efficient transition, the rules may provide that the registration reassignments take place over two consecutive registration periods. The registration taxes to be charged shall be determined by the registrar on the basis of the annual tax otherwise due on the motor vehicle, prorated in accordance with the number of months for which the motor vehicle is registered, except that the fee established by division (C)(1) of section 4503.10 of the Revised Code shall be collected in full for each renewal that occurs during the transition period and shall not be prorated.

(D) The registrar shall adopt rules to permit any commercial motor vehicle owner or motor vehicle renting dealer who owns two or more motor vehicles to request the registrar to permit the owner to separate the owner's fleet into up to four divisions for

assignment to separate dates upon which to register the vehicles, 44225
provided that the registrar may disapprove any such request 44226
whenever the registrar has reason to believe that an uneven 44227
distribution of registrations throughout the calendar year has 44228
developed or is likely to develop. 44229

(E) Every owner or lessee of a motor vehicle holding a 44230
certificate of registration shall notify the registrar of any 44231
change of the owner's or lessee's correct address within ten days 44232
after the change occurs. The notification shall be in writing on a 44233
form provided by the registrar or by electronic means approved by 44234
the registrar and shall include the full name, date of birth if 44235
applicable, license number, county of residence or place of 44236
business, social security account number of an individual or 44237
federal tax identification number of a business, and new address. 44238

(F) As used in this section, "motor vehicle renting dealer" 44239
has the same meaning as in section 4549.65 of the Revised Code. 44240

Sec. 4503.103. (A)(1)(a) The registrar of motor vehicles may 44241
adopt rules to permit any person or lessee, other than a person 44242
receiving an apportioned license plate under the international 44243
registration plan, who owns or leases one or more motor vehicles 44244
to file a written application for registration for no more than 44245
five succeeding registration years. The rules adopted by the 44246
registrar may designate the classes of motor vehicles that are 44247
eligible for such registration. At the time of application, all 44248
annual taxes and fees shall be paid for each year for which the 44249
person is registering. 44250

(b) ~~The (i) Except as provided in division (A)(1)(b)(ii) of~~ 44251
~~this section, the registrar shall adopt rules to permit any~~ 44252
~~person, other than a person receiving an apportioned license plate~~ 44253
~~under the international registration plan and other than the owner~~ 44254
~~of a commercial car used solely in intrastate commerce, who owns a~~ 44255

motor vehicle to file an application for registration for the next 44256
two succeeding registration years. At the time of application, the 44257
person shall pay the annual taxes and fees for each registration 44258
year, calculated in accordance with division (C) of section 44259
4503.11 of the Revised Code. A person who is registering a vehicle 44260
under division (A)(1)(b) of this section shall pay for each year 44261
of registration the additional fee established under division 44262
(C)(1) of section 4503.10 of the Revised Code. The person shall 44263
also pay one and one-half times the amount of the deputy registrar 44264
service fee specified in division (D) of section 4503.10 of the 44265
Revised Code or the bureau of motor vehicles service fee specified 44266
in division (G) of that section, as applicable. 44267

(ii) Division (A)(1)(b)(i) of this section does not apply to 44268
a person receiving an apportioned license plate under the 44269
international registration plan, or the owner of a commercial car 44270
used solely in intrastate commerce, or the owner of a bus as 44271
defined in section 4513.50 of the Revised Code. 44272

(2) No person applying for a multi-year registration under 44273
division (A)(1) of this section is entitled to a refund of any 44274
taxes or fees paid. 44275

(3) The registrar shall not issue to any applicant who has 44276
been issued a final, nonappealable order under division (B) of 44277
this section a multi-year registration or renewal thereof under 44278
this division or rules adopted under it for any motor vehicle that 44279
is required to be inspected under section 3704.14 of the Revised 44280
Code the district of registration of which, as determined under 44281
section 4503.10 of the Revised Code, is or is located in the 44282
county named in the order. 44283

(B) Upon receipt from the director of environmental 44284
protection of a notice issued under division (J) of section 44285
3704.14 of the Revised Code indicating that an owner of a motor 44286
vehicle that is required to be inspected under that section who 44287

obtained a multi-year registration for the vehicle under division 44288
(A) of this section or rules adopted under that division has not 44289
obtained an inspection certificate for the vehicle in accordance 44290
with that section in a year intervening between the years of 44291
issuance and expiration of the multi-year registration in which 44292
the owner is required to have the vehicle inspected and obtain an 44293
inspection certificate for it under division (F)(1)(a) of that 44294
section, the registrar in accordance with Chapter 119. of the 44295
Revised Code shall issue an order to the owner impounding the 44296
certificate of registration and identification license plates for 44297
the vehicle. The order also shall prohibit the owner from 44298
obtaining or renewing a multi-year registration for any vehicle 44299
that is required to be inspected under that section, the district 44300
of registration of which is or is located in the same county as 44301
the county named in the order during the number of years after 44302
expiration of the current multi-year registration that equals the 44303
number of years for which the current multi-year registration was 44304
issued. 44305

An order issued under this division shall require the owner 44306
to surrender to the registrar the certificate of registration and 44307
license plates for the vehicle named in the order within five days 44308
after its issuance. If the owner fails to do so within that time, 44309
the registrar shall certify that fact to the county sheriff or 44310
local police officials who shall recover the certificate of 44311
registration and license plates for the vehicle. 44312

(C) Upon the occurrence of either of the following 44313
circumstances, the registrar in accordance with Chapter 119. of 44314
the Revised Code shall issue to the owner a modified order 44315
rescinding the provisions of the order issued under division (B) 44316
of this section impounding the certificate of registration and 44317
license plates for the vehicle named in that original order: 44318

(1) Receipt from the director of environmental protection of 44319

a subsequent notice under division (J) of section 3704.14 of the Revised Code that the owner has obtained the inspection certificate for the vehicle as required under division (F)(1)(a) of that section;

(2) Presentation to the registrar by the owner of the required inspection certificate for the vehicle.

(D) The owner of a motor vehicle for which the certificate of registration and license plates have been impounded pursuant to an order issued under division (B) of this section, upon issuance of a modified order under division (C) of this section, may apply to the registrar for their return. A fee of two dollars and fifty cents shall be charged for the return of the certificate of registration and license plates for each vehicle named in the application.

Sec. 4505.06. (A)(1) Application for a certificate of title shall be made in a form prescribed by the registrar of motor vehicles and shall be sworn to before a notary public or other officer empowered to administer oaths. The application shall be filed with the clerk of any court of common pleas. An application for a certificate of title may be filed electronically by any electronic means approved by the registrar in any county with the clerk of the court of common pleas of that county. Any payments required by this chapter shall be considered as accompanying any electronically transmitted application when payment actually is received by the clerk. Payment of any fee or taxes may be made by electronic transfer of funds.

(2) The application for a certificate of title shall be accompanied by the fee prescribed in section 4505.09 of the Revised Code. The fee shall be retained by the clerk who issues the certificate of title and shall be distributed in accordance with that section. If a clerk of a court of common pleas, other

than the clerk of the court of common pleas of an applicant's 44351
county of residence, issues a certificate of title to the 44352
applicant, the clerk shall transmit data related to the 44353
transaction to the automated title processing system. 44354

(3) If a certificate of title previously has been issued for 44355
a motor vehicle in this state, the application for a certificate 44356
of title also shall be accompanied by that certificate of title 44357
duly assigned, unless otherwise provided in this chapter. If a 44358
certificate of title previously has not been issued for the motor 44359
vehicle in this state, the application, unless otherwise provided 44360
in this chapter, shall be accompanied by a manufacturer's or 44361
importer's certificate or by a certificate of title of another 44362
state from which the motor vehicle was brought into this state. If 44363
the application refers to a motor vehicle last previously 44364
registered in another state, the application also shall be 44365
accompanied by the physical inspection certificate required by 44366
section 4505.061 of the Revised Code. If the application is made 44367
by two persons regarding a motor vehicle in which they wish to 44368
establish joint ownership with right of survivorship, they may do 44369
so as provided in section 2131.12 of the Revised Code. If the 44370
applicant requests a designation of the motor vehicle in 44371
beneficiary form so that upon the death of the owner of the motor 44372
vehicle, ownership of the motor vehicle will pass to a designated 44373
transfer-on-death beneficiary or beneficiaries, the applicant may 44374
do so as provided in section 2131.13 of the Revised Code. A person 44375
who establishes ownership of a motor vehicle that is transferable 44376
on death in accordance with section 2131.13 of the Revised Code 44377
may terminate that type of ownership or change the designation of 44378
the transfer-on-death beneficiary or beneficiaries by applying for 44379
a certificate of title pursuant to this section. The clerk shall 44380
retain the evidence of title presented by the applicant and on 44381
which the certificate of title is issued, except that, if an 44382
application for a certificate of title is filed electronically by 44383

an electronic motor vehicle dealer on behalf of the purchaser of a 44384
motor vehicle, the clerk shall retain the completed electronic 44385
record to which the dealer converted the certificate of title 44386
application and other required documents. The electronic motor 44387
vehicle dealer shall ~~forward~~ retain the ~~actual~~ original title 44388
~~application and all other documents relating to the sale of the~~ 44389
~~motor vehicle to any clerk within thirty days after the~~ 44390
~~certificate of title is issued. The registrar, after consultation~~ 44391
~~with the attorney general, shall adopt rules that govern the~~ 44392
~~location at which, and the manner in which, are stored the actual~~ 44393
~~application and all other documents relating to the sale of a~~ 44394
~~motor vehicle when an electronic motor vehicle dealer files the~~ 44395
~~application for a certificate of title electronically on behalf of~~ 44396
~~the purchaser~~ for a period of time determined by the registrar and 44397
shall make all of the documents available for inspection by the 44398
registrar upon the registrar's request. The registrar shall make 44399
the original application documents available to the attorney 44400
general upon the request of the attorney general. 44401

The clerk shall use reasonable diligence in ascertaining 44402
whether or not the facts in the application for a certificate of 44403
title are true by checking the application and documents 44404
accompanying it or the electronic record to which a dealer 44405
converted the application and accompanying documents with the 44406
records of motor vehicles in the clerk's office. If the clerk is 44407
satisfied that the applicant is the owner of the motor vehicle and 44408
that the application is in the proper form, the clerk, within five 44409
business days after the application is filed, shall issue a 44410
physical certificate of title over the clerk's signature and 44411
sealed with the clerk's seal unless the applicant specifically 44412
requests the clerk not to issue a physical certificate of title 44413
and instead to issue an electronic certificate of title. For 44414
purposes of the transfer of a certificate of title, if the clerk 44415
is satisfied that the secured party has duly discharged a lien 44416

notation but has not canceled the lien notation with a clerk, the 44417
clerk may cancel the lien notation on the automated title 44418
processing system and notify the clerk of the county of origin. 44419

(4) In the case of the sale of a motor vehicle to a general 44420
buyer or user by a dealer, by a motor vehicle leasing dealer 44421
selling the motor vehicle to the lessee or, in a case in which the 44422
leasing dealer subleased the motor vehicle, the sublessee, at the 44423
end of the lease agreement or sublease agreement, or by a 44424
manufactured home broker, the certificate of title shall be 44425
obtained in the name of the buyer by the dealer, leasing dealer, 44426
or manufactured home broker, as the case may be, upon application 44427
signed by the buyer. The certificate of title shall be issued, or 44428
the process of entering the certificate of title application 44429
information into the automated title processing system if a 44430
physical certificate of title is not to be issued shall be 44431
completed, within five business days after the application for 44432
title is filed with the clerk. If the buyer of the motor vehicle 44433
previously leased the motor vehicle and is buying the motor 44434
vehicle at the end of the lease pursuant to that lease, the 44435
certificate of title shall be obtained in the name of the buyer by 44436
the motor vehicle leasing dealer who previously leased the motor 44437
vehicle to the buyer or by the motor vehicle leasing dealer who 44438
subleased the motor vehicle to the buyer under a sublease 44439
agreement. 44440

In all other cases, except as provided in section 4505.032 44441
and division (D)(2) of section 4505.11 of the Revised Code, such 44442
certificates shall be obtained by the buyer. 44443

(5)(a)(i) If the certificate of title is being obtained in 44444
the name of the buyer by a motor vehicle dealer or motor vehicle 44445
leasing dealer and there is a security interest to be noted on the 44446
certificate of title, the dealer or leasing dealer shall submit 44447
the application for the certificate of title and payment of the 44448

applicable tax to a clerk within seven business days after the 44449
later of the delivery of the motor vehicle to the buyer or the 44450
date the dealer or leasing dealer obtains the manufacturer's or 44451
importer's certificate, or certificate of title issued in the name 44452
of the dealer or leasing dealer, for the motor vehicle. Submission 44453
of the application for the certificate of title and payment of the 44454
applicable tax within the required seven business days may be 44455
indicated by postmark or receipt by a clerk within that period. 44456

(ii) Upon receipt of the certificate of title with the 44457
security interest noted on its face, the dealer or leasing dealer 44458
shall forward the certificate of title to the secured party at the 44459
location noted in the financing documents or otherwise specified 44460
by the secured party. 44461

(iii) A motor vehicle dealer or motor vehicle leasing dealer 44462
is liable to a secured party for a late fee of ten dollars per day 44463
for each certificate of title application and payment of the 44464
applicable tax that is submitted to a clerk more than seven 44465
business days but less than twenty-one days after the later of the 44466
delivery of the motor vehicle to the buyer or the date the dealer 44467
or leasing dealer obtains the manufacturer's or importer's 44468
certificate, or certificate of title issued in the name of the 44469
dealer or leasing dealer, for the motor vehicle and, from then on, 44470
twenty-five dollars per day until the application and applicable 44471
tax are submitted to a clerk. 44472

(b) In all cases of transfer of a motor vehicle, the 44473
application for certificate of title shall be filed within thirty 44474
days after the assignment or delivery of the motor vehicle. If an 44475
application for a certificate of title is not filed within the 44476
period specified in division (A)(5)(b) of this section, the clerk 44477
shall collect a fee of five dollars for the issuance of the 44478
certificate, except that no such fee shall be required from a 44479
motor vehicle salvage dealer, as defined in division (A) of 44480

section 4738.01 of the Revised Code, who immediately surrenders 44481
the certificate of title for cancellation. The fee shall be in 44482
addition to all other fees established by this chapter, and shall 44483
be retained by the clerk. The registrar shall provide, on the 44484
certificate of title form prescribed by section 4505.07 of the 44485
Revised Code, language necessary to give evidence of the date on 44486
which the assignment or delivery of the motor vehicle was made. 44487

(6) As used in division (A) of this section, "lease 44488
agreement," "lessee," and "sublease agreement" have the same 44489
meanings as in section 4505.04 of the Revised Code. 44490

(B) The clerk, except as provided in this section, shall 44491
refuse to accept for filing any application for a certificate of 44492
title and shall refuse to issue a certificate of title unless the 44493
dealer or manufactured home broker or the applicant, in cases in 44494
which the certificate shall be obtained by the buyer, submits with 44495
the application payment of the tax levied by or pursuant to 44496
Chapters 5739. and 5741. of the Revised Code based on the 44497
purchaser's county of residence. Upon payment of the tax in 44498
accordance with division (E) of this section, the clerk shall 44499
issue a receipt prescribed by the registrar and agreed upon by the 44500
tax commissioner showing payment of the tax or a receipt issued by 44501
the commissioner showing the payment of the tax. When submitting 44502
payment of the tax to the clerk, a dealer shall retain any 44503
discount to which the dealer is entitled under section 5739.12 of 44504
the Revised Code. 44505

For receiving and disbursing such taxes paid to the clerk by 44506
a resident of the clerk's county, the clerk may retain a poundage 44507
fee of one and one one-hundredth per cent, and the clerk shall pay 44508
the poundage fee into the certificate of title administration fund 44509
created by section 325.33 of the Revised Code. The clerk shall not 44510
retain a poundage fee from payments of taxes by persons who do not 44511
reside in the clerk's county. 44512

A clerk, however, may retain from the taxes paid to the clerk 44513
an amount equal to the poundage fees associated with certificates 44514
of title issued by other clerks of courts of common pleas to 44515
applicants who reside in the first clerk's county. The registrar, 44516
in consultation with the tax commissioner and the clerks of the 44517
courts of common pleas, shall develop a report from the automated 44518
title processing system that informs each clerk of the amount of 44519
the poundage fees that the clerk is permitted to retain from those 44520
taxes because of certificates of title issued by the clerks of 44521
other counties to applicants who reside in the first clerk's 44522
county. 44523

In the case of casual sales of motor vehicles, as defined in 44524
section 4517.01 of the Revised Code, the price for the purpose of 44525
determining the tax shall be the purchase price on the assigned 44526
certificate of title executed by the seller and filed with the 44527
clerk by the buyer on a form to be prescribed by the registrar, 44528
which shall be prima-facie evidence of the amount for the 44529
determination of the tax. 44530

(C)(1) If the transferor indicates on the certificate of 44531
title that the odometer reflects mileage in excess of the designed 44532
mechanical limit of the odometer, the clerk shall enter the phrase 44533
"exceeds mechanical limits" following the mileage designation. If 44534
the transferor indicates on the certificate of title that the 44535
odometer reading is not the actual mileage, the clerk shall enter 44536
the phrase "nonactual: warning - odometer discrepancy" following 44537
the mileage designation. The clerk shall use reasonable care in 44538
transferring the information supplied by the transferor, but is 44539
not liable for any errors or omissions of the clerk or those of 44540
the clerk's deputies in the performance of the clerk's duties 44541
created by this chapter. 44542

The registrar shall prescribe an affidavit in which the 44543
transferor shall swear to the true selling price and, except as 44544

provided in this division, the true odometer reading of the motor 44545
vehicle. The registrar may prescribe an affidavit in which the 44546
seller and buyer provide information pertaining to the odometer 44547
reading of the motor vehicle in addition to that required by this 44548
section, as such information may be required by the United States 44549
secretary of transportation by rule prescribed under authority of 44550
subchapter IV of the "Motor Vehicle Information and Cost Savings 44551
Act," 86 Stat. 961 (1972), 15 U.S.C. 1981. 44552

(2) Division (C)(1) of this section does not require the 44553
giving of information concerning the odometer and odometer reading 44554
of a motor vehicle when ownership of a motor vehicle is being 44555
transferred as a result of a bequest, under the laws of intestate 44556
succession, to a survivor pursuant to section 2106.18, 2131.12, or 44557
4505.10 of the Revised Code, to a transfer-on-death beneficiary or 44558
beneficiaries pursuant to section 2131.13 of the ~~Revised~~ Revised 44559
Code, or in connection with the creation of a security interest. 44560

(D) When the transfer to the applicant was made in some other 44561
state or in interstate commerce, the clerk, except as provided in 44562
this section, shall refuse to issue any certificate of title 44563
unless the tax imposed by or pursuant to Chapter 5741. of the 44564
Revised Code based on the purchaser's county of residence has been 44565
paid as evidenced by a receipt issued by the tax commissioner, or 44566
unless the applicant submits with the application payment of the 44567
tax. Upon payment of the tax in accordance with division (E) of 44568
this section, the clerk shall issue a receipt prescribed by the 44569
registrar and agreed upon by the tax commissioner, showing payment 44570
of the tax. 44571

For receiving and disbursing such taxes paid to the clerk by 44572
a resident of the clerk's county, the clerk may retain a poundage 44573
fee of one and one one-hundredth per cent. The clerk shall not 44574
retain a poundage fee from payments of taxes by persons who do not 44575
reside in the clerk's county. 44576

A clerk, however, may retain from the taxes paid to the clerk 44577
an amount equal to the poundage fees associated with certificates 44578
of title issued by other clerks of courts of common pleas to 44579
applicants who reside in the first clerk's county. The registrar, 44580
in consultation with the tax commissioner and the clerks of the 44581
courts of common pleas, shall develop a report from the automated 44582
title processing system that informs each clerk of the amount of 44583
the poundage fees that the clerk is permitted to retain from those 44584
taxes because of certificates of title issued by the clerks of 44585
other counties to applicants who reside in the first clerk's 44586
county. 44587

When the vendor is not regularly engaged in the business of 44588
selling motor vehicles, the vendor shall not be required to 44589
purchase a vendor's license or make reports concerning those 44590
sales. 44591

(E) The clerk shall accept any payment of a tax in cash, or 44592
by cashier's check, certified check, draft, money order, or teller 44593
check issued by any insured financial institution payable to the 44594
clerk and submitted with an application for a certificate of title 44595
under division (B) or (D) of this section. The clerk also may 44596
accept payment of the tax by corporate, business, or personal 44597
check, credit card, electronic transfer or wire transfer, debit 44598
card, or any other accepted form of payment made payable to the 44599
clerk. The clerk may require bonds, guarantees, or letters of 44600
credit to ensure the collection of corporate, business, or 44601
personal checks. Any service fee charged by a third party to a 44602
clerk for the use of any form of payment may be paid by the clerk 44603
from the certificate of title administration fund created in 44604
section 325.33 of the Revised Code, or may be assessed by the 44605
clerk upon the applicant as an additional fee. Upon collection, 44606
the additional fees shall be paid by the clerk into that 44607
certificate of title administration fund. 44608

The clerk shall make a good faith effort to collect any 44609
payment of taxes due but not made because the payment was returned 44610
or dishonored, but the clerk is not personally liable for the 44611
payment of uncollected taxes or uncollected fees. The clerk shall 44612
notify the tax commissioner of any such payment of taxes that is 44613
due but not made and shall furnish the information to the 44614
commissioner that the commissioner requires. The clerk shall 44615
deduct the amount of taxes due but not paid from the clerk's 44616
periodic remittance of tax payments, in accordance with procedures 44617
agreed upon by the tax commissioner. The commissioner may collect 44618
taxes due by assessment in the manner provided in section 5739.13 44619
of the Revised Code. 44620

Any person who presents payment that is returned or 44621
dishonored for any reason is liable to the clerk for payment of a 44622
penalty over and above the amount of the taxes due. The clerk 44623
shall determine the amount of the penalty, and the penalty shall 44624
be no greater than that amount necessary to compensate the clerk 44625
for banking charges, legal fees, or other expenses incurred by the 44626
clerk in collecting the returned or dishonored payment. The 44627
remedies and procedures provided in this section are in addition 44628
to any other available civil or criminal remedies. Subsequently 44629
collected penalties, poundage fees, and title fees, less any title 44630
fee due the state, from returned or dishonored payments collected 44631
by the clerk shall be paid into the certificate of title 44632
administration fund. Subsequently collected taxes, less poundage 44633
fees, shall be sent by the clerk to the treasurer of state at the 44634
next scheduled periodic remittance of tax payments, with 44635
information as the commissioner may require. The clerk may abate 44636
all or any part of any penalty assessed under this division. 44637

(F) In the following cases, the clerk shall accept for filing 44638
an application and shall issue a certificate of title without 44639
requiring payment or evidence of payment of the tax: 44640

(1) When the purchaser is this state or any of its political subdivisions, a church, or an organization whose purchases are exempted by section 5739.02 of the Revised Code; 44641
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(2) When the transaction in this state is not a retail sale as defined by section 5739.01 of the Revised Code; 44644
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(3) When the purchase is outside this state or in interstate commerce and the purpose of the purchaser is not to use, store, or consume within the meaning of section 5741.01 of the Revised Code; 44646
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(4) When the purchaser is the federal government; 44649

(5) When the motor vehicle was purchased outside this state for use outside this state; 44650
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(6) When the motor vehicle is purchased by a nonresident of this state for immediate removal from this state, and will be permanently titled and registered in another state, as provided by division (B)(23) of section 5739.02 of the Revised Code, and upon presentation of a copy of the affidavit provided by that section, and a copy of the exemption certificate provided by section 5739.03 of the Revised Code. 44652
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The clerk shall forward all payments of taxes, less poundage fees, to the treasurer of state in a manner to be prescribed by the tax commissioner and shall furnish information to the commissioner as the commissioner requires. 44659
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(G) An application, as prescribed by the registrar and agreed to by the tax commissioner, shall be filled out and sworn to by the buyer of a motor vehicle in a casual sale. The application shall contain the following notice in bold lettering: "WARNING TO TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You are required by law to state the true selling price. A false statement is in violation of section 2921.13 of the Revised Code and is punishable by six months' imprisonment or a fine of up to one thousand 44663
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dollars, or both. All transfers are audited by the department of 44671
taxation. The seller and buyer must provide any information 44672
requested by the department of taxation. The buyer may be assessed 44673
any additional tax found to be due." 44674

(H) For sales of manufactured homes or mobile homes occurring 44675
on or after January 1, 2000, the clerk shall accept for filing, 44676
pursuant to Chapter 5739. of the Revised Code, an application for 44677
a certificate of title for a manufactured home or mobile home 44678
without requiring payment of any tax pursuant to section 5739.02, 44679
5741.021, 5741.022, or 5741.023 of the Revised Code, or a receipt 44680
issued by the tax commissioner showing payment of the tax. For 44681
sales of manufactured homes or mobile homes occurring on or after 44682
January 1, 2000, the applicant shall pay to the clerk an 44683
additional fee of five dollars for each certificate of title 44684
issued by the clerk for a manufactured or mobile home pursuant to 44685
division (H) of section 4505.11 of the Revised Code and for each 44686
certificate of title issued upon transfer of ownership of the 44687
home. The clerk shall credit the fee to the county certificate of 44688
title administration fund, and the fee shall be used to pay the 44689
expenses of archiving those certificates pursuant to division (A) 44690
of section 4505.08 and division (H)(3) of section 4505.11 of the 44691
Revised Code. The tax commissioner shall administer any tax on a 44692
manufactured or mobile home pursuant to Chapters 5739. and 5741. 44693
of the Revised Code. 44694

(I) Every clerk shall have the capability to transact by 44695
electronic means all procedures and transactions relating to the 44696
issuance of motor vehicle certificates of title that are described 44697
in the Revised Code as being accomplished by electronic means. 44698

Sec. 4506.14. (A) Commercial driver's licenses shall expire 44699
as follows: 44700

(1) Except as provided in division (A)(3) of this section, 44701

each such license issued to replace an operator's or chauffeur's 44702
license shall expire on the original expiration date of the 44703
operator's or chauffeur's license and, upon renewal, shall expire 44704
on the licensee's birthday in the fourth year after the date of 44705
issuance. 44706

(2) Except as provided in division (A)(3) of this section, 44707
each such license issued as an original license to a person whose 44708
residence is in this state shall expire on the licensee's birthday 44709
in the fourth year after the date of issuance, and each such 44710
license issued to a person whose temporary residence is in this 44711
state shall expire in accordance with rules adopted by the 44712
registrar of motor vehicles. A license issued to a person with a 44713
temporary residence in this state is nonrenewable, but may be 44714
replaced with a new license within ninety days prior to its 44715
expiration upon the applicant's compliance with all applicable 44716
requirements. 44717

(3) Each such license issued to replace the operator's or 44718
chauffeur's license of a person who is less than twenty-one years 44719
of age, and each such license issued as an original license to a 44720
person who is less than twenty-one years of age, shall expire on 44721
the licensee's twenty-first birthday. 44722

(B) No commercial driver's license shall be issued for a 44723
period longer than four years and ninety days. Except as provided 44724
in section 4507.12 of the Revised Code, the registrar may waive 44725
the examination of any person applying for the renewal of a 44726
commercial driver's license issued under this chapter, provided 44727
that the applicant presents either an unexpired commercial 44728
driver's license or a commercial driver's license that has expired 44729
not more than six months prior to the date of application. 44730

(C) Subject to the requirements of this chapter and except as 44731
provided in division (A)(2) of this section in regard to a person 44732
whose temporary residence is in this state, every commercial 44733

driver's license shall be renewable ninety days before its 44734
expiration upon payment of the fees required by section 4506.08 of 44735
the Revised Code. Each person applying for renewal of a commercial 44736
driver's license shall complete the application form prescribed by 44737
section 4506.07 of the Revised Code and shall provide all 44738
certifications required. If the person wishes to retain an 44739
endorsement authorizing the person to transport hazardous 44740
materials, the person shall take and successfully complete the 44741
written test for the endorsement and shall submit to any 44742
background check required by federal law. 44743

(D) Each person licensed as a driver under this chapter shall 44744
notify the registrar of any change in the person's address within 44745
ten days following that change. The notification shall be in 44746
writing on a form provided by the registrar and shall include the 44747
full name, date of birth, license number, county of residence, 44748
social security number, and new address of the person. 44749

Sec. 4506.15. No person shall do any of the following: 44750

(A) Drive a commercial motor vehicle while having a 44751
measurable or detectable amount of alcohol or of a controlled 44752
substance in ~~his~~ the person's blood, breath, or urine; 44753

(B) Drive a commercial motor vehicle while having an alcohol 44754
concentration of four-hundredths of one per cent or more; 44755

(C) Drive a commercial motor vehicle while under the 44756
influence of a controlled substance; 44757

(D) Knowingly leave the scene of an accident involving a 44758
commercial motor vehicle driven by the person; 44759

(E) Use a commercial motor vehicle in the commission of a 44760
felony; 44761

(F) Refuse to submit to a test under section 4506.17 of the 44762
Revised Code; 44763

(G) Violate an out-of-service order issued under this chapter;	44764 44765
(H) Violate any prohibition described in divisions (B) to (G) of this section while transporting hazardous materials;	44766 44767
<u>(I) Use a commercial motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance as defined in section 3719.01 of the Revised Code;</u>	44768 44769 44770 44771
<u>(J) Drive a commercial motor vehicle in violation of any provision of sections 4511.61 to 4511.63 of the Revised Code or any federal or local law or ordinance pertaining to railroad-highway grade crossings.</u>	44772 44773 44774 44775
Sec. 4506.16. (A) Whoever violates division (A) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, immediately shall be placed out-of-service for twenty-four hours, in addition to any disqualification required by this section and any other penalty imposed by the Revised Code.	44776 44777 44778 44779 44780 44781
(B) The registrar of motor vehicles shall disqualify any person from operating a commercial motor vehicle as follows:	44782 44783
(1) Upon a first conviction for a violation of divisions (B) to (G) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, one year, in addition to any other penalty imposed by the Revised Code;	44784 44785 44786 44787
(2) Upon a first conviction for a violation of division (H) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, three years, in addition to any other penalty imposed by the Revised Code;	44788 44789 44790 44791
(3) Upon and upon a second conviction for a violation of divisions (B) to (G) of section 4506.15 of the Revised Code or a	44792 44793

~~similar law of another state or a foreign jurisdiction, or any combination of such violations arising from two or more separate incidents, the person shall be disqualified for life or for any other period of time as determined by the United States secretary of transportation and designated by the director of public safety by rule, in addition to any other penalty imposed by the Revised Code;~~

(4)(2) Upon a first conviction for a violation of division (H) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, three years;

(3) Upon conviction of a violation of division (E)(I) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction in connection with the manufacture, distribution, or dispensing of a controlled substance or the possession with intent to manufacture, distribute, or dispense a controlled substance, the person shall be disqualified for life, in addition to any other penalty imposed by the Revised Code;

(4) Upon a first conviction for a violation of division (J) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, occurring in a three-year period, the person shall be disqualified for not less than sixty days, upon a second conviction occurring in the three-year period, the person shall be disqualified for not less than one hundred twenty days, and upon a subsequent conviction occurring within a three-year period, the person shall be disqualified for not less than one year;

(5) Upon conviction of two serious traffic violations involving the operation of a commercial motor vehicle by the person and arising from separate incidents occurring in a three-year period, the person shall be disqualified for sixty days, in addition to any other penalty imposed by the Revised

Code;	44826
(6) Upon conviction of three serious traffic violations involving the operation of a commercial motor vehicle by the person and arising from separate incidents occurring in a three-year period, the person shall be disqualified for one hundred twenty days, in addition to any other penalty imposed by the Revised Code.	44827 44828 44829 44830 44831 44832
(C) For the purposes of this section, conviction of a violation for which disqualification is required may be evidenced by any of the following:	44833 44834 44835
(1) A judgment entry of a court of competent jurisdiction in this or any other state;	44836 44837
(2) An administrative order of a state agency of this or any other state having statutory jurisdiction over commercial drivers;	44838 44839
(3) A computer record obtained from or through the commercial driver's license information system;	44840 44841
(4) A computer record obtained from or through a state agency of this or any other state having statutory jurisdiction over commercial drivers or the records of commercial drivers.	44842 44843 44844
(D) Any record described in division (C) of this section shall be deemed to be self-authenticating when it is received by the bureau of motor vehicles.	44845 44846 44847
(E) When disqualifying a driver, the registrar shall cause the records of the bureau to be updated to reflect that action within ten days after it occurs.	44848 44849 44850
(F) The registrar immediately shall notify a driver who is finally convicted of any offense described in section 4506.15 of the Revised Code or division (B) (3) , (4), (5), or (6) of this section and thereby is subject to disqualification, of the offense or offenses involved, of the length of time for which	44851 44852 44853 44854 44855

disqualification is to be imposed, and that the driver may request 44856
a hearing within thirty days of the mailing of the notice to show 44857
cause why the driver should not be disqualified from operating a 44858
commercial motor vehicle. If a request for such a hearing is not 44859
made within thirty days of the mailing of the notice, the order of 44860
disqualification is final. The registrar may designate hearing 44861
examiners who, after affording all parties reasonable notice, 44862
shall conduct a hearing to determine whether the disqualification 44863
order is supported by reliable evidence. The registrar shall adopt 44864
rules to implement this division. 44865

(G) Any person who is disqualified from operating a 44866
commercial motor vehicle under this section may apply to the 44867
registrar for a driver's license to operate a motor vehicle other 44868
than a commercial motor vehicle, provided the person's commercial 44869
driver's license is not otherwise suspended or revoked. A person 44870
whose commercial driver's license is suspended or revoked shall 44871
not apply to the registrar for or receive a driver's license under 44872
Chapter 4507. of the Revised Code during the period of suspension 44873
or revocation. 44874

(H) The disqualifications imposed under this section are in 44875
addition to any other penalty imposed by the Revised Code. 44876

Sec. 4506.20. (A) Each employer shall require every applicant 44877
for employment as a driver of a commercial motor vehicle to 44878
provide the information specified in section 4506.20 of the 44879
Revised Code. 44880

(B) No employer shall knowingly permit or authorize any 44881
driver employed by ~~him~~ the employer to drive a commercial motor 44882
vehicle during any period in which any of the following apply: 44883

(1) The driver's commercial driver's license is suspended, 44884
revoked, or canceled by any state or a foreign jurisdiction; 44885

- (2) The driver has lost ~~his~~ the privilege to drive, or 44886
currently is disqualified from driving, a commercial motor vehicle 44887
in any state or foreign jurisdiction; 44888
- (3) The driver is subject to an out-of-service order in any 44889
state or foreign jurisdiction; 44890
- (4) The driver has more than one driver's license. 44891
- (C) No employer shall knowingly permit or authorize a driver 44892
to operate a commercial motor vehicle in violation of section 44893
4506.15 of the Revised Code. 44894
- (D) Whoever violates division (C) of this section may be 44895
assessed a fine not to exceed ten thousand dollars. 44896
- Sec. 4506.24.** (A) A restricted commercial driver's license 44897
and waiver for farm-related service industries may be issued by 44898
the registrar of motor vehicles to allow a person to operate a 44899
commercial motor vehicle during seasonal periods determined by the 44900
registrar and subject to the restrictions set forth in this 44901
section. 44902
- (B) Upon receiving an application for a restricted commercial 44903
driver's license under section 4506.07 of the Revised Code and 44904
payment of a fee as provided in section 4506.08 of the Revised 44905
Code, the registrar may issue such license to any person who meets 44906
all of the following requirements: 44907
- (1) Has at least one year of driving experience in any type 44908
of vehicle; 44909
- (2) Holds a valid driver's license, other than a restricted 44910
license, issued under Chapter 4507. of the Revised Code; 44911
- (3) Certifies that during the ~~one-year~~ two-year period 44912
immediately preceding application, all of the following apply: 44913
- (a) The person has not had more than one license; 44914

(b) The person has not had any license suspended, revoked, or canceled; 44915
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(c) The person has not had any convictions for any type of motor vehicle for the offenses for which disqualification is prescribed in section 4506.16 of the Revised Code; 44917
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(d) The person has not had any violation of a state or local law relating to motor vehicle traffic control other than a parking violation arising in connection with any traffic accident and has no record of an accident in which the person was at fault. 44920
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(4) Certifies and also provides evidence that the person is employed in one or more of the following farm-related service industries requiring the person to operate a commercial motor vehicle: 44924
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(a) Custom harvesters; 44928

(b) Farm retail outlets and suppliers; 44929

(c) Agri-chemical business; 44930

(d) Livestock feeders. 44931

(C) An annual waiver for farm-related service industries may be issued to authorize the holder of a restricted commercial driver's license to operate a commercial motor vehicle during seasonal periods designated by the registrar. The registrar shall determine the format of the waiver. The total number of days that a person may operate a commercial motor vehicle pursuant to a waiver for farm-related service industries shall not exceed one hundred eighty days in any twelve-month period. Each time the holder of a restricted commercial driver's license applies for a waiver for farm-related service industries, the registrar shall verify that the person meets all of the requirements set forth in division (B) of this section. The restricted commercial driver's license and waiver shall be carried at all times when a commercial 44932
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motor vehicle is being operated by the holder of the license and 44945
waiver. 44946

(D) The holder of a restricted commercial driver's license 44947
and valid waiver for farm-related service industries may operate a 44948
class B or C commercial motor vehicle subject to all of the 44949
following restrictions: 44950

(1) The commercial motor vehicle is operated within a 44951
distance of no more than one hundred fifty miles of the employer's 44952
place of business or the farm currently being served; 44953

(2) The operation of the commercial motor vehicle does not 44954
involve transporting hazardous materials for which placarding is 44955
required, except as follows: 44956

(a) Diesel fuel in quantities of one thousand gallons or 44957
less; 44958

(b) Liquid fertilizers in vehicles or implements of husbandry 44959
with total capacities of three thousand gallons or less; 44960

(c) Solid fertilizers that are not transported with any 44961
organic substance. 44962

(E) Except as otherwise provided in this section an applicant 44963
for or holder of a restricted commercial driver's license and 44964
waiver for farm-related service industries is subject to the 44965
provisions of this chapter. Divisions (A)(4) and (B)(1) of section 44966
4506.07 and sections 4506.09 and 4506.10 of the Revised Code do 44967
not apply to an applicant for a restricted commercial driver's 44968
license and waiver. 44969

Sec. 4508.08. There is hereby created in the department of 44970
public safety the motorcycle safety and education program. The 44971
director of public safety shall administer the program in 44972
accordance with the following guidelines: 44973

(A) The program shall include courses of instruction 44974

conducted at vocational schools, community colleges, or other 44975
suitable locations, by instructors who have obtained certification 44976
in the manner and form prescribed by the director. The courses 44977
shall meet standards established in rules adopted by the 44978
~~motorcycle safety foundation for courses of instruction department~~ 44979
~~in motorcycle safety and education accordance with Chapter 119. of~~ 44980
the Revised Code. The courses may include instruction for novice 44981
motorcycle operators, instruction in motorist awareness and 44982
alcohol and drug awareness, and any other kind of instruction the 44983
director considers appropriate. A reasonable tuition fee ~~of not~~ 44984
~~more than twenty five dollars per student, as determined by the~~ 44985
director, may be charged ~~for each course if sufficient funds are~~ 44986
~~not available in. The director may authorize private organizations~~ 44987
or corporations to offer courses without tuition fee restrictions, 44988
but such entities are not eligible for reimbursement of expenses 44989
or subsidies from the motorcycle safety and education fund created 44990
in section 4501.13 of the Revised Code ~~to pay all of the costs of~~ 44991
~~conducting the motorcycle safety and education program.~~ 44992

(B) In addition to courses of instruction, the program may 44993
include provisions for equipment purchases, marketing and 44994
promotion, improving motorcycle license testing procedures, and 44995
any other provisions the director considers appropriate. 44996

(C) The director shall evaluate the program every two years 44997
and shall periodically inspect the facilities, equipment, and 44998
procedures used in the courses of instruction. 44999

(D) The director shall appoint at least one training 45000
specialist who shall oversee the operation of the program, 45001
establish courses of instruction, and supervise instructors. The 45002
training specialist shall be a licensed motorcycle operator and 45003
shall obtain certification in the manner and form prescribed by 45004
the director. 45005

(E) The director may contract with other public agencies or 45006

with private organizations or corporations to assist in 45007
administering the program. 45008

(F) Notwithstanding any provision of Chapter 102. of the 45009
Revised Code, the director, in order to administer the program, 45010
may participate in a motorcycle manufacturer's motorcycle loan 45011
program. 45012

(G) The director shall contract with an insurance company or 45013
companies authorized to do business in this state to purchase a 45014
policy or policies of insurance with respect to the establishment 45015
or administration, or any other aspect of the operation of the 45016
program. 45017

Sec. 4509.60. Upon acceptance of a bond with individual 45018
sureties, the registrar of motor vehicles shall forward to the 45019
county recorder of the county in which the sureties' real estate 45020
is located a notice of such deposit and pay the recorder a base 45021
fee of five dollars for filing and indexing the notice and a 45022
housing trust fund fee of five dollars pursuant to section 317.36 45023
of the Revised Code. The recorder shall receive and file such 45024
notice and keep and index the same. Such bond shall constitute a 45025
lien in favor of the state upon the real estate so scheduled or 45026
any surety, and the lien shall exist in favor of any holder of a 45027
final judgment against the person who has filed the bond, for 45028
damages, including damages for care and loss of services, because 45029
of bodily injury to or death of any person, or for damage because 45030
of injury to property, including the loss of use thereof, 45031
resulting from the ownership, maintenance, or use of a motor 45032
vehicle after such bond was filed, upon the filing of notice to 45033
that effect by the registrar with the county recorder as provided 45034
in this section. 45035

Sec. 4511.198. If the United States congress repeals the 45036

mandate established by Title III, Section 351 of the "Department of Transportation Appropriations Act of 2000," Public Law 106-346, 114 Stat. 1356, requiring the secretary of transportation, beginning in fiscal year 2004, to withhold a percentage of a state's federal-aid highway money if that state has not enacted and is not enforcing a law that provides that any person with a blood alcohol concentration of eight-hundredths of one per cent or greater while operating a motor vehicle in the state is deemed to have committed a per se offense of driving while intoxicated or an equivalent per se offense, or if a federal court with jurisdiction over the entirety of this state declares the mandate to be unconstitutional or otherwise invalid, then, in lieu of the prohibited alcohol concentrations specified in sections 1547.11, 4511.19, 4511.191, and 4511.197 of the Revised Code, the prohibited concentrations shall be as follows:

(A) The prohibited alcohol concentration in a person's whole blood is ten-hundredths of one per cent by weight of alcohol per unit volume.

(B) The prohibited alcohol concentration in a person's breath is ten-hundredths of one gram by weight of alcohol per two hundred ten liters of breath.

(C) The prohibited alcohol concentration in a person's blood serum or plasma is twelve-hundredths of one per cent by weight per unit volume.

(D) The prohibited alcohol concentration in a person's urine is fourteen-hundredths of one gram by weight of alcohol per one hundred milliliters of urine.

Sec. 4511.33. Whenever any roadway has been divided into two or more clearly marked lanes for traffic, or wherever within municipal corporations traffic is lawfully moving in two or more substantially continuous lines in the same direction, the

following rules apply: 45068

(A) A vehicle or trackless trolley shall be driven, as nearly 45069
as is practicable, entirely within a single lane or line of 45070
traffic and shall not be moved from such lane or line until the 45071
driver has first ascertained that such movement can be made with 45072
safety. 45073

(B) Upon a roadway which is divided into three lanes and 45074
provides for two-way movement of traffic, a vehicle or trackless 45075
trolley shall not be driven in the center lane except when 45076
overtaking and passing another vehicle or trackless trolley where 45077
the roadway is clearly visible and such center lane is clear of 45078
traffic within a safe distance, or when preparing for a left turn, 45079
or where such center lane is at the time allocated exclusively to 45080
traffic moving in the direction the vehicle or trackless trolley 45081
is proceeding and is posted with signs to give notice of such 45082
allocation. 45083

(C) Official signs may be erected directing specified traffic 45084
to use a designated lane or designating those lanes to be used by 45085
traffic moving in a particular direction regardless of the center 45086
of the roadway, or restricting the use of a particular lane to 45087
only buses during certain hours or during all hours, and drivers 45088
of vehicles and trackless trolleys shall obey the directions of 45089
such signs. 45090

(D) Official traffic control devices may be installed 45091
prohibiting the changing of lanes on sections of roadway and 45092
drivers of vehicles shall obey the directions of every such 45093
device. 45094

Sec. 4511.62. (A)(1) Whenever any person driving a vehicle or 45095
trackless trolley approaches a railroad grade crossing, the person 45096
shall stop within fifty feet, but not less than fifteen feet from 45097
the nearest rail of the railroad if any of the following 45098

circumstances exist at the crossing:	45099
(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a train.	45100 45101
(b) A crossing gate is lowered.	45102
(c) A flagperson gives or continues to give a signal of the approach or passage of a train.	45103 45104
(d) There is insufficient space on the other side of the railroad grade crossing to accommodate the vehicle or trackless trolley the person is operating without obstructing the passage of other vehicles, trackless trolleys, pedestrians, or railroad trains, notwithstanding any traffic control signal indication to proceed.	45105 45106 45107 45108 45109 45110
(e) An approaching train is emitting an audible signal or is plainly visible and is in hazardous proximity to the crossing.	45111 45112
<u>(f) There is insufficient undercarriage clearance to safely negotiate the crossing.</u>	45113 45114
(2) A person who is driving a vehicle or trackless trolley and who approaches a railroad grade crossing shall not proceed as long as any of the circumstances described in divisions (A)(1)(a) to (e) <u>(f)</u> of this section exist at the crossing.	45115 45116 45117 45118
(B) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed unless the person is signaled by a law enforcement officer or flagperson that it is permissible to do so.	45119 45120 45121 45122 45123
Sec. 4511.63. (A) The operator of any motor vehicle or trackless trolley, carrying passengers, for hire, of any school bus, any vehicle described in division (C) of this section, or of any vehicle carrying explosives or flammable liquids as a cargo or as such part of a cargo as <u>transporting material required to</u>	45124 45125 45126 45127 45128

~~constitute a hazard~~ be placarded under 49 CFR Parts 100-185, 45129
before crossing at grade any track of a railroad, shall stop the 45130
vehicle ~~or trackless trolley~~ and, while so stopped, shall listen 45131
through an open door or open window and look in both directions 45132
along the track for any approaching train, and for signals 45133
indicating the approach of a train, and shall proceed only upon 45134
exercising due care after stopping, looking, and listening as 45135
required by this section. Upon proceeding, the operator of such a 45136
vehicle shall cross only in a gear that will ensure there will be 45137
no necessity for changing gears while traversing the crossing and 45138
shall not shift gears while crossing the tracks. 45139

(B) This section does not apply at any ~~of the following:~~ 45140

~~(1) Street~~ street railway grade crossings within a municipal 45141
corporation, or to abandoned tracks, spur tracks, side tracks, and 45142
industrial tracks when the public utilities commission has 45143
authorized and approved the crossing of the tracks without making 45144
the stop required by this section. 45145

~~(2) Through June 30, 1995, a street railway grade crossing~~ 45146
~~where out of service signs are posted in accordance with section~~ 45147
~~4955.37 of the Revised Code.~~ 45148

(C) This section applies to any vehicle used for the 45149
transportation of pupils to and from a school or school-related 45150
function if the vehicle is owned or operated by, or operated under 45151
contract with, a public or nonpublic school. 45152

(D) For purposes of this section, "bus" means any vehicle 45153
originally designed by its manufacturer to transport sixteen or 45154
more passengers, including the driver, or carries sixteen or more 45155
passengers, including the driver. 45156

Sec. 4519.55. Application for a certificate of title for an 45157
off-highway motorcycle or all-purpose vehicle shall be made upon a 45158

form prescribed by the registrar of motor vehicles and shall be 45159
sworn to before a notary public or other officer empowered to 45160
administer oaths. The application shall be filed with the clerk of 45161
any court of common pleas. An application for a certificate of 45162
title may be filed electronically by any electronic means approved 45163
by the registrar in any county with the clerk of the court of 45164
common pleas of that county. 45165

If an application for a certificate of title is filed 45166
electronically by an electronic dealer on behalf of the purchaser 45167
of an off-highway motorcycle or all-purpose vehicle, the clerk 45168
shall retain the completed electronic record to which the dealer 45169
converted the certificate of title application and other required 45170
documents. The electronic dealer shall ~~forward~~ retain the ~~actual~~ 45171
original title application and ~~all other~~ documents ~~relating to the~~ 45172
~~sale of the off highway motorcycle or all purpose vehicle to any~~ 45173
~~clerk within thirty days after the certificate of title is issued.~~ 45174
~~The registrar, after consultation with the attorney general, shall~~ 45175
~~adopt rules that govern the location at which, and the manner in~~ 45176
~~which, are stored the actual application and all other documents~~ 45177
~~relating to the sale of an off highway motorcycle or all purpose~~ 45178
~~vehicle when an electronic dealer files the application for a~~ 45179
~~certificate of title electronically on behalf of the purchaser for~~ 45180
a period of time determined by the registrar and shall make all of 45181
the documents available for inspection by the registrar upon the 45182
registrar's request. The registrar shall make the original 45183
application documents available to the attorney general upon the 45184
request of the attorney general. 45185

The application shall be accompanied by the fee prescribed in 45186
section 4519.59 of the Revised Code. The fee shall be retained by 45187
the clerk who issues the certificate of title and shall be 45188
distributed in accordance with that section. If a clerk of a court 45189
of common pleas, other than the clerk of the court of common pleas 45190

of an applicant's county of residence, issues a certificate of 45191
title to the applicant, the clerk shall transmit data related to 45192
the transaction to the automated title processing system. 45193

If a certificate of title previously has been issued for an 45194
off-highway motorcycle or all-purpose vehicle, the application 45195
also shall be accompanied by the certificate of title duly 45196
assigned, unless otherwise provided in this chapter. If a 45197
certificate of title previously has not been issued for the 45198
off-highway motorcycle or all-purpose vehicle, the application, 45199
unless otherwise provided in this chapter, shall be accompanied by 45200
a manufacturer's or importer's certificate; by a sworn statement 45201
of ownership; or by a certificate of title, bill of sale, or other 45202
evidence of ownership required by law of another state from which 45203
the off-highway motorcycle or all-purpose vehicle was brought into 45204
this state. The registrar, in accordance with Chapter 119. of the 45205
Revised Code, shall prescribe the types of additional 45206
documentation sufficient to establish proof of ownership, 45207
including, but not limited to, receipts from the purchase of parts 45208
or components, photographs, and affidavits of other persons. 45209

For purposes of the transfer of a certificate of title, if 45210
the clerk is satisfied that a secured party has duly discharged a 45211
lien notation but has not canceled the lien notation with a clerk, 45212
the clerk may cancel the lien notation on the automated title 45213
processing system and notify the clerk of the county of origin. 45214

In the case of the sale of an off-highway motorcycle or 45215
all-purpose vehicle by a dealer to a general purchaser or user, 45216
the certificate of title shall be obtained in the name of the 45217
purchaser by the dealer upon application signed by the purchaser. 45218
In all other cases, the certificate shall be obtained by the 45219
purchaser. In all cases of transfer of an off-highway motorcycle 45220
or all-purpose vehicle, the application for certificate of title 45221
shall be filed within thirty days after the later of the date of 45222

purchase or assignment of ownership of the off-highway motorcycle 45223
or all-purpose vehicle. If the application for certificate of 45224
title is not filed within thirty days after the later of the date 45225
of purchase or assignment of ownership of the off-highway 45226
motorcycle or all-purpose vehicle, the clerk shall charge a late 45227
filing fee of five dollars in addition to the fee prescribed by 45228
section 4519.59 of the Revised Code. The clerk shall retain the 45229
entire amount of each late filing fee. 45230

Except in the case of an off-highway motorcycle or 45231
all-purpose vehicle purchased prior to July 1, 1999, the clerk 45232
shall refuse to accept an application for certificate of title 45233
unless the applicant either tenders with the application payment 45234
of all taxes levied by or pursuant to Chapter 5739. or 5741. of 45235
the Revised Code based on the purchaser's county of residence, or 45236
submits either of the following: 45237

(A) A receipt issued by the tax commissioner or a clerk of 45238
courts showing payment of the tax; 45239

(B) An exemption certificate, in any form prescribed by the 45240
tax commissioner, that specifies why the purchase is not subject 45241
to the tax imposed by Chapter 5739. or 5741. of the Revised Code. 45242

Payment of the tax shall be made in accordance with division 45243
(E) of section 4505.06 of the Revised Code and any rules issued by 45244
the tax commissioner. When a dealer submits payment of the tax to 45245
the clerk, the dealer shall retain any discount to which the 45246
dealer is entitled under section 5739.12 of the Revised Code. The 45247
clerk shall issue a receipt in the form prescribed by the tax 45248
commissioner to any applicant who tenders payment of the tax with 45249
the application for a certificate of title. If the application for 45250
a certificate of title is for an off-highway motorcycle or 45251
all-purpose vehicle purchased prior to July 1, 1999, the clerk 45252
shall accept the application without payment of the taxes levied 45253
by or pursuant to Chapter 5739. or 5741. of the Revised Code or 45254

presentation of either of the items listed in division (A) or (B) 45255
of this section. 45256

For receiving and disbursing such taxes paid to the clerk by 45257
a resident of the clerk's county, the clerk may retain a poundage 45258
fee of one and one-hundredth per cent of the taxes collected, 45259
which shall be paid into the certificate of title administration 45260
fund created by section 325.33 of the Revised Code. The clerk 45261
shall not retain a poundage fee from payments of taxes by persons 45262
who do not reside in the clerk's county. 45263

A clerk, however, may retain from the taxes paid to the clerk 45264
an amount equal to the poundage fees associated with certificates 45265
of title issued by other clerks of courts of common pleas to 45266
applicants who reside in the first clerk's county. The registrar, 45267
in consultation with the tax commissioner and the clerks of the 45268
courts of common pleas, shall develop a report from the automated 45269
title processing system that informs each clerk of the amount of 45270
the poundage fees that the clerk is permitted to retain from those 45271
taxes because of certificates of title issued by the clerks of 45272
other counties to applicants who reside in the first clerk's 45273
county. 45274

In the case of casual sales of off-highway motorcycles or 45275
all-purpose vehicles that are subject to the tax imposed by 45276
Chapter 5739. or 5741. of the Revised Code, the purchase price for 45277
the purpose of determining the tax shall be the purchase price on 45278
an affidavit executed and filed with the clerk by the seller on a 45279
form to be prescribed by the registrar, which shall be prima-facie 45280
evidence of the price for the determination of the tax. 45281

In addition to the information required by section 4519.57 of 45282
the Revised Code, each certificate of title shall contain in bold 45283
lettering the following notification and statements: "WARNING TO 45284
TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You are required by 45285
law to state the true selling price. A false statement is in 45286

violation of section 2921.13 of the Revised Code and is punishable 45287
by six months imprisonment or a fine of up to one thousand 45288
dollars, or both. All transfers are audited by the department of 45289
taxation. The seller and buyer must provide any information 45290
requested by the department of taxation. The buyer may be assessed 45291
any additional tax found to be due." 45292

The clerk shall forward all payments of taxes, less poundage 45293
fees, to the treasurer of state in a manner to be prescribed by 45294
the tax commissioner and shall furnish information to the 45295
commissioner as the commissioner may require. 45296

Every clerk shall have the capability to transact by 45297
electronic means all procedures and transactions relating to the 45298
issuance of certificates of title for off-highway motorcycles and 45299
all-purpose vehicles that are described in the Revised Code as 45300
being accomplished by electronic means. 45301

Sec. 4707.071. (A) On May 1, 1991, all persons licensed as 45302
auction companies under former section 4707.071 of the Revised 45303
Code shall comply with all provisions of this chapter that are 45304
applicable to auctioneers except as provided in divisions (B) and 45305
(C) of this section. Such persons, however, do not have to serve 45306
an apprenticeship or attend a course of study under section 45307
4707.09 of the Revised Code or submit to an examination under 45308
section 4707.08 of the Revised Code as long as they do not engage 45309
in the calling for, recognition of, and the acceptance of, offers 45310
for the purchase of personal property at auction and do not 45311
conduct auctions at any location other than the definite place of 45312
business required in section 4707.14 of the Revised Code. 45313

(B) The principal owner of each auction company ~~which~~ that is 45314
licensed as of May 1, 1991, who pays the annual renewal fee 45315
specified in division ~~(A)~~ (B) of section 4707.10 of the Revised 45316
Code during the first renewal period following May 1, 1991, shall 45317

be issued a special auctioneer's license, for the sale of personal 45318
property subject to division (A) of this section. Each principal 45319
owner shall apply for an annual license. In applying for an annual 45320
license, each person licensed as an auction company on May 1, 45321
1991, shall designate an individual as principal owner by 45322
submitting documentation substantiating that the individual is in 45323
fact the principal owner and shall identify a definite place of 45324
business as required in section 4707.14 of the Revised Code. A 45325
person licensed as an auctioneer shall not be entitled to a 45326
special auctioneer's license. 45327

(C) A special auctioneer's license issued under this section 45328
to the principal owner of a former auction company does not 45329
entitle the principal owner or former auction company to conduct 45330
auctions at any location other than the definite place of business 45331
required in section 4707.14 of the Revised Code. Notwithstanding 45332
section 4707.10 of the Revised Code, the department of agriculture 45333
shall not issue a new special auctioneer's license if the definite 45334
place of business identified by the licensee in the licensee's 45335
initial application for a special auctioneer license has changed 45336
or if the name under which the licensee is doing business has 45337
changed. No person other than an owner, officer, member, or agent 45338
of the former auction company who personally has passed the 45339
examination prescribed in section 4707.08 of the Revised Code and 45340
been licensed as an auctioneer shall engage in the calling for, 45341
recognition of, and the acceptance of, offers for the purchase of 45342
real or personal property, goods, or chattels at auction in 45343
connection with a former auction company that has been issued a 45344
special auctioneer's license. 45345

(D) A person licensed as a special auctioneer shall not 45346
engage in the sale of real property at auction. 45347

Sec. 4707.072. (A) For purposes of this section, the 45348

department of agriculture shall adopt rules in accordance with 45349
section 4707.19 of the Revised Code prescribing the fee that a 45350
license applicant must pay. Until those rules are adopted, a 45351
license applicant shall pay the fee established in this section. 45352

~~(B)~~ The department ~~of agriculture~~ may grant one-auction 45353
licenses to any nonresident person deemed qualified by the 45354
department. Any person who applies for a one-auction license shall 45355
attest, on forms provided by the department, and furnish to the 45356
department, satisfactory proof that the license applicant or any 45357
auctioneer affiliated with the applicant meets the following 45358
requirements: 45359

~~(A)~~(1) Has a good reputation; 45360

~~(B)~~(2) Is of trustworthy character; 45361

~~(C)~~(3) Has attained the age of at least eighteen years; 45362

~~(D)~~(4) Has a general knowledge of the requirements of the 45363
Revised Code relative to auctioneers, the auction profession, and 45364
the principles involved in conducting an auction; 45365

~~(E)~~(5) Has two years of professional auctioneering experience 45366
immediately preceding the date of application and the experience 45367
includes the personal conduct by the applicant of at least twelve 45368
auction sales in any state, or has met the requirements of section 45369
4707.12 of the Revised Code; 45370

~~(F)~~(6) Has paid a fee of one hundred dollars, ~~which shall be~~ 45371
~~credited to the auctioneers fund;~~ 45372

~~(G)~~(7) Has provided proof of financial responsibility ~~as~~ 45373
~~required under section 4707.11 of the Revised Code~~ in the form of 45374
either an irrevocable letter of credit or a cash bond or a surety 45375
bond in the amount of fifty thousand dollars. If the applicant 45376
gives a surety bond, the bond shall be executed by a surety 45377
company authorized to do business in this state. A bond shall be 45378

made to the department and shall be conditioned that the applicant 45379
shall comply with this chapter and rules adopted under it, 45380
including refraining from conduct described in section 4707.15 of 45381
the Revised Code. All bonds shall be on a form approved by the 45382
director of agriculture. 45383

Sec. 4707.10. (A) For purposes of this section, the 45384
department of agriculture shall adopt rules in accordance with 45385
section 4707.19 of the Revised Code prescribing fees that 45386
licensees must pay and license renewal deadlines and procedures 45387
with which licensees must comply. Until those rules are adopted, 45388
licensees shall pay the fees and comply with the license renewal 45389
deadlines and procedures established in this section. 45390

(B) The fee for each auctioneer's, apprentice auctioneer's, 45391
or special auctioneer's license issued by the department of 45392
~~agriculture~~ is one hundred dollars, and the annual renewal fee for 45393
any such license is one hundred dollars. All licenses expire 45394
annually on the last day of June of each year and shall be renewed 45395
according to the standard renewal procedures of Chapter 4745. of 45396
the Revised Code, or the procedures of this section. Any licensee 45397
under this chapter who wishes to renew the licensee's license, but 45398
fails to do so before the first day of July shall reapply for 45399
licensure in the same manner and pursuant to the same requirements 45400
as for initial licensure, unless before the first day of September 45401
of the year of expiration, the former licensee pays to the 45402
department, in addition to the regular renewal fee, a late renewal 45403
penalty of one hundred dollars. 45404

~~(B)~~(C) Any person who fails to renew the person's license 45405
before the first day of July is prohibited from engaging in any 45406
activity specified or comprehended in section 4707.01 of the 45407
Revised Code until such time as the person's license is renewed or 45408
a new license is issued. Renewal of a license between the first 45409

day of July and the first day of September does not relieve any 45410
person from complying with this division. The department may 45411
refuse to renew the license of or issue a new license to any 45412
person who violates this division. 45413

~~(C)~~(D) The department shall prepare and deliver to each 45414
licensee a permanent license certificate and an ~~annual renewal~~ 45415
identification card, the appropriate portion of which shall be 45416
carried on the person of the licensee at all times when engaged in 45417
any type of auction activity, and part of which shall be posted 45418
with the permanent certificate in a conspicuous location at the 45419
licensee's place of business. 45420

~~(D)~~(E) Notice in writing shall be given to the department by 45421
each auctioneer or apprentice auctioneer licensee of any change of 45422
principal business location or any change or addition to the name 45423
or names under which business is conducted, whereupon the 45424
department shall issue a new license for the unexpired period. Any 45425
change of business location or change or addition of names without 45426
notification to the department shall automatically cancel any 45427
license previously issued. For each new auctioneer or apprentice 45428
auctioneer license issued upon the occasion of a change in 45429
business location or a change in or an addition of names under 45430
which business is conducted, the department may collect a fee of 45431
ten dollars for each change in location, or name or each added 45432
name unless the notification of the change occurs concurrently 45433
with the renewal application. 45434

Sec. 4707.24. Except for the purposes of divisions (A) and 45435
(B) of section 4707.25 of the Revised Code, sections 4707.25 to 45436
4707.31 of the Revised Code do not apply with respect to a license 45437
issued under section 4707.072 of the Revised Code. 45438

Sec. 4709.12. (A) The barber board shall charge and collect 45439

the following fees:	45440
(1) For the application to take the barber examination, sixty <u>ninety</u> dollars;	45441 45442
(2) For an application to retake any part of the barber examination, thirty <u>forty-five</u> dollars;	45443 45444
(3) For the initial issuance of a license to practice as a barber, twenty <u>thirty</u> dollars;	45445 45446
(4) For the biennial renewal of the license to practice as a barber, seventy-five <u>one hundred ten</u> dollars;	45447 45448
(5) For the restoration of an expired barber license, one hundred dollars, and fifty <u>seventy-five</u> dollars for each lapsed year, provided that the total fee shall not exceed four <u>six</u> hundred sixty <u>ninety</u> dollars;	45449 45450 45451 45452
(6) For the issuance of a duplicate barber or shop license, thirty <u>forty-five</u> dollars;	45453 45454
(7) For the inspection of a new barber shop, change of ownership, or reopening of premises or facilities formerly operated as a barber shop, and issuance of a shop license, seventy-five <u>one hundred ten</u> dollars;	45455 45456 45457 45458
(8) For the biennial renewal of a barber shop license, fifty <u>seventy-five</u> dollars;	45459 45460
(9) For the restoration of a barber shop license, seventy-five <u>one hundred ten</u> dollars;	45461 45462
(10) For each inspection of premises for location of a new barber school, or each inspection of premises for relocation of a currently licensed barber school, five <u>seven</u> hundred <u>fifty</u> dollars;	45463 45464 45465 45466
(11) For the initial barber school license, five-hundred <u>one</u> <u>thousand</u> dollars, and five-hundred <u>one thousand</u> dollars for the renewal of the license;	45467 45468 45469

(12) For the restoration of a barber school license, six	45470
hundred <u>one thousand</u> dollars;	45471
(13) For the issuance of a student registration, twenty-five	45472
<u>forty</u> dollars;	45473
(14) For the examination and issuance of a biennial teacher	45474
or assistant teacher license, one hundred twenty-five <u>eighty-five</u>	45475
dollars;	45476
(15) For the renewal of a biennial teacher or assistant	45477
teacher license, one hundred <u>fifty</u> dollars;	45478
(16) For the restoration of an expired teacher or assistant	45479
teacher license, one <u>two</u> hundred fifty <u>twenty-five</u> dollars, and	45480
forty <u>sixty</u> dollars for each lapsed year, provided that the total	45481
fee shall not exceed three <u>four</u> hundred <u>fifty</u> dollars;	45482
(17) For the issuance of a barber license by reciprocity	45483
pursuant to section 4709.08 of the Revised Code, two <u>three</u> hundred	45484
dollars;	45485
(18) For providing licensure information concerning an	45486
applicant, upon written request of the applicant, twenty-five	45487
<u>forty</u> dollars.	45488
(B) The board, subject to the approval of the controlling	45489
board, may establish fees in excess of the amounts provided in	45490
this section, provided that the fees do not exceed the amounts	45491
permitted by this section by more than fifty per cent.	45492
Sec. 4717.07. (A) The board of embalmers and funeral	45493
directors shall charge and collect the following fees:	45494
(1) For the <u>initial</u> issuance <u>or biennial renewal</u> of an	45495
initial embalmer's or funeral director's license, five <u>one hundred</u>	45496
<u>forty</u> dollars;	45497
(2) For the issuance of an embalmer or funeral director	45498

registration, twenty-five <u>one hundred</u> dollars;	45499
(3) For filing an embalmer or funeral director certificate of apprenticeship, ten <u>fifty</u> dollars;	45500 45501
(4) For the application to take the examination for a license to practice as an embalmer or funeral director, or to retake a section of the examination, thirty-five dollars;	45502 45503 45504
(5) For the biennial renewal of an embalmer's or funeral director's license, one hundred twenty dollars;	45505 45506
(6) For the initial issuance of a license to operate a funeral home, one two hundred twenty-five <u>fifty</u> dollars and biennial renewal of a license to operate a funeral home, two hundred fifty dollars;	45507 45508 45509 45510
(7) <u>(6)</u> For the reinstatement of a lapsed embalmer's or funeral director's license, the renewal fee prescribed in division (A)(5) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement;	45511 45512 45513 45514
(8) <u>(7)</u> For the reinstatement of a lapsed license to operate a funeral home, the renewal fee prescribed in division (A)(6) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement;	45515 45516 45517 45518
(9) <u>(8)</u> For the initial issuance of a license to operate an embalming facility, one two hundred dollars and biennial renewal of a license to operate an embalming facility, two hundred dollars;	45519 45520 45521 45522
(10) <u>(9)</u> For the reinstatement of a lapsed license to operate an embalming facility, the renewal fee prescribed in division (A)(9) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement;	45523 45524 45525 45526
(11) <u>(10)</u> For the initial issuance of a license to operate a crematory facility, one two hundred dollars and biennial renewal	45527 45528

of a license to operate a crematory facility, two hundred dollars; 45529

~~(12)~~(11) For the reinstatement of a lapsed license to operate 45530
a crematory facility, the renewal fee prescribed in division 45531
(A)(11) of this section plus fifty dollars for each month or 45532
portion of a month the license is lapsed until reinstatement; 45533

~~(13)~~(12) For the issuance of a duplicate of a license issued 45534
under this chapter, four dollars. 45535

(B) In addition to the fees set forth in division (A) of this 45536
section, an applicant shall pay the examination fee assessed by 45537
any examining agency the board uses for any section of an 45538
examination required under this chapter. 45539

(C) Subject to the approval of the controlling board, the 45540
board of embalmers and funeral directors may establish fees in 45541
excess of the amounts set forth in this section, provided that 45542
these fees do not exceed the amounts set forth in this section by 45543
more than fifty per cent. 45544

Sec. 4717.09. (A) Every two years, licensed embalmers and 45545
funeral directors shall attend between twelve and thirty hours of 45546
educational programs as a condition for renewal of their licenses. 45547
The board of embalmers and funeral directors shall adopt rules 45548
governing the administration and enforcement of the continuing 45549
education requirements of this section. The board may contract 45550
with a professional organization or association or other third 45551
party to assist it in performing functions necessary to administer 45552
and enforce the continuing education requirements of this section. 45553
A professional organization or association or other third party 45554
with whom the board so contracts may charge a reasonable fee for 45555
performing these functions to licensees or to the persons who 45556
provide continuing education programs. 45557

(B) A person holding both an embalmer's license and a funeral 45558

director's license need meet only the continuing education 45559
requirements established by the board for one or the other of 45560
those licenses in order to satisfy the requirement of division (A) 45561
of this section. 45562

(C) The board shall not renew the license of a licensee who 45563
fails to meet the continuing education requirements of this 45564
section and who has not been granted a waiver or exemption under 45565
division (D) or (E) of this section. 45566

(D) Any licensee who fails to meet the continuing education 45567
requirements of this section because of undue hardship or 45568
disability, or who is not actively engaged in the practice of 45569
funeral directing or embalming in this state, may apply to the 45570
board for a waiver or an exemption. ~~The~~ 45571

(E) A licensee who has been an embalmer or a funeral director 45572
for not less than fifty years and is not actually in charge of an 45573
embalming facility or a manager or actually in charge of and 45574
ultimately responsible for a funeral home may apply to the board 45575
for an exemption. 45576

(F) The board shall determine, by rule, the procedures for 45577
applying for a waiver or an exemption from continuing education 45578
requirements under this section and under what conditions a waiver 45579
or an exemption may be granted. 45580

Sec. 4719.01. (A) As used in sections 4719.01 to 4719.18 of 45581
the Revised Code: 45582

(1) "Affiliate" means a business entity that is owned by, 45583
operated by, controlled by, or under common control with another 45584
business entity. 45585

(2) "Communication" means a written or oral notification or 45586
advertisement that meets both of the following criteria, as 45587
applicable: 45588

(a) The notification or advertisement is transmitted by or on behalf of the seller of goods or services and by or through any printed, audio, video, cinematic, telephonic, or electronic means.

(b) In the case of a notification or advertisement other than by telephone, either of the following conditions is met:

(i) The notification or advertisement is followed by a telephone call from a telephone solicitor or salesperson.

(ii) The notification or advertisement invites a response by telephone, and, during the course of that response, a telephone solicitor or salesperson attempts to make or makes a sale of goods or services. As used in division (A)(2)(b)(ii) of this section, "invites a response by telephone" excludes the mere listing or inclusion of a telephone number in a notification or advertisement.

(3) "Gift, award, or prize" means anything of value that is offered or purportedly offered, or given or purportedly given by chance, at no cost to the receiver and with no obligation to purchase goods or services. As used in this division, "chance" includes a situation in which a person is guaranteed to receive an item and, at the time of the offer or purported offer, the telephone solicitor does not identify the specific item that the person will receive.

(4) "Goods or services" means any real property or any tangible or intangible personal property, or services of any kind provided or offered to a person. "Goods or services" includes, but is not limited to, advertising; labor performed for the benefit of a person; personal property intended to be attached to or installed in any real property, regardless of whether it is so attached or installed; timeshare estates or licenses; and extended service contracts.

(5) "Purchaser" means a person that is solicited to become or

does become financially obligated as a result of a telephone solicitation. 45620
45621

(6) "Salesperson" means an individual who is employed, appointed, or authorized by a telephone solicitor to make telephone solicitations but does not mean any of the following: 45622
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(a) An individual who comes within one of the exemptions in division (B) of this section; 45625
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(b) An individual employed, appointed, or authorized by a person who comes within one of the exemptions in division (B) of this section; 45627
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45629

(c) An individual under a written contract with a person who comes within one of the exemptions in division (B) of this section, if liability for all transactions with purchasers is assumed by the person so exempted. 45630
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(7) "Telephone solicitation" means a communication to a person that meets both of the following criteria: 45634
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(a) The communication is initiated by or on behalf of a telephone solicitor or by a salesperson. 45636
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(b) The communication either represents a price or the quality or availability of goods or services or is used to induce the person to purchase goods or services, including, but not limited to, inducement through the offering of a gift, award, or prize. 45638
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(8) "Telephone solicitor" means a person that engages in telephone solicitation directly or through one or more salespersons either from a location in this state, or from a location outside this state to persons in this state. "Telephone solicitor" includes, but is not limited to, any such person that is an owner, operator, officer, or director of, partner in, or other individual engaged in the management activities of, a 45643
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business. 45650

(B) A telephone solicitor is exempt from the provisions of 45651
sections 4719.02 to 4719.18 and section 4719.99 of the Revised 45652
Code if the telephone solicitor is any one of the following: 45653

(1) A person engaging in a telephone solicitation that is a 45654
one-time or infrequent transaction not done in the course of a 45655
pattern of repeated transactions of a like nature; 45656

(2) A person engaged in telephone solicitation solely for 45657
religious or political purposes; a charitable organization, 45658
fund-raising counsel, or professional solicitor in compliance with 45659
the registration and reporting requirements of Chapter 1716. of 45660
the Revised Code; or any person or other entity exempt under 45661
section 1716.03 of the Revised Code from filing a registration 45662
statement under section 1716.02 of the Revised Code; 45663

(3) A person, making a telephone solicitation involving a 45664
home solicitation sale as defined in section 1345.21 of the 45665
Revised Code, that makes the sales presentation and completes the 45666
sale at a later, face-to-face meeting between the seller and the 45667
purchaser rather than during the telephone solicitation. However, 45668
if the person, following the telephone solicitation, causes 45669
another person to collect the payment of any money, this exemption 45670
does not apply. 45671

(4) A licensed securities, commodities, or investment broker, 45672
dealer, investment advisor, or associated person when making a 45673
telephone solicitation within the scope of the person's license. 45674
As used in division (B)(4) of this section, "licensed securities, 45675
commodities, or investment broker, dealer, investment advisor, or 45676
associated person" means a person subject to licensure or 45677
registration as such by the securities and exchange commission; 45678
the National Association of Securities Dealers or other 45679
self-regulatory organization, as defined by 15 U.S.C.A. 78c; by 45680

the division of securities under Chapter 1707. of the Revised 45681
Code; or by an official or agency of any other state of the United 45682
States. 45683

(5)(a) A person primarily engaged in soliciting the sale of a 45684
newspaper of general circulation; 45685

(b) As used in division (B)(5)(a) of this section, "newspaper 45686
of general circulation" includes, but is not limited to, both of 45687
the following: 45688

(i) A newspaper that is a daily law journal designated as an 45689
official publisher of court calendars pursuant to section 2701.09 45690
of the Revised Code; 45691

(ii) A newspaper or publication that has at least twenty-five 45692
per cent editorial, non-advertising content, exclusive of inserts, 45693
measured relative to total publication space, and an audited 45694
circulation to at least fifty per cent of the households in the 45695
newspaper's retail trade zone as defined by the audit. 45696

(6)(a) An issuer, or its subsidiary, that has a class of 45697
securities to which all of the following apply: 45698

(i) The class of securities is subject to section 12 of the 45699
"Securities Exchange Act of 1934," 15 U.S.C.A. 781, and is 45700
registered or is exempt from registration under 15 U.S.C.A. 45701
781(g)(2)(A), (B), (C), (E), (F), (G), or (H); 45702

(ii) The class of securities is listed on the New York stock 45703
exchange, the American stock exchange, or the NASDAQ national 45704
market system; 45705

(iii) The class of securities is a reported security as 45706
defined in 17 C.F.R. 240.11Aa3-1(a)(4). 45707

(b) An issuer, or its subsidiary, that formerly had a class 45708
of securities that met the criteria set forth in division 45709
(B)(6)(a) of this section if the issuer, or its subsidiary, has a 45710

net worth in excess of one hundred million dollars, files or its 45711
parent files with the securities and exchange commission an S.E.C. 45712
form 10-K, and has continued in substantially the same business 45713
since it had a class of securities that met the criteria in 45714
division (B)(6)(a) of this section. As used in division (B)(6)(b) 45715
of this section, "issuer" and "subsidiary" include the successor 45716
to an issuer or subsidiary. 45717

(7) A person soliciting a transaction regulated by the 45718
commodity futures trading commission, if the person is registered 45719
or temporarily registered for that activity with the commission 45720
under 7 U.S.C.A. 1 et. seq. and the registration or temporary 45721
registration has not expired or been suspended or revoked; 45722

(8) A person soliciting the sale of any book, record, audio 45723
tape, compact disc, or video, if the person allows the purchaser 45724
to review the merchandise for at least seven days and provides a 45725
full refund within thirty days to a purchaser who returns the 45726
merchandise or if the person solicits the sale on behalf of a 45727
membership club operating in compliance with regulations adopted 45728
by the federal trade commission in 16 C.F.R. 425; 45729

(9) A supervised financial institution or its subsidiary. As 45730
used in division (B)(9) of this section, "supervised financial 45731
institution" means a bank, trust company, savings and loan 45732
association, savings bank, credit union, industrial loan company, 45733
consumer finance lender, commercial finance lender, or institution 45734
described in section 2(c)(2)(F) of the "Bank Holding Company Act 45735
of 1956," 12 U.S.C.A. 1841(c)(2)(F), as amended, supervised by an 45736
official or agency of the United States, this state, or any other 45737
state of the United States; or a licensee or registrant under 45738
sections 1321.01 to 1321.19, 1321.51 to 1321.60, or 1321.71 to 45739
1321.83 of the Revised Code. 45740

(10)(a) An insurance company, association, or other 45741
organization that is licensed or authorized to conduct business in 45742

this state by the superintendent of insurance pursuant to Title 45743
XXXIX of the Revised Code or Chapter 1751. of the Revised Code, 45744
when soliciting within the scope of its license or authorization. 45745

(b) A licensed insurance broker, agent, or solicitor when 45746
soliciting within the scope of the person's license. As used in 45747
division (B)(10)(b) of this section, "licensed insurance broker, 45748
agent, or solicitor" means any person licensed as an insurance 45749
broker, agent, or solicitor by the superintendent of insurance 45750
pursuant to Title XXXIX of the Revised Code. 45751

(11) A person soliciting the sale of services provided by a 45752
cable television system operating under authority of a 45753
governmental franchise or permit; 45754

(12) A person soliciting a business-to-business sale under 45755
which any of the following conditions are met: 45756

(a) The telephone solicitor has been operating continuously 45757
for at least three years under the same business name under which 45758
it solicits purchasers, and at least fifty-one per cent of its 45759
gross dollar volume of sales consists of repeat sales to existing 45760
customers to whom it has made sales under the same business name. 45761

(b) The purchaser business intends to resell the goods 45762
purchased. 45763

(c) The purchaser business intends to use the goods or 45764
services purchased in a recycling, reuse, manufacturing, or 45765
remanufacturing process. 45766

(d) The telephone solicitor is a publisher of a periodical or 45767
of magazines distributed as controlled circulation publications as 45768
defined in division (CC) of section 5739.01 of the Revised Code 45769
and is soliciting sales of advertising, subscriptions, reprints, 45770
lists, information databases, conference participation or 45771
sponsorships, trade shows or media products related to the 45772
periodical or magazine, or other publishing services provided by 45773

the controlled circulation publication. 45774

(13) A person that, not less often than once each year, 45775
publishes and delivers to potential purchasers a catalog that 45776
complies with both of the following: 45777

(a) It includes all of the following: 45778

(i) The business address of the seller; 45779

(ii) A written description or illustration of each good or 45780
service offered for sale; 45781

(iii) A clear and conspicuous disclosure of the sale price of 45782
each good or service; shipping, handling, and other charges; and 45783
return policy; 45784

(b) One of the following applies: 45785

(i) The catalog includes at least twenty-four pages of 45786
written material and illustrations, is distributed in more than 45787
one state, and has an annual postage-paid mail circulation of not 45788
less than two hundred fifty thousand households; 45789

(ii) The catalog includes at least ten pages of written 45790
material or an equivalent amount of material in electronic form on 45791
the internet or an on-line computer service, the person does not 45792
solicit customers by telephone but solely receives telephone calls 45793
made in response to the catalog, and during the calls the person 45794
takes orders but does not engage in further solicitation of the 45795
purchaser. As used in division (B)(13)(b)(ii) of this section, 45796
"further solicitation" does not include providing the purchaser 45797
with information about, or attempting to sell, any other item in 45798
the catalog that prompted the purchaser's call or in a 45799
substantially similar catalog issued by the seller. 45800

(14) A political subdivision or instrumentality of the United 45801
States, this state, or any state of the United States; 45802

(15) A college or university or any other public or private 45803

institution of higher education in this state; 45804

(16) A public utility as defined in section 4905.02 of the 45805
Revised Code or a retail natural gas supplier as defined in 45806
section 4929.01 of the Revised Code, if the utility or supplier is 45807
subject to regulation by the public utilities commission, or the 45808
affiliate of the utility or supplier; 45809

~~(17) A travel agency or tour promoter that is registered in 45810
compliance with section 1333.96 of the Revised Code when 45811
soliciting within the scope of the agency's or promoter's 45812
registration; 45813~~

~~(18) A person that solicits sales through a television 45814
program or advertisement that is presented in the same market area 45815
no fewer than twenty days per month or offers for sale no fewer 45816
than ten distinct items of goods or services; and offers to the 45817
purchaser an unconditional right to return any good or service 45818
purchased within a period of at least seven days and to receive a 45819
full refund within thirty days after the purchaser returns the 45820
good or cancels the service; 45821~~

~~(19)~~(18)(a) A person that, for at least one year, has been 45822
operating a retail business under the same name as that used in 45823
connection with telephone solicitation and both of the following 45824
occur on a continuing basis: 45825

(i) The person either displays goods and offers them for 45826
retail sale at the person's business premises or offers services 45827
for sale and provides them at the person's business premises. 45828

(ii) At least fifty-one per cent of the person's gross dollar 45829
volume of retail sales involves purchases of goods or services at 45830
the person's business premises. 45831

(b) An affiliate of a person that meets the requirements in 45832
division (B)~~(19)~~(18)(a) of this section if the affiliate meets all 45833
of the following requirements: 45834

(i) The affiliate has operated a retail business for a period of less than one year; 45835
45836

(ii) The affiliate either displays goods and offers them for retail sale at the affiliate's business premises or offers services for sale and provides them at the affiliate's business premises; 45837
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(iii) At least fifty-one per cent of the affiliate's gross dollar volume of retail sales involves purchases of goods or services at the affiliate's business premises. 45841
45842
45843

(c) A person that, for a period of less than one year, has been operating a retail business in this state under the same name as that used in connection with telephone solicitation, as long as all of the following requirements are met: 45844
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45846
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(i) The person either displays goods and offers them for retail sale at the person's business premises or offers services for sale and provides them at the person's business premises; 45848
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(ii) The goods or services that are the subject of telephone solicitation are sold at the person's business premises, and at least sixty-five per cent of the person's gross dollar volume of retail sales involves purchases of goods or services at the person's business premises; 45851
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(iii) The person conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rule adopted by the federal trade commission in 16 C.F.R. part 310. 45856
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~~(20)~~(19) A person who performs telephone solicitation sales services on behalf of other persons and to whom one of the following applies: 45860
45861
45862

(a) The person has operated under the same ownership, control, and business name for at least five years, and the person 45863
45864

receives at least seventy-five per cent of its gross revenues from 45865
written telephone solicitation contracts with persons who come 45866
within one of the exemptions in division (B) of this section. 45867

(b) The person is an affiliate of one or more exempt persons 45868
and makes telephone solicitations on behalf of only the exempt 45869
persons of which it is an affiliate. 45870

(c) The person makes telephone solicitations on behalf of 45871
only exempt persons, the person and each exempt person on whose 45872
behalf telephone solicitations are made have entered into a 45873
written contract that specifies the manner in which the telephone 45874
solicitations are to be conducted and that at a minimum requires 45875
compliance with the telemarketing sales rule adopted by the 45876
federal trade commission in 16 C.F.R. part 310, and the person 45877
conducts the telephone solicitations in the manner specified in 45878
the written contract. 45879

(d) The person performs telephone solicitation for religious 45880
or political purposes, a charitable organization, a fund-raising 45881
council, or a professional solicitor in compliance with the 45882
registration and reporting requirements of Chapter 1716. of the 45883
Revised Code; and meets all of the following requirements: 45884

(i) The person has operated under the same ownership, 45885
control, and business name for at least five years, and the person 45886
receives at least fifty-one per cent of its gross revenues from 45887
written telephone solicitation contracts with persons who come 45888
within the exemption in division (B)(2) of this section; 45889

(ii) The person does not conduct a prize promotion or offer 45890
the sale of an investment opportunity; and 45891

(iii) The person conducts all telephone solicitation 45892
activities according to sections 310.3, 310.4, and 310.5 of the 45893
telemarketing sales rules adopted by the federal trade commission 45894
in 16 C.F.R. part 310. 45895

~~(21)~~(20) A person that is a licensed real estate salesperson 45896
or broker under Chapter 4735. of the Revised Code when soliciting 45897
within the scope of the person's license; 45898

~~(22)~~(21)(a) Either of the following: 45899

(i) A publisher that solicits the sale of the publisher's 45900
periodical or magazine of general, paid circulation, or a person 45901
that solicits a sale of that nature on behalf of a publisher under 45902
a written agreement directly between the publisher and the person. 45903

(ii) A publisher that solicits the sale of the publisher's 45904
periodical or magazine of general, paid circulation, or a person 45905
that solicits a sale of that nature as authorized by a publisher 45906
under a written agreement directly with a publisher's 45907
clearinghouse provided the person is a resident of Ohio for more 45908
than three years and initiates all telephone solicitations from 45909
Ohio and the person conducts the solicitation and sale in 45910
compliance with 16 C.F.R. Part 310, as adopted by the federal 45911
trade commission. 45912

(b) As used in division (B)~~(22)~~(21) of this section, 45913
"periodical or magazine of general, paid circulation" excludes a 45914
periodical or magazine circulated only as part of a membership 45915
package or given as a free gift or prize from the publisher or 45916
person. 45917

~~(23)~~(22) A person that solicits the sale of food, as defined 45918
in section 3715.01 of the Revised Code, or the sale of products of 45919
horticulture, as defined in section 5739.01 of the Revised Code, 45920
if the person does not intend the solicitation to result in, or 45921
the solicitation actually does not result in, a sale that costs 45922
the purchaser an amount greater than five hundred dollars. 45923

~~(24)~~(23) A funeral director licensed pursuant to Chapter 45924
4717. of the Revised Code when soliciting within the scope of that 45925
license, if both of the following apply: 45926

(a) The solicitation and sale are conducted in compliance 45927
with 16 C.F.R. part 453, as adopted by the federal trade 45928
commission, and with sections 1107.33 and 1345.21 to 1345.28 of 45929
the Revised Code; 45930

(b) The person provides to the purchaser of any preneed 45931
funeral contract a notice that clearly and conspicuously sets 45932
forth the cancellation rights specified in division (G) of section 45933
1107.33 of the Revised Code, and retains a copy of the notice 45934
signed by the purchaser. 45935

~~(25)~~(24) A person, or affiliate thereof, licensed to sell or 45936
issue Ohio instruments designated as travelers checks pursuant to 45937
sections 1315.01 to 1315.11 of the Revised Code. 45938

~~(26)~~(25) A person that solicits sales from its previous 45939
purchasers and meets all of the following requirements: 45940

(a) The solicitation is made under the same business name 45941
that was previously used to sell goods or services to the 45942
purchaser; 45943

(b) The person has, for a period of not less than three 45944
years, operated a business under the same business name as that 45945
used in connection with telephone solicitation; 45946

(c) The person does not conduct a prize promotion or offer 45947
the sale of an investment opportunity; 45948

(d) The person conducts all telephone solicitation activities 45949
according to sections 310.3, 310.4, and 310.5 of the telemarketing 45950
sales rules adopted by the federal trade commission in 16 C.F.R. 45951
part 310; 45952

(e) Neither the person nor any of its principals has been 45953
convicted of, pleaded guilty to, or has entered a plea of no 45954
contest for a felony or a theft offense as defined in sections 45955
2901.02 and 2913.01 of the Revised Code or similar law of another 45956

state or of the United States; 45957

(f) Neither the person nor any of its principals has had 45958
entered against them an injunction or a final judgment or order, 45959
including an agreed judgment or order, an assurance of voluntary 45960
compliance, or any similar instrument, in any civil or 45961
administrative action involving engaging in a pattern of corrupt 45962
practices, fraud, theft, embezzlement, fraudulent conversion, or 45963
misappropriation of property; the use of any untrue, deceptive, or 45964
misleading representation; or the use of any unfair, unlawful, 45965
deceptive, or unconscionable trade act or practice. 45966

~~(27)~~(26) An institution defined as a home health agency in 45967
section ~~3701.88~~ 3701.881 of the Revised Code, that conducts all 45968
telephone solicitation activities according to sections 310.3, 45969
310.4, and 310.5 of the telemarketing sales rules adopted by the 45970
federal trade commission in 16 C.F.R. part 310, and engages in 45971
telephone solicitation only within the scope of the institution's 45972
certification, accreditation, contract with the department of 45973
aging, or status as a home health agency; and that meets one of 45974
the following requirements: 45975

(a) The institution is certified as a provider of home health 45976
services under Title XVIII of the Social Security Act, 49 Stat. 45977
620, 42 U.S.C. 301, as amended; ~~and is registered with the~~ 45978
~~department of health pursuant to division (B) of section 3701.88~~ 45979
~~of the Revised Code;~~ 45980

(b) The institution is accredited by either the joint 45981
commission on accreditation of health care organizations or the 45982
community health accreditation program; 45983

(c) The institution is providing passport services under the 45984
direction of the Ohio department of aging under section 173.40 of 45985
the Revised Code; 45986

(d) An affiliate of an institution that meets the 45987

requirements of division (B)~~(27)~~(26)(a), (b), or (c) of this 45988
section when offering for sale substantially the same goods and 45989
services as those that are offered by the institution that meets 45990
the requirements of division (B)~~(27)~~(26)(a), (b), or (c) of this 45991
section. 45992

~~(28)~~(27) A person licensed to provide a hospice care program 45993
by the department of health pursuant to section 3712.04 of the 45994
Revised Code when conducting telephone solicitations within the 45995
scope of the person's license and according to sections 310.3, 45996
310.4, and 310.5 of the telemarketing sales rules adopted by the 45997
federal trade commission in 16 C.F.R. part 310. 45998

Sec. 4723.01. As used in this chapter: 45999

(A) "Registered nurse" means an individual who holds a 46000
current, valid license issued under this chapter that authorizes 46001
the practice of nursing as a registered nurse. 46002

(B) "Practice of nursing as a registered nurse" means 46003
providing to individuals and groups nursing care requiring 46004
specialized knowledge, judgment, and skill derived from the 46005
principles of biological, physical, behavioral, social, and 46006
nursing sciences. Such nursing care includes: 46007

(1) Identifying patterns of human responses to actual or 46008
potential health problems amenable to a nursing regimen; 46009

(2) Executing a nursing regimen through the selection, 46010
performance, management, and evaluation of nursing actions; 46011

(3) Assessing health status for the purpose of providing 46012
nursing care; 46013

(4) Providing health counseling and health teaching; 46014

(5) Administering medications, treatments, and executing 46015
regimens authorized by an individual who is authorized to practice 46016
in this state and is acting within the course of the individual's 46017

professional practice;	46018
(6) Teaching, administering, supervising, delegating, and evaluating nursing practice.	46019 46020
(C) "Nursing regimen" may include preventative, restorative, and health-promotion activities.	46021 46022
(D) "Assessing health status" means the collection of data through nursing assessment techniques, which may include interviews, observation, and physical evaluations for the purpose of providing nursing care.	46023 46024 46025 46026
(E) "Licensed practical nurse" means an individual who holds a current, valid license issued under this chapter that authorizes the practice of nursing as a licensed practical nurse.	46027 46028 46029
(F) "The practice of nursing as a licensed practical nurse" means providing to individuals and groups nursing care requiring the application of basic knowledge of the biological, physical, behavioral, social, and nursing sciences at the direction of a licensed physician, dentist, podiatrist, optometrist, chiropractor, or registered nurse. Such nursing care includes:	46030 46031 46032 46033 46034 46035
(1) Observation, patient teaching, and care in a diversity of health care settings;	46036 46037
(2) Contributions to the planning, implementation, and evaluation of nursing;	46038 46039
(3) Administration of medications and treatments authorized by an individual who is authorized to practice in this state and is acting within the course of the individual's professional practice, except that administration of intravenous therapy shall be performed only in accordance with section 4723.17 or 4723.171 of the Revised Code. Medications may be administered by a licensed practical nurse upon proof of completion of a course in medication administration approved by the board of nursing.	46040 46041 46042 46043 46044 46045 46046 46047

(4) Administration to an adult of intravenous therapy 46048
authorized by an individual who is authorized to practice in this 46049
state and is acting within the course of the individual's 46050
professional practice, on the condition that the licensed 46051
practical nurse is authorized under section 4723.17 or 4723.171 of 46052
the Revised Code to perform intravenous therapy and performs 46053
intravenous therapy only in accordance with those sections. 46054

(G) "Certified registered nurse anesthetist" means a 46055
registered nurse who holds a valid certificate of authority issued 46056
under this chapter that authorizes the practice of nursing as a 46057
certified registered nurse anesthetist in accordance with section 46058
4723.43 of the Revised Code and rules adopted by the board of 46059
nursing. 46060

(H) "Clinical nurse specialist" means a registered nurse who 46061
holds a valid certificate of authority issued under this chapter 46062
that authorizes the practice of nursing as a clinical nurse 46063
specialist in accordance with section 4723.43 of the Revised Code 46064
and rules adopted by the board of nursing. 46065

(I) "Certified nurse-midwife" means a registered nurse who 46066
holds a valid certificate of authority issued under this chapter 46067
that authorizes the practice of nursing as a certified 46068
nurse-midwife in accordance with section 4723.43 of the Revised 46069
Code and rules adopted by the board of nursing. 46070

(J) "Certified nurse practitioner" means a registered nurse 46071
who holds a valid certificate of authority issued under this 46072
chapter that authorizes the practice of nursing as a certified 46073
nurse practitioner in accordance with section 4723.43 of the 46074
Revised Code and rules adopted by the board of nursing. 46075

(K) "Physician" means an individual authorized under Chapter 46076
4731. of the Revised Code to practice medicine and surgery or 46077
osteopathic medicine and surgery. 46078

(L) "Collaboration" or "collaborating" means the following: 46079

(1) In the case of a clinical nurse specialist, except as 46080
provided in division (L)(3) of this section, or a certified nurse 46081
practitioner, that one or more podiatrists acting within the scope 46082
of practice of podiatry in accordance with section 4731.51 of the 46083
Revised Code and with whom the nurse has entered into a standard 46084
care arrangement or one or more physicians with whom the nurse has 46085
entered into a standard care arrangement are continuously 46086
available to communicate with the clinical nurse specialist or 46087
certified nurse practitioner either in person or by radio, 46088
telephone, or other form of telecommunication; 46089

(2) In the case of a certified nurse-midwife, that one or 46090
more physicians with whom the certified nurse-midwife has entered 46091
into a standard care arrangement are continuously available to 46092
communicate with the certified nurse-midwife either in person or 46093
by radio, telephone, or other form of telecommunication; 46094

(3) In the case of a clinical nurse specialist who practices 46095
the nursing specialty of mental health or psychiatric mental 46096
health without being authorized to prescribe drugs and therapeutic 46097
devices, that one or more physicians are continuously available to 46098
communicate with the nurse either in person or by radio, 46099
telephone, or other form of telecommunication. 46100

(M) "Supervision," as it pertains to a certified registered 46101
nurse anesthetist, means that the certified registered nurse 46102
anesthetist is under the direction of a podiatrist acting within 46103
the podiatrist's scope of practice in accordance with section 46104
4731.51 of the Revised Code, a dentist acting within the dentist's 46105
scope of practice in accordance with Chapter 4715. of the Revised 46106
Code, or a physician, and, when administering anesthesia, the 46107
certified registered nurse anesthetist is in the immediate 46108
presence of the podiatrist, dentist, or physician. 46109

(N) "Standard care arrangement," except as it pertains to an advanced practice nurse, means a written, formal guide for planning and evaluating a patient's health care that is developed by one or more collaborating physicians or podiatrists and a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner and meets the requirements of section 4723.431 of the Revised Code.

(O) "Advanced practice nurse," until three years and eight months after May 17, 2000, means a registered nurse who is approved by the board of nursing under section 4723.55 of the Revised Code to practice as an advanced practice nurse.

(P) "Dialysis care" means the care and procedures that a dialysis technician is authorized to provide and perform, as specified in section 4723.72 of the Revised Code.

(Q) "Dialysis technician" means an individual who holds a current, valid certificate or temporary certificate issued under this chapter that authorizes the individual to practice as a dialysis technician in accordance with section 4723.72 of the Revised Code.

(R) "Certified community health worker" means an individual who holds a current, valid certificate as a community health worker issued by the board of nursing under section 4723.85 of the Revised Code.

Sec. 4723.06. (A) The board of nursing shall:

(1) Administer and enforce the provisions of this chapter, including the taking of disciplinary action for violations of section 4723.28 of the Revised Code, any other provisions of this chapter, or rules adopted under this chapter;

(2) Develop criteria that an applicant must meet to be eligible to sit for the examination for licensure to practice as a

registered nurse or as a licensed practical nurse; 46140

(3) Issue and renew nursing licenses ~~and~~, dialysis technician 46141
certificates, and community health worker certificates, as 46142
provided in this chapter; 46143

(4) Define the minimum curricula and standards for 46144
educational programs of the schools of professional nursing and 46145
schools of practical nursing in this state; 46146

(5) Survey, inspect, and grant full approval to prelicensure 46147
nursing education programs that meet the standards established by 46148
rules adopted under section 4723.07 of the Revised Code. 46149
Prelicensure nursing education programs include, but are not 46150
limited to, associate degree, baccalaureate degree, diploma, and 46151
doctor of nursing programs leading to initial licensure to 46152
practice nursing as a registered nurse and practical nurse 46153
programs leading to initial licensure to practice nursing as a 46154
licensed practical nurse. 46155

(6) Grant conditional approval, by a vote of a quorum of the 46156
board, to a new prelicensure nursing education program or a 46157
program that is being reestablished after having ceased to 46158
operate, if the program meets and maintains the minimum standards 46159
of the board established by rules adopted under section 4723.07 of 46160
the Revised Code. If the board does not grant conditional 46161
approval, it shall hold an adjudication under Chapter 119. of the 46162
Revised Code to consider conditional approval of the program. If 46163
the board grants conditional approval, at its first meeting after 46164
the first class has completed the program, the board shall 46165
determine whether to grant full approval to the program. If the 46166
board does not grant full approval or if it appears that the 46167
program has failed to meet and maintain standards established by 46168
rules adopted under section 4723.07 of the Revised Code, the board 46169
shall hold an adjudication under Chapter 119. of the Revised Code 46170
to consider the program. Based on results of the adjudication, the 46171

board may continue or withdraw conditional approval, or grant full approval. 46172
46173

(7) Place on provisional approval, for a period of time 46174
specified by the board, a program that has ceased to meet and 46175
maintain the minimum standards of the board established by rules 46176
adopted under section 4723.07 of the Revised Code. At the end of 46177
the period, the board shall reconsider whether the program meets 46178
the standards and shall grant full approval if it does. If it does 46179
not, the board may withdraw approval, pursuant to an adjudication 46180
under Chapter 119. of the Revised Code. 46181

(8) Approve continuing nursing education programs and courses 46182
under standards established in rules adopted under section 4723.07 46183
of the Revised Code; 46184

(9) Approve peer support programs, under rules adopted under 46185
section 4723.07 of the Revised Code, for nurses ~~and~~, for dialysis 46186
technicians, and for certified community health workers; 46187

(10) Establish a program for monitoring chemical dependency 46188
in accordance with section 4723.35 of the Revised Code; 46189

(11) Establish the practice intervention and improvement 46190
program in accordance with section 4723.282 of the Revised Code; 46191

(12) Issue and renew certificates of authority to practice 46192
nursing as a certified registered nurse anesthetist, clinical 46193
nurse specialist, certified nurse-midwife, or certified nurse 46194
practitioner; 46195

(13) Approve under section 4723.46 of the Revised Code 46196
national certifying organizations for examination and 46197
certification of certified registered nurse anesthetists, clinical 46198
nurse specialists, certified nurse-midwives, or certified nurse 46199
practitioners; 46200

(14) Issue and renew certificates to prescribe in accordance 46201

with sections 4723.48 and 4723.485 of the Revised Code;	46202
(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;	46203 46204 46205
(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;	46206 46207 46208 46209 46210 46211
(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;	46212 46213 46214 46215
(18) Make an annual report to the governor, which shall be open for public inspection;	46216 46217
(19) Maintain and have open for public inspection the following records:	46218 46219
(a) A record of all its meetings and proceedings;	46220
(b) A file of holders of nursing licenses, registrations, and certificates granted under this chapter and ; dialysis technician certificates granted under this chapter; <u>and community health worker certificates granted under this chapter</u> . The file shall be maintained in the form prescribed by rule of the board.	46221 46222 46223 46224 46225
(c) A list of prelicensure nursing education programs approved by the board;	46226 46227
(d) A list of approved peer support programs for nurses and , dialysis technicians, <u>and certified community health workers</u> .	46228 46229
(B) The board may fulfill the requirement of division (A)(8) of this section by authorizing persons who meet the standards	46230 46231

established in rules adopted under section 4723.07 of the Revised Code to approve continuing nursing education programs and courses. Persons so authorized shall approve continuing nursing education programs and courses in accordance with standards established in rules adopted under section 4723.07 of the Revised Code.

Persons seeking authorization to approve continuing nursing education programs and courses shall apply to the board and pay the appropriate fee established under section 4723.08 of the Revised Code. Authorizations to approve continuing nursing education programs and courses shall expire, and may be renewed according to the schedule established in rules adopted under section ~~4732.07~~ 4723.07 of the Revised Code.

In addition to approving continuing nursing education programs under division (A)(8) of this section, the board may sponsor continuing education activities that are directly related to the statutes and rules pertaining to the practice of nursing in this state.

Sec. 4723.063. (A) As used in this section:

(1) "Health care facility" means:

(a) A hospital registered under section 3701.07 of the Revised Code;

(b) A nursing home licensed under section 3721.02 of the Revised Code, or by a political subdivision certified under section 3721.09 of the Revised Code;

(c) A county home or a county nursing home as defined in section 5155.31 of the Revised Code that is certified under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, amended;

(d) A freestanding dialysis center;

(e) A freestanding inpatient rehabilitation facility;

<u>(f) An ambulatory surgical facility;</u>	46262
<u>(g) A freestanding cardiac catheterization facility;</u>	46263
<u>(h) A freestanding birthing center;</u>	46264
<u>(i) A freestanding or mobile diagnostic imaging center;</u>	46265
<u>(j) A freestanding radiation therapy center.</u>	46266
<u>(2) "Nurse education program" means a prelicensure nurse</u>	46267
<u>education program approved by the board of nursing under section</u>	46268
<u>4723.06 of the Revised Code or a postlicensure nurse education</u>	46269
<u>program approved by the board of regents under section 3333.04 of</u>	46270
<u>the Revised Code.</u>	46271
<u>(B) The state board of nursing shall establish and administer</u>	46272
<u>the nurse education grant program. Under the program, the board</u>	46273
<u>shall award grants to nurse education programs that have</u>	46274
<u>partnerships with other education programs, community health</u>	46275
<u>agencies, or health care facilities. Grant recipients shall use</u>	46276
<u>the money to fund partnerships to increase the nurse education</u>	46277
<u>program's enrollment capacity. Methods of increasing a program's</u>	46278
<u>enrollment capacity may include hiring faculty and preceptors,</u>	46279
<u>purchasing educational equipment and materials, and other actions</u>	46280
<u>acceptable to the board. Grant money shall not be used to</u>	46281
<u>construct or renovate buildings. Partnerships may be developed</u>	46282
<u>between one or more nurse education programs and one or more</u>	46283
<u>health care facilities.</u>	46284
<u>In awarding grants, the board shall give preference to</u>	46285
<u>partnerships between nurse education programs and hospitals,</u>	46286
<u>nursing homes, and county homes or county nursing homes, but may</u>	46287
<u>also award grants to fund partnerships between nurse education</u>	46288
<u>programs and other health care facilities.</u>	46289
<u>(C) The board shall adopt rules in accordance with Chapter</u>	46290
<u>119. of the Revised Code establishing the following:</u>	46291

<u>(1) Eligibility requirements for receipt of a grant;</u>	46292
<u>(2) Grant application forms and procedures;</u>	46293
<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 education programs, a community health agency, or a health care facility;</u>	46294 46295 46296 46297
<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>	46298 46299 46300
<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>	46301 46302 46303
<u>(6) The percentage of available grants to be awarded to licensed practical nurse education programs, registered nurse education programs, and graduate programs;</u>	46304 46305 46306
<u>(7) Any other matters incidental to the operation of the program.</u>	46307 46308
<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>	46309 46310 46311 46312 46313 46314 46315 46316 46317
<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>	46318 46319 46320 46321

<u>quarter and the amount equal to that number times ten dollars.</u>	46322
<u>(F) Notwithstanding the requirements of section 4743.05 of</u>	46323
<u>the Revised Code, from January 1, 2004, until December 31, 2013,</u>	46324
<u>at the end of each quarter, the director of budget and management</u>	46325
<u>shall transfer from the occupational licensing and regulatory fund</u>	46326
<u>to the nurse education grant program fund the amount certified</u>	46327
<u>under division (E) of this section.</u>	46328
Sec. 4723.07. In accordance with Chapter 119. of the Revised	46329
Code, the board of nursing shall adopt and may amend and rescind	46330
rules that establish all of the following:	46331
(A) Provisions for the board's government and control of its	46332
actions and business affairs;	46333
(B) Minimum curricula and standards for nursing education	46334
programs that prepare graduates to be licensed under this chapter	46335
and procedures for granting, renewing, and withdrawing approval of	46336
those programs;	46337
(C) Criteria that applicants for licensure must meet to be	46338
eligible to take examinations for licensure;	46339
(D) Standards and procedures for renewal of the licenses and	46340
certificates issued by the board;	46341
(E) Standards for approval of continuing nursing education	46342
programs and courses for registered nurses, licensed practical	46343
nurses, certified registered nurse anesthetists, clinical nurse	46344
specialists, certified nurse-midwives, and certified nurse	46345
practitioners. The standards may provide for approval of	46346
continuing nursing education programs and courses that have been	46347
approved by other state boards of nursing or by national	46348
accreditation systems for nursing, including, but not limited to,	46349
the American nurses' credentialing center and the national	46350
association for practical nurse education and service.	46351

(F) Standards that persons must meet to be authorized by the board to approve continuing nursing education programs and courses and a schedule by which that authorization expires and may be renewed;

(G) Requirements, including continuing education requirements, for restoring inactive nursing licenses ~~and~~, dialysis technician certificates, and community health worker certificates, and for restoring nursing licenses ~~and~~, dialysis technician certificates, and community health worker certificates that have lapsed through failure to renew;

(H) Conditions that may be imposed for reinstatement of a nursing license ~~or~~, dialysis technician certificate, or community health worker certificate following action taken under ~~sections~~ section 3123.47, 4723.28, ~~and~~ 4723.281, or 4723.86 of the Revised Code resulting in a license or certificate suspension ~~from~~ practice;

(I) Standards for approval of peer support programs for persons who hold a nursing license ~~or~~, dialysis technician certificate, or community health worker certificate;

(J) Requirements for board approval of courses in medication administration by licensed practical nurses;

(K) Criteria for evaluating the qualifications of an applicant for a license to practice nursing as a registered nurse or licensed practical nurse, a certificate of authority issued under division (E) of section 4723.41 of the Revised Code, ~~or~~ a dialysis technician certificate, or a community health worker certificate by the board's endorsement of the applicant's authority to practice issued by the licensing agency of another state;

(L) Universal blood and body fluid precautions that shall be used by each person holding a nursing license or dialysis

technician certificate issued under this chapter who performs	46383
exposure-prone invasive procedures. The rules shall define and	46384
establish requirements for universal blood and body fluid	46385
precautions that include the following:	46386
(1) Appropriate use of hand washing;	46387
(2) Disinfection and sterilization of equipment;	46388
(3) Handling and disposal of needles and other sharp	46389
instruments;	46390
(4) Wearing and disposal of gloves and other protective	46391
garments and devices.	46392
(M) Standards and procedures for approving certificates of	46393
authority to practice nursing as a certified registered nurse	46394
anesthetist, clinical nurse specialist, certified nurse-midwife,	46395
or certified nurse practitioner, and for renewal of those	46396
certificates;	46397
(N) Quality assurance standards for certified registered	46398
nurse anesthetists, clinical nurse specialists, certified	46399
nurse-midwives, or certified nurse practitioners;	46400
(O) Additional criteria for the standard care arrangement	46401
required by section 4723.431 of the Revised Code entered into by a	46402
clinical nurse specialist, certified nurse-midwife, or certified	46403
nurse practitioner and the nurse's collaborating physician or	46404
podiatrist;	46405
(P) Continuing education standards for clinical nurse	46406
specialists who are exempt under division (C) of section 4723.41	46407
of the Revised Code from the requirement of having passed a	46408
certification examination;	46409
(Q) For purposes of division (B)(31) of section 4723.28 of	46410
the Revised Code, the actions, omissions, or other circumstances	46411
that constitute failure to establish and maintain professional	46412

boundaries with a patient. 46413

The board may adopt other rules necessary to carry out the 46414
provisions of this chapter. The rules shall be adopted in 46415
accordance with Chapter 119. of the Revised Code. 46416

Sec. 4723.08. (A) The board of nursing may impose fees not to 46417
exceed the following limits: 46418

(1) For application for licensure by examination to practice 46419
nursing as a registered nurse or as a licensed practical nurse, 46420
~~fifty~~ seventy-five dollars; 46421

(2) For application for licensure by endorsement to practice 46422
nursing as a registered nurse or as a licensed practical nurse, 46423
~~fifty~~ seventy-five dollars; 46424

(3) For application for a certificate of authority to 46425
practice nursing as a certified registered nurse anesthetist, 46426
clinical nurse specialist, certified nurse-midwife, or certified 46427
nurse practitioner, one hundred dollars; 46428

(4) For application for a temporary dialysis technician 46429
certificate, the amount specified in rules adopted under section 46430
4723.79 of the Revised Code; 46431

(5) For application for a full dialysis technician 46432
certificate, the amount specified in rules adopted under section 46433
4723.79 of the Revised Code; 46434

(6) For application for a certificate to prescribe, fifty 46435
dollars; 46436

(7) For verification of a nursing license, certificate of 46437
authority, or dialysis technician certificate to another 46438
jurisdiction, fifteen dollars; 46439

(8) For providing a replacement copy of a nursing license, 46440
certificate of authority, ~~or certificate to prescribe,~~ dialysis 46441

technician certificate, ~~fifteen~~ intravenous therapy card, or 46442
frameable certificate, twenty-five dollars; 46443

(9) For biennial renewal of a nursing license that expires on 46444
or ~~before~~ after August 31, 2003, ~~thirty-five~~ but before January 1, 46445
2004, forty-five dollars; 46446

(10) For biennial renewal of a nursing license that expires 46447
on or after ~~September 1, 2003,~~ forty-five January 1, 2004, 46448
sixty-five dollars; 46449

(11) For biennial renewal of a certificate of authority to 46450
practice nursing as a certified registered nurse anesthetist, 46451
clinical nurse specialist, certified nurse mid-wife, or certified 46452
nurse practitioner that expires on or before August 31, 2005, one 46453
hundred dollars; 46454

(12) For biennial renewal of a certificate of authority to 46455
practice nursing as a certified registered nurse anesthetist, 46456
clinical nurse specialist, certified nurse-midwife, or certified 46457
nurse practitioner that expires on or after September 1, 2005, 46458
eighty-five dollars; 46459

(13) For renewal of a certificate to prescribe, fifty 46460
dollars; 46461

(14) For biennial renewal of a dialysis technician 46462
certificate, the amount specified in rules adopted under section 46463
4723.79 of the Revised Code; 46464

(15) For processing a late application for renewal of a 46465
nursing license, certificate of authority, or dialysis technician 46466
certificate, fifty dollars; 46467

(16) For application for authorization to approve continuing 46468
nursing education programs and courses from an applicant 46469
accredited by a national accreditation system for nursing, five 46470
hundred dollars; 46471

(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;	46472 46473 46474 46475
(18) For each year for which authorization to approve continuing nursing education programs and courses is renewed, one hundred fifty dollars;	46476 46477 46478
(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;	46479 46480 46481
(20) For reinstatement of a lapsed nursing license, certificate of authority, or dialysis technician certificate, one hundred dollars;	46482 46483 46484
(21) For written verification of a nursing license, certificate of authority, or dialysis technician certificate, <u>when the verification is performed for purposes other than providing verification to another jurisdiction, five dollars.</u> 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.;	46485 46486 46487 46488 46489 46490 46491 46492
(22) For processing a check returned to the board by a financial institution as noncollectible, twenty-five dollars;	46493 46494
<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>	46495 46496 46497
<u>(24) For out-of-state survey visits of nursing education programs operating in Ohio, two thousand dollars;</u>	46498 46499
<u>(25) The amounts specified in rules adopted under section 4723.88 of the Revised Code pertaining to the issuance of</u>	46500 46501

certificates to community health workers, including fees for 46502
application for a certificate, verification of a certificate to 46503
another jurisdiction, written verification of a certificate when 46504
the verification is performed for purposes other than verification 46505
to another jurisdiction, providing a replacement copy of a 46506
certificate, biennial renewal of a certificate, processing a late 46507
application for renewal of a certificate, reinstatement of a 46508
lapsed certificate, application for approval of a community health 46509
worker training program for community health workers, and biennial 46510
renewal of the approval of a training program for community health 46511
workers. 46512

(B) Each quarter, for purposes of transferring funds under 46513
section 4743.05 of the Revised Code to the nurse education 46514
assistance fund created in section 3333.28 of the Revised Code, 46515
the board of nursing shall certify to the director of budget and 46516
management the number of biennial licenses renewed under this 46517
chapter during the preceding quarter and the amount equal to that 46518
number times five dollars. 46519

(C) The board may charge a participant in a board-sponsored 46520
continuing education activity an amount not exceeding fifteen 46521
dollars for each activity. 46522

(D) The board may contract for services pertaining to the 46523
process of providing written verification of a nursing license, 46524
certificate of authority, dialysis technician certificate, or 46525
community health worker certificate when the verification is 46526
performed for purposes other than providing verification to 46527
another jurisdiction. The contract may include provisions 46528
pertaining to the collection of the fee charged for providing the 46529
written verification. As part of these provisions, the board may 46530
permit the contractor to retain a portion of the fees as 46531
compensation, before any amounts are deposited into the state 46532
treasury. 46533

Sec. 4723.082. ~~All~~ (A) Except as provided in section 4723.062 46534
of the Revised Code and division (B) of this section, all 46535
receipts of the board of nursing, from any source, shall be deposited in 46536
the state treasury to the credit of the occupational licensing and 46537
regulatory fund. All 46538

(B) All receipts from board-sponsored continuing education 46539
activities shall be deposited in the state treasury to the credit 46540
of the special nursing issue fund created by section 4723.062 of 46541
the Revised Code. 46542

(C) All vouchers of the board shall be approved by the board 46543
president or executive director, or both, as authorized by the 46544
board. 46545

Sec. 4723.17. (A) The board of nursing may authorize a 46546
licensed practical nurse to administer to an adult intravenous 46547
therapy authorized by an individual who is authorized to practice 46548
in this state and is acting within the course of the individual's 46549
professional practice, ~~if all of the following are true of the~~ 46550
licensed practical nurse~~+~~ 46551

~~(1) The nurse~~ has a current, valid license issued under this 46552
chapter that includes authorization to administer medications and 46553
one of the following is the case: 46554

(1) The nurse has successfully completed, within a practical 46555
nurse prelicensure education program approved by the board or by 46556
another jurisdiction's agency that regulates the practice of 46557
nursing, a course of study that prepares the nurse to safely 46558
perform the intravenous therapy procedures the board may authorize 46559
under this section. To meet this requirement, the course of study 46560
must include all of the following: 46561

(a) Both didactic and clinical components; 46562

(b) Curriculum requirements established in rules the board of nursing shall adopt in accordance with Chapter 119. of the Revised Code; 46563
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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. 46566
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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:~~ 46569
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~~(a) A~~ minimum of forty hours of training that includes all of the following: 46572
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~~(i)(a)~~ The curriculum established by rules adopted by the board and in effect on January 1, 1999; 46574
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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; 46576
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~~(iii)(c)~~ Any other training or instruction the board considers appropriate. 46580
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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 perform a successful demonstration of the intravenous procedures, including all skills needed to perform them safely. 46582
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(B) Except as provided in section 4723.171 of the Revised Code, a licensed practical nurse may perform intravenous therapy only if authorized by the board pursuant to division (A) of this section and only if it is performed in accordance with this section. 46587
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A licensed practical nurse authorized by the board to perform 46592

intravenous therapy may perform an intravenous therapy procedure 46593
only at the direction of one of the following: 46594

(1) A licensed physician, dentist, optometrist, or podiatrist 46595
who, except as provided in division (C)(2) of this section, is 46596
present and readily available at the facility where the 46597
intravenous therapy procedure is performed; 46598

(2) A registered nurse in accordance with division (C) of 46599
this section. 46600

(C)(1) Except as provided in division (C)(2) of this section 46601
and section 4723.171 of the Revised Code, when a licensed 46602
practical nurse authorized by the board to perform intravenous 46603
therapy performs an intravenous therapy procedure at the direction 46604
of a registered nurse, the registered nurse or another registered 46605
nurse shall be readily available at the site where the intravenous 46606
therapy is performed, and before the licensed practical nurse 46607
initiates the intravenous therapy, the registered nurse shall 46608
personally perform an on-site assessment of the individual who is 46609
to receive the intravenous therapy. 46610

(2) When a licensed practical nurse authorized by the board 46611
to perform intravenous therapy performs an intravenous therapy 46612
procedure in a home as defined in section 3721.10 of the Revised 46613
Code, or in an intermediate care facility for the mentally 46614
retarded as defined in section 5111.20 of the Revised Code, at the 46615
direction of a registered nurse or licensed physician, dentist, 46616
optometrist, or podiatrist, a registered nurse shall be on the 46617
premises of the home or facility or accessible by some form of 46618
telecommunication. 46619

(D) No licensed practical nurse shall perform any of the 46620
following intravenous therapy procedures: 46621

(1) Initiating or maintaining any of the following: 46622

(a) Blood or blood components; 46623

(b) Solutions for total parenteral nutrition;	46624
(c) Any cancer therapeutic medication including, but not limited to, cancer chemotherapy or an anti-neoplastic agent;	46625 46626
(d) Solutions administered through any central venous line or arterial line or any other line that does not terminate in a peripheral vein, except that a licensed practical nurse authorized by the board to perform intravenous therapy may maintain the solutions specified in division (D)(6)(a) of this section that are being administered through a central venous line or peripherally inserted central catheter;	46627 46628 46629 46630 46631 46632 46633
(e) Any investigational or experimental medication.	46634
(2) Initiating intravenous therapy in any vein, except that a licensed practical nurse authorized by the board to perform intravenous therapy may initiate intravenous therapy in accordance with this section in a vein of the hand, forearm, or antecubital fossa;	46635 46636 46637 46638 46639
(3) Discontinuing a central venous, arterial, or any other line that does not terminate in a peripheral vein;	46640 46641
(4) Initiating or discontinuing a peripherally inserted central catheter;	46642 46643
(5) Mixing, preparing, or reconstituting any medication for intravenous therapy, except that a licensed practical nurse authorized by the board to perform intravenous therapy may prepare or reconstitute an antibiotic additive;	46644 46645 46646 46647
(6) Administering medication via the intravenous route, including all of the following activities:	46648 46649
(a) Adding medication to an intravenous solution or to an existing infusion, except that a licensed practical nurse authorized by the board to perform intravenous therapy may do either of the following:	46650 46651 46652 46653

(i) Initiate an intravenous infusion containing one or more 46654
of the following elements: dextrose 5%; normal saline; lactated 46655
ringers; sodium chloride .45%; sodium chloride 0.2%; sterile 46656
water. 46657

(ii) Hang subsequent containers of the intravenous solutions 46658
specified in division (D)(6)(a) of this section that contain 46659
vitamins or electrolytes, if a registered nurse initiated the 46660
infusion of that same intravenous solution. 46661

(b) Initiating or maintaining an intravenous piggyback 46662
infusion, except that a licensed practical nurse authorized by the 46663
board to perform intravenous therapy may initiate or maintain an 46664
intravenous piggyback infusion containing an antibiotic additive; 46665

(c) Injecting medication via a direct intravenous route, 46666
except that a licensed practical nurse authorized by the board to 46667
perform intravenous therapy may inject heparin or normal saline to 46668
flush an intermittent infusion device or heparin lock including, 46669
but not limited to, bolus or push. 46670

(7) Aspirating any intravenous line to maintain patency; 46671

(8) Changing tubing on any line including, but not limited 46672
to, an arterial line or a central venous line, except that a 46673
licensed practical nurse authorized by the board to perform 46674
intravenous therapy may change tubing on an intravenous line that 46675
terminates in a peripheral vein; 46676

(9) Programming or setting any function of a patient 46677
controlled infusion pump. 46678

(E) Notwithstanding division (D) of this section, at the 46679
direction of a physician or a registered nurse, a licensed 46680
practical nurse authorized by the board to perform intravenous 46681
therapy may perform the following activities for the purpose of 46682
performing dialysis: 46683

(1) The routine administration and regulation of saline solution for the purpose of maintaining an established fluid plan; 46684
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(2) The administration of a heparin dose intravenously; 46686

(3) The administration of a heparin dose peripherally via a fistula needle; 46687
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(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. 46689
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(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. 46692
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(G) The board shall issue an intravenous therapy card to the licensed practical nurses authorized pursuant to division (A) of this section to perform intravenous therapy. A fee for issuing the card shall not be charged under section 4723.08 of the Revised Code if the licensed practical nurse receives the card by meeting the requirements of division (A)(1) of this section. The board shall maintain a registry of the names of licensed practical nurses ~~authorized pursuant to division (A) of this section to perform~~ who hold intravenous therapy cards. 46696
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Sec. 4723.271. The board of nursing shall provide a replacement copy of a nursing license, certificate of authority, ~~or~~ dialysis technician certificate, or community health worker certificate issued under this chapter upon request of the holder accompanied by proper identification as prescribed in rules adopted by the board and payment of the fee authorized under section 4723.08 of the Revised Code. 46705
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Upon request of the holder of a nursing license, certificate of authority, ~~or~~ dialysis technician certificate, or community 46712
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health worker certificate issued under this chapter and payment of 46714
the fee authorized under section 4723.08 of the Revised Code, the 46715
board shall verify to an agency of another jurisdiction or foreign 46716
country the fact that the person holds such nursing license, 46717
certificate of authority, ~~or~~ dialysis technician certificate, or 46718
community health worker certificate. 46719

Sec. 4723.34. (A) Reports to the board of nursing shall be 46720
made as follows: 46721

(1) Every employer of registered nurses, licensed practical 46722
nurses, or dialysis technicians shall report to the board of 46723
nursing the name of any current or former employee who holds a 46724
nursing license or dialysis technician certificate issued under 46725
this chapter who has engaged in conduct that would be grounds for 46726
disciplinary action by the board under section 4723.28 of the 46727
Revised Code. Every employer of certified community health workers 46728
shall report to the board the name of any current or former 46729
employee who holds a community health worker certificate issued 46730
under this chapter who has engaged in conduct that would be 46731
grounds for disciplinary action by the board under section 4723.86 46732
of the Revised Code. 46733

(2) Nursing associations shall report to the board the name 46734
of any registered nurse or licensed practical nurse and dialysis 46735
technician associations shall report to the board the name of any 46736
dialysis technician who has been investigated and found to 46737
constitute a danger to the public health, safety, and welfare 46738
because of conduct that would be grounds for disciplinary action 46739
by the board under section 4723.28 of the Revised Code, except 46740
that an association is not required to report the individual's 46741
name if the individual is maintaining satisfactory participation 46742
in a peer support program approved by the board under rules 46743
adopted under section 4723.07 of the Revised Code. Community 46744

health worker associations shall report to the board the name of 46745
any certified community health worker who has been investigated 46746
and found to constitute a danger to the public health, safety, and 46747
welfare because of conduct that would be grounds for disciplinary 46748
action by the board under section 4723.86 of the Revised Code, 46749
except that an association is not required to report the 46750
individual's name if the individual is maintaining satisfactory 46751
participation in a peer support program approved by the board 46752
under rules adopted under section 4723.07 of the Revised Code. 46753

(3) If the prosecutor in a case described in divisions (B)(3) 46754
to (5) of section 4723.28 of the Revised Code, or in a case where 46755
the trial court issued an order of dismissal upon technical or 46756
procedural grounds of a charge of a misdemeanor committed in the 46757
course of practice, a felony charge, or a charge of gross 46758
immorality or moral turpitude, knows or has reason to believe that 46759
the person charged is licensed under this chapter to practice 46760
nursing as a registered nurse or as a licensed practical nurse or 46761
holds a certificate issued under this chapter to practice as a 46762
dialysis technician, the prosecutor shall notify the board of 46763
nursing. With regard to certified community health workers, if the 46764
prosecutor in a case involving a charge of a misdemeanor committed 46765
in the course of employment, a felony charge, or a charge of gross 46766
immorality or moral turpitude, including a case dismissed on 46767
technical or procedural grounds, knows or has reason to believe 46768
that the person charged holds a community health worker 46769
certificate issued under this chapter, the prosecutor shall notify 46770
the board. 46771

Each notification required by this division shall be made on 46772
forms prescribed and provided by the board. The report shall 46773
include the name and address of the license or certificate holder, 46774
the charge, and the certified court documents recording the 46775
action. 46776

(B) If any person fails to provide a report required by this section, the board may seek an order from a court of competent jurisdiction compelling submission of the report.

Sec. 4723.35. (A) As used in this section, "chemical dependency" means either of the following:

(1) The chronic and habitual use of alcoholic beverages to the extent that the user no longer can control the use of alcohol or endangers the user's health, safety, or welfare or that of others;

(2) The use of a controlled substance as defined in section 3719.01 of the Revised Code, a harmful intoxicant as defined in section 2925.01 of the Revised Code, or a dangerous drug as defined in section 4729.01 of the Revised Code, to the extent that the user becomes physically or psychologically dependent on the substance, intoxicant, or drug or endangers the user's health, safety, or welfare or that of others.

(B) The board of nursing may abstain from taking disciplinary action under section 4723.28 or 4723.86 of the Revised Code against an individual with a chemical dependency if it finds that the individual can be treated effectively and there is no impairment of the individual's ability to practice according to acceptable and prevailing standards of safe care. The board shall establish a chemical dependency monitoring program to monitor the registered nurses, licensed practical nurses, ~~and~~ dialysis technicians, and certified community health workers against whom the board has abstained from taking action. The board shall develop the program, select the program's name, and designate a coordinator to administer the program.

(C) The board shall adopt rules in accordance with Chapter 119. of the Revised Code that establish the following:

(1) Eligibility requirements for admission to and continued participation in the monitoring program;	46807 46808
(2) Terms and conditions that must be met to participate in and successfully complete the program;	46809 46810
(3) Procedures for keeping confidential records regarding participants;	46811 46812
(4) Any other requirements or procedures necessary to establish and administer the program.	46813 46814
(D)(1) As a condition of being admitted to the monitoring program, an individual shall surrender to the program coordinator the license or certificate that the individual holds. While the surrender is in effect, the individual is prohibited from engaging in the practice of nursing or, engaging in the provision of dialysis care, <u>or engaging in the provision of services that were being provided as a certified community health worker.</u>	46815 46816 46817 46818 46819 46820 46821
If the program coordinator determines that a participant is capable of resuming practice according to acceptable and prevailing standards of safe care, the coordinator shall return the participant's license or certificate. If the participant violates the terms and conditions of resumed practice, the program coordinator shall require the participant to surrender the license or certificate as a condition of continued participation in the program. The coordinator may require the surrender only on the approval of the board's supervising member for disciplinary matters.	46822 46823 46824 46825 46826 46827 46828 46829 46830 46831
The surrender of a license or certificate on admission to the monitoring program or while participating in the program does not constitute an action by the board under section 4723.28 <u>or 4723.86</u> of the Revised Code. The participant may rescind the surrender at any time and the board may proceed by taking action under section 4723.28 <u>or 4723.86</u> of the Revised Code.	46832 46833 46834 46835 46836 46837

(2) If the program coordinator determines that a participant 46838
is significantly out of compliance with the terms and conditions 46839
for participation, the coordinator shall notify the board's 46840
supervising member for disciplinary matters and the supervising 46841
member shall temporarily suspend the participant's license or 46842
certificate. The program coordinator shall notify the participant 46843
of the suspension by certified mail sent to the participant's last 46844
known address and shall refer the matter to the board for formal 46845
action under section 4723.28 or 4723.86 of the Revised Code. 46846

(E) All of the following apply with respect to the receipt, 46847
release, and maintenance of records and information by the 46848
monitoring program: 46849

(1) The program coordinator shall maintain all records in the 46850
board's office for a period of five years. 46851

(2) When applying to participate in the monitoring program, 46852
the applicant shall sign a waiver permitting the program 46853
coordinator to receive and release information necessary for the 46854
coordinator to determine whether the individual is eligible for 46855
admission. After being admitted, the participant shall sign a 46856
waiver permitting the program coordinator to receive and release 46857
information necessary to determine whether the individual is 46858
eligible for continued participation in the program. Information 46859
that may be necessary for the program coordinator to determine 46860
eligibility for admission or continued participation in the 46861
monitoring program includes, but is not limited to, information 46862
provided to and by employers, probation officers, law enforcement 46863
agencies, peer assistance programs, health professionals, and 46864
treatment providers. No entity with knowledge that the information 46865
has been provided to the monitoring program shall divulge that 46866
knowledge to any other person. 46867

(3) Except as provided in division (E)(4) of this section, 46868

all records pertaining to an individual's application for or 46869
participation in the monitoring program, including medical 46870
records, treatment records, and mental health records, shall be 46871
confidential. The records are not public records for the purposes 46872
of section 149.43 of the Revised Code and are not subject to 46873
discovery by subpoena or admissible as evidence in any judicial 46874
proceeding. 46875

(4) The program coordinator may disclose information 46876
regarding a participant's progress in the program to any person or 46877
government entity that the participant authorizes in writing to be 46878
given the information. In disclosing information under this 46879
division, the coordinator shall not include any information that 46880
is protected under section 3793.13 of the Revised Code or any 46881
federal statute or regulation that provides for the 46882
confidentiality of medical, mental health, or substance abuse 46883
records. 46884

(F) In the absence of fraud or bad faith, the program 46885
coordinator, the board of nursing, and the board's employees and 46886
representatives are not liable for damages in any civil action as 46887
a result of disclosing information in accordance with division 46888
(E)(4) of this section. In the absence of fraud or bad faith, any 46889
person reporting to the program with regard to an individual's 46890
chemical dependence, or the progress or lack of progress of that 46891
individual with regard to treatment, is not liable for damages in 46892
any civil action as a result of the report. 46893

Sec. 4723.431. (A) Except as provided in division (C)(1) of 46894
this section, a clinical nurse specialist, certified 46895
nurse-midwife, or certified nurse practitioner may practice only 46896
in accordance with a standard care arrangement entered into with 46897
each physician or podiatrist with whom the nurse collaborates. A 46898
copy of the standard care arrangement shall be retained on file at 46899

each site where the nurse practices. Prior approval of the 46900
standard care arrangement by the board of nursing is not required, 46901
but the board may periodically review it for compliance with this 46902
section. 46903

A clinical nurse specialist, certified nurse-midwife, or 46904
certified nurse practitioner may enter into a standard care 46905
arrangement with one or more collaborating physicians or 46906
podiatrists. Each physician or podiatrist must be actively engaged 46907
in direct clinical practice in this state and practicing in a 46908
specialty that is the same as or similar to the nurse's nursing 46909
specialty. If a collaborating physician or podiatrist enters into 46910
standard care arrangements with more than three nurses who hold 46911
certificates to prescribe issued under section 4723.48 of the 46912
Revised Code, the physician or podiatrist shall not collaborate at 46913
the same time with more than three of the nurses in the 46914
prescribing component of their practices. 46915

(B) A standard care arrangement shall be in writing and, 46916
except as provided in division (C)(2) of this section, shall 46917
contain all of the following: 46918

(1) Criteria for referral of a patient by the clinical nurse 46919
specialist, certified nurse-midwife, or certified nurse 46920
practitioner to a collaborating physician or podiatrist; 46921

(2) A process for the clinical nurse specialist, certified 46922
nurse-midwife, or certified nurse practitioner to obtain a 46923
consultation with a collaborating physician or podiatrist; 46924

(3) A plan for coverage in instances of emergency or planned 46925
absences of either the clinical nurse specialist, certified 46926
nurse-midwife, or certified nurse practitioner or a collaborating 46927
physician or podiatrist that provides the means whereby a 46928
physician or podiatrist is available for emergency care; 46929

(4) The process for resolution of disagreements regarding 46930

matters of patient management between the clinical nurse 46931
specialist, certified nurse-midwife, or certified nurse 46932
practitioner and a collaborating physician or podiatrist; 46933

(5) A procedure for a regular review of the referrals by the 46934
clinical nurse specialist, certified nurse-midwife, or certified 46935
nurse practitioner to other health care professionals and the care 46936
outcomes for a random sample of all patients seen by the nurse; 46937

(6) If the clinical nurse specialist or certified nurse 46938
practitioner regularly provides services to infants, a policy for 46939
care of infants up to age one and recommendations for 46940
collaborating physician visits for children from birth to age 46941
three; 46942

(7) Any other criteria required by rule of the board adopted 46943
pursuant to section 4723.07 or 4723.50 of the Revised Code. 46944

(C) A standard care arrangement entered into pursuant to this 46945
section may permit a clinical nurse specialist, certified 46946
nurse-midwife, or certified nurse practitioner to supervise 46947
services provided by a home health agency as defined in section 46948
3701.881 of the Revised Code. 46949

(D)(1) A clinical nurse specialist who does not hold a 46950
certificate to prescribe and whose nursing specialty is mental 46951
health or psychiatric mental health, as determined by the board, 46952
is not required to enter into a standard care arrangement, but 46953
shall practice in collaboration with one or more physicians. 46954

(2) If a clinical nurse specialist practicing in either of 46955
the specialties specified in division (C)(1) of this section holds 46956
a certificate to prescribe, the nurse shall enter into a standard 46957
care arrangement with one or more physicians. The standard care 46958
arrangement must meet the requirements of division (B) of this 46959
section, but only to the extent necessary to address the 46960
prescribing component of the nurse's practice. 46961

~~(D)~~(E) Nothing in this section prohibits a hospital from hiring a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner as an employee and negotiating standard care arrangements on behalf of the employee as necessary to meet the requirements of this section. A standard care arrangement between the hospital's employee and the employee's collaborating physician is subject to approval by the medical staff and governing body of the hospital prior to implementation of the arrangement at the hospital.

Sec. 4723.63. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the board of nursing shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a nursing license ~~or~~, dialysis technician certificate, or community health worker certificate issued pursuant to this chapter.

Sec. 4723.81. The board of nursing shall develop and implement a program for the certification of community health workers. The board shall begin issuing community health worker certificates under section 4723.85 of the Revised Code not later than February 1, 2005.

The certification program shall reflect the board's recognition of individuals who, as community representatives, advocate for individuals and groups in the community by assisting them in accessing community health and supportive resources through the provision of such services as education, role modeling, outreach, home visits, and referrals, any of which may be targeted toward an individual, family, or entire community. The certification program also shall reflect the board's recognition of the individuals as members of the community with a unique

perspective of community needs that enables them to develop 46992
culturally appropriate solutions to problems and translate the 46993
solutions into practice. 46994

The certification program does not require an individual to 46995
obtain a community health worker certificate as a means of 46996
authorizing the individual to perform any of the activities that 46997
may be performed by an individual who holds a community health 46998
worker certificate. 46999

Sec. 4723.82. (A) An individual who holds a current, valid 47000
community health worker certificate issued by the board of nursing 47001
under section 4723.85 of the Revised Code may use the title 47002
"certified community health worker" or "community health worker." 47003
When providing services within the community, the certificate 47004
holder may represent to the public that the individual is 47005
providing the services under either title. 47006

(B)(1) Holding a community health worker certificate does not 47007
authorize an individual to administer medications or perform any 47008
other activity that requires judgment based on nursing knowledge 47009
or expertise. Any activities performed by a certified community 47010
health worker that are related to nursing care shall be performed 47011
only pursuant to the delegation of a registered nurse acting in 47012
accordance with the rules for delegation adopted under this 47013
chapter. Any other health-related activities performed by a 47014
certified community health worker shall be performed only under 47015
the supervision of a health professional acting within the scope 47016
of the professional's practice. 47017

Only a registered nurse may supervise a certified community 47018
health worker when performing delegated activities related to 47019
nursing care. The registered nurse supervising a certified 47020
community health worker shall provide the supervision in 47021
accordance with the rules for delegation adopted under this 47022

chapter and the rules for supervision of community health workers 47023
adopted under section 4723.88 of the Revised Code, including the 47024
rules limiting the number of certified community health workers 47025
who may be supervised at any one time. 47026

(2) A registered nurse who delegates activities to a 47027
certified community health worker or supervises a certified 47028
community health worker in the performance of delegated activities 47029
is not liable in damages to any person or government entity in a 47030
civil action for injury, death, or loss to person or property that 47031
allegedly arises from an action or omission of the certified 47032
community health worker in performing the activities, if the 47033
registered nurse delegates the activities or provides the 47034
supervision in accordance with this chapter and the rules adopted 47035
under this chapter. 47036

Sec. 4723.83. (A) An individual seeking a community health 47037
worker certificate shall submit an application to the board of 47038
nursing on forms the board shall prescribe and furnish. The 47039
applicant shall include all information the board requires to 47040
process the application. The application shall be accompanied by 47041
the fee established in rules adopted under section 4723.88 of the 47042
Revised Code. 47043

(B) An applicant for a community health worker certificate 47044
shall submit a request to the bureau of criminal identification 47045
and investigation for a criminal records check of the applicant. 47046
The request shall be on the form prescribed pursuant to division 47047
(C)(1) of section 109.572 of the Revised Code, accompanied by a 47048
standard impression sheet to obtain fingerprints prescribed 47049
pursuant to division (C)(2) of that section, and accompanied by 47050
the fee prescribed pursuant to division (C)(3) of that section. On 47051
receipt of the completed form, the completed impression sheet, and 47052
the fee, the bureau shall conduct a criminal records check of the 47053

applicant. On completion of the criminal records check, the bureau 47054
shall send the results of the check to the board. The applicant 47055
shall ask the superintendent of the bureau of criminal 47056
identification and investigation to request that the federal 47057
bureau of investigation provide the superintendent with any 47058
information it has with respect to the applicant. 47059

The results of any criminal records check conducted pursuant 47060
to a request made under this section, and any report containing 47061
those results, are not public records for purposes of section 47062
149.43 of the Revised Code and shall not be made available to any 47063
person or for any purpose other than the following: 47064

(1) The results may be made available to any person for use 47065
in determining whether the individual who is the subject of the 47066
check should be issued a community health worker certificate. 47067

(2) The results may be made available to the individual who 47068
is the subject of the check or that individual's representative. 47069

Sec. 4723.84. (A) To be eligible to receive a community 47070
health worker certificate, an applicant shall meet all of the 47071
following conditions: 47072

(1) Be eighteen years of age or older; 47073

(2) Possess a high school diploma or the equivalent of a high 47074
school diploma, as determined by the board; 47075

(3) Except as provided in division (B) of this section, 47076
successfully complete a community health worker training program 47077
approved by the board under section 4723.87 of the Revised Code; 47078

(4) Have results on the criminal records check requested 47079
under section 4723.83 of the Revised Code indicating that the 47080
individual has not been convicted of, has not pleaded guilty to, 47081
and has not had a judicial finding of guilt for violating section 47082
2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 47083

2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a 47084
substantially similar law of another state, the United States, or 47085
another country; 47086

(5) Meet all other requirements the board specifies in rules 47087
adopted under section 4723.88 of the Revised Code. 47088

(B) In lieu of meeting the condition of completing a 47089
community health worker training program, an applicant may be 47090
issued a community health worker certificate if the individual was 47091
employed in a capacity substantially the same as a community 47092
health worker before the board implemented the certification 47093
program. To be eligible under this division, an applicant must 47094
meet the requirements specified in rules adopted by the board 47095
under section 4723.88 of the Revised Code and provide 47096
documentation from the employer attesting to the employer's belief 47097
that the applicant is competent to perform activities as a 47098
certified community health worker. 47099

Sec. 4723.85. (A) The board of nursing shall review all 47100
applications received under section 4723.83 of the Revised Code. 47101
If an applicant meets the requirements of section 4723.84 of the 47102
Revised Code, the board shall issue a community health worker 47103
certificate to the applicant. 47104

(B) A community health worker certificate issued under this 47105
section expires biennially and may be renewed in accordance with 47106
the schedule and procedures established by the board in rules 47107
adopted under section 4723.88 of the Revised Code. To be eligible 47108
for renewal, an individual must complete the continuing education 47109
requirements established by the board in rules adopted under 47110
section 4723.88 of the Revised Code and meet all other 47111
requirements for renewal, as specified in the board's rules 47112
adopted under that section. If an applicant for renewal has 47113
successfully completed the continuing education requirements and 47114

meets all other requirements for renewal, the board shall issue a 47115
renewed community health worker certificate to the applicant. 47116

Sec. 4723.86. The board of nursing, by vote of a quorum, may 47117
deny, revoke, or suspend a community health worker certificate. 47118
The board may impose one or more of the sanctions against an 47119
applicant or certificate holder for any of the reasons it 47120
specifies in rules adopted under section 4723.88 of the Revised 47121
Code. All actions to impose a sanction shall be taken in 47122
accordance with Chapter 119. of the Revised Code. 47123

Sec. 4723.87. (A) A person or government entity seeking to 47124
operate a training program that prepares individuals to become 47125
certified community health workers shall submit an application to 47126
the board of nursing on forms the board shall prescribe and 47127
furnish. The applicant shall include all information the board 47128
requires to process the application. The application shall be 47129
accompanied by the fee established in rules adopted under section 47130
4723.87 of the Revised Code. 47131

The board shall review all applications received. If an 47132
applicant meets the standards for approval established in the 47133
board's rules adopted under section 4723.88 of the Revised Code, 47134
the board shall approve the program. 47135

(B) The board's approval of a training program expires 47136
biennially and may be renewed in accordance with the schedule and 47137
procedures established by the board in rules adopted under section 47138
4723.88 of the Revised Code. 47139

(C) If an approved community health worker training program 47140
ceases to meet the standards for approval, the board shall 47141
withdraw its approval of the program, refuse to renew its approval 47142
of the program, or place the program on provisional approval. In 47143
withdrawing or refusing to renew its approval, the board shall act 47144

in accordance with Chapter 119. of the Revised Code. In placing a 47145
program on provisional approval, the board shall specify the 47146
period of time during which the provisional approval is valid. At 47147
the end of the period, the board shall reconsider whether the 47148
program meets the standards for approval. If the program meets the 47149
standards for approval, the board shall reinstate its full 47150
approval of the program or renew its approval of the program. If 47151
the program does not meet the standards for approval, the board 47152
shall proceed by withdrawing or refusing to renew its approval of 47153
the program. 47154

Sec. 4723.88. The board of nursing, in accordance with 47155
Chapter 119. of the Revised Code, shall adopt rules to administer 47156
and enforce sections 4723.81 to 4723.87 of the Revised Code. The 47157
rules shall establish all of the following: 47158

(A) Standards and procedures for issuance of community health 47159
worker certificates; 47160

(B) Standards for evaluating the competency of an individual 47161
who applies to receive a certificate on the basis of having been 47162
employed in a capacity substantially the same as a community 47163
health worker before the board implemented the certification 47164
program; 47165

(C) Standards and procedures for renewal of community health 47166
worker certificates, including the continuing education 47167
requirements that must be met for renewal; 47168

(D) Standards governing the performance of activities related 47169
to nursing care that are delegated by a registered nurse to 47170
certified community health workers. In establishing the standards, 47171
the board shall specify limits on the number of certified 47172
community health workers a registered nurse may supervise at any 47173
one time. 47174

(E) Standards and procedures for assessing the quality of the services that are provided by certified community health workers; 47175
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(F) Standards and procedures for denying, suspending, and revoking a community health worker certificate, including reasons for imposing the sanctions that are substantially similar to the reasons that sanctions are imposed under section 4723.28 of the Revised Code; 47177
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(G) Standards and procedures for approving and renewing the board's approval of training programs that prepare individuals to become certified community health workers. In establishing the standards, the board shall specify the minimum components that must be included in a training program, shall require that all approved training programs offer the standardized curriculum, and shall ensure that the curriculum enables individuals to use the training as a basis for entering programs leading to other careers, including nursing education programs. 47182
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(H) Standards and procedures for withdrawing the board's approval of a training program, refusing to renew the approval of a training program, and placing a training program on provisional approval; 47191
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(I) Amounts for each fee that may be imposed under division (A)(25) of section 4723.08 of the Revised Code; 47195
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(J) Any other standards or procedures the board considers necessary and appropriate for the administration and enforcement of sections 4723.81 to 4723.87 of the Revised Code. 47197
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Sec. 4729.01. As used in this chapter: 47200

(A) "Pharmacy," except when used in a context that refers to the practice of pharmacy, means any area, room, rooms, place of business, department, or portion of any of the foregoing where the practice of pharmacy is conducted. 47201
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(B) "Practice of pharmacy" means providing pharmacist care	47205
requiring specialized knowledge, judgment, and skill derived from	47206
the principles of biological, chemical, behavioral, social,	47207
pharmaceutical, and clinical sciences. As used in this division,	47208
"pharmacist care" includes the following:	47209
(1) Interpreting prescriptions;	47210
(2) Compounding or dispensing drugs and dispensing drug	47211
therapy related devices;	47212
(3) Counseling individuals with regard to their drug therapy,	47213
recommending drug therapy related devices, and assisting in the	47214
selection of drugs and appliances for treatment of common diseases	47215
and injuries and providing instruction in the proper use of the	47216
drugs and appliances;	47217
(4) Performing drug regimen reviews with individuals by	47218
discussing all of the drugs that the individual is taking and	47219
explaining the interactions of the drugs;	47220
(5) Performing drug utilization reviews with licensed health	47221
professionals authorized to prescribe drugs when the pharmacist	47222
determines that an individual with a prescription has a drug	47223
regimen that warrants additional discussion with the prescriber;	47224
(6) Advising an individual and the health care professionals	47225
treating an individual with regard to the individual's drug	47226
therapy;	47227
(7) Acting pursuant to a consult agreement with a physician	47228
authorized under Chapter 4731. of the Revised Code to practice	47229
medicine and surgery or osteopathic medicine and surgery, if an	47230
agreement has been established with the physician;	47231
(8) Administering by injection the adult immunizations	47232
specified in section 4729.41 of the Revised Code, if the	47233
pharmacist has met the requirements of that section.	47234

(C) "Compounding" means the preparation, mixing, assembling, 47235
packaging, and labeling of one or more drugs in any of the 47236
following circumstances: 47237

(1) Pursuant to a prescription issued by a licensed health 47238
professional authorized to prescribe drugs; 47239

(2) Pursuant to the modification of a prescription made in 47240
accordance with a consult agreement; 47241

(3) As an incident to research, teaching activities, or 47242
chemical analysis; 47243

(4) In anticipation of prescription drug orders based on 47244
routine, regularly observed dispensing patterns. 47245

(D) "Consult agreement" means an agreement to manage an 47246
individual's drug therapy that has been entered into by a 47247
pharmacist and a physician authorized under Chapter 4731. of the 47248
Revised Code to practice medicine and surgery or osteopathic 47249
medicine and surgery. 47250

(E) "Drug" means: 47251

(1) Any article recognized in the United States pharmacopoeia 47252
and national formulary, or any supplement to them, intended for 47253
use in the diagnosis, cure, mitigation, treatment, or prevention 47254
of disease in humans or animals; 47255

(2) Any other article intended for use in the diagnosis, 47256
cure, mitigation, treatment, or prevention of disease in humans or 47257
animals; 47258

(3) Any article, other than food, intended to affect the 47259
structure or any function of the body of humans or animals; 47260

(4) Any article intended for use as a component of any 47261
article specified in division (C)(1), (2), or (3) of this section; 47262
but does not include devices or their components, parts, or 47263
accessories. 47264

(F) "Dangerous drug" means any of the following:	47265
(1) Any drug to which either of the following applies:	47266
(a) Under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;	47267 47268 47269 47270 47271 47272 47273
(b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription.	47274 47275
(2) Any drug that contains a schedule V controlled substance and that is exempt from Chapter 3719. of the Revised Code or to which that chapter does not apply;	47276 47277 47278
(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body.	47279 47280 47281
(G) "Federal drug abuse control laws" has the same meaning as in section 3719.01 of the Revised Code.	47282 47283
(H) "Prescription" means a written, electronic, or oral order for drugs or combinations or mixtures of drugs to be used by a particular individual or for treating a particular animal, issued by a licensed health professional authorized to prescribe drugs.	47284 47285 47286 47287
(I) "Licensed health professional authorized to prescribe drugs" or "prescriber" means an individual who is authorized by law to prescribe drugs or dangerous drugs or drug therapy related devices in the course of the individual's professional practice, including only the following:	47288 47289 47290 47291 47292
(1) A dentist licensed under Chapter 4715. of the Revised Code;	47293 47294

(2) Until January 17, 2000, an advanced practice nurse approved under section 4723.56 of the Revised Code to prescribe drugs and therapeutic devices;	47295 47296 47297
(3) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under section 4723.48 of the Revised Code;	47298 47299 47300
(4) An optometrist licensed under Chapter 4725. of the Revised Code to practice optometry under a therapeutic pharmaceutical agents certificate;	47301 47302 47303
(5) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry;	47304 47305 47306
(6) A veterinarian licensed under Chapter 4741. of the Revised Code.	47307 47308
(J) "Sale" and "sell" include delivery, transfer, barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal proprietor, agent, or employee.	47309 47310 47311 47312
(K) "Wholesale sale" and "sale at wholesale" mean any sale in which the purpose of the purchaser is to resell the article purchased or received by the purchaser.	47313 47314 47315
(L) "Retail sale" and "sale at retail" mean any sale other than a wholesale sale or sale at wholesale.	47316 47317
(M) "Retail seller" means any person that sells any dangerous drug to consumers without assuming control over and responsibility for its administration. Mere advice or instructions regarding administration do not constitute control or establish responsibility.	47318 47319 47320 47321 47322
(N) "Price information" means the price charged for a prescription for a particular drug product and, in an easily	47323 47324

understandable manner, all of the following:	47325
(1) The proprietary name of the drug product;	47326
(2) The established (generic) name of the drug product;	47327
(3) The strength of the drug product if the product contains a single active ingredient or if the drug product contains more than one active ingredient and a relevant strength can be associated with the product without indicating each active ingredient. The established name and quantity of each active ingredient are required if such a relevant strength cannot be so associated with a drug product containing more than one ingredient.	47328 47329 47330 47331 47332 47333 47334 47335
(4) The dosage form;	47336
(5) The price charged for a specific quantity of the drug product. The stated price shall include all charges to the consumer, including, but not limited to, the cost of the drug product, professional fees, handling fees, if any, and a statement identifying professional services routinely furnished by the pharmacy. Any mailing fees and delivery fees may be stated separately without repetition. The information shall not be false or misleading.	47337 47338 47339 47340 47341 47342 47343 47344
(O) "Wholesale distributor of dangerous drugs" means a person engaged in the sale of dangerous drugs at wholesale and includes any agent or employee of such a person authorized by the person to engage in the sale of dangerous drugs at wholesale.	47345 47346 47347 47348
(P) "Manufacturer of dangerous drugs" means a person, other than a pharmacist, who manufactures dangerous drugs and who is engaged in the sale of those dangerous drugs within this state.	47349 47350 47351
(Q) "Terminal distributor of dangerous drugs" means a person who is engaged in the sale of dangerous drugs at retail, or any person, other than a wholesale distributor or a pharmacist, who	47352 47353 47354

has possession, custody, or control of dangerous drugs for any 47355
purpose other than for that person's own use and consumption, and 47356
includes pharmacies, hospitals, nursing homes, and laboratories 47357
and all other persons who procure dangerous drugs for sale or 47358
other distribution by or under the supervision of a pharmacist or 47359
licensed health professional authorized to prescribe drugs. 47360

(R) "Promote to the public" means disseminating a 47361
representation to the public in any manner or by any means, other 47362
than by labeling, for the purpose of inducing, or that is likely 47363
to induce, directly or indirectly, the purchase of a dangerous 47364
drug at retail. 47365

(S) "Person" includes any individual, partnership, 47366
association, limited liability company, or corporation, the state, 47367
any political subdivision of the state, and any district, 47368
department, or agency of the state or its political subdivisions. 47369

(T) "Finished dosage form" has the same meaning as in section 47370
3715.01 of the Revised Code. 47371

(U) "Generically equivalent drug" has the same meaning as in 47372
section 3715.01 of the Revised Code. 47373

(V) "Animal shelter" means a facility operated by a humane 47374
society or any society organized under Chapter 1717. of the 47375
Revised Code or a dog pound operated pursuant to Chapter 955. of 47376
the Revised Code. 47377

(W) "Food" has the same meaning as in section 3715.01 of the 47378
Revised Code. 47379

Sec. 4729.41. (A) A pharmacist licensed under this chapter 47380
who meets the requirements of division (B) of this section may 47381
administer, ~~by injection,~~ adult immunizations for any of the 47382
following: 47383

(1) Influenza; 47384

(2) Pneumonia;	47385
(3) Tetanus;	47386
(4) Hepatitis A;	47387
(5) Hepatitis B.	47388
(B) To be authorized to administer the adult immunizations specified in division (A) of this section, a pharmacist shall do all of the following:	47389 47390 47391
(1) Successfully complete a course in the administration of adult immunizations that has been approved by the state board of pharmacy as meeting the standards established for such courses by the centers for disease control and prevention in the public health service of the United States department of health and human services;	47392 47393 47394 47395 47396 47397
(2) Receive and maintain certification to perform basic life-support procedures by successfully completing a basic life-support training course certified by the American red cross or American heart association;	47398 47399 47400 47401
(3) Practice in accordance with a definitive set of treatment guidelines specified in a protocol established by a physician and approved by the state board of pharmacy. The protocol shall include provisions requiring that the pharmacist do both of the following:	47402 47403 47404 47405 47406
(a) Observe an individual who has been immunized by the pharmacist to determine whether the individual has an adverse reaction to the immunization. The length of time and location of the observation shall be specified in rules adopted by the state board of pharmacy under division (D) of this section.	47407 47408 47409 47410 47411
(b) Not later than thirty days after administering an adult immunization to an individual, notify the individual's family physician or, if the individual has no family physician, the board	47412 47413 47414

of health of the health district in which the individual resides. 47415

(C) No pharmacist shall do either of the following: 47416

(1) Engage in the administration of adult immunizations by 47417
injection unless the requirements of division (B) of this section 47418
have been met; 47419

(2) Delegate to any person the pharmacist's authority to 47420
administer adult immunizations. 47421

(D) The state board of pharmacy shall adopt rules to 47422
implement this section, including rules for approval of courses in 47423
administration of adult immunizations and approval of protocols to 47424
be followed by pharmacists in administering adult immunizations. 47425
Prior to adopting the rules regarding approval of protocols, the 47426
state board of pharmacy shall consult with the state medical board 47427
and the board of nursing. The rules shall be adopted in accordance 47428
with Chapter 119. of the Revised Code. 47429

Sec. 4731.27. (A) As used in this section, "collaboration," 47430
"physician," "standard care arrangement," and "supervision" have 47431
the same meanings as in section 4723.01 of the Revised Code. 47432

(B) Except as provided in division ~~(C)~~(D)(1) of section 47433
4723.431 of the Revised Code, a physician or podiatrist shall 47434
enter into a standard care arrangement with each clinical nurse 47435
specialist, certified nurse-midwife, or certified nurse 47436
practitioner with whom the physician or podiatrist is in 47437
collaboration. The collaborating physician or podiatrist shall 47438
fulfill the responsibilities of collaboration, as specified in the 47439
arrangement and in accordance with division (A) of section 47440
4723.431 of the Revised Code. A copy of the standard care 47441
arrangement shall be retained on file at each site where the nurse 47442
practices. Prior approval of the standard care arrangement by the 47443
state medical board is not required, but the board may 47444

periodically review it. 47445

Nothing in this division prohibits a hospital from hiring a 47446
clinical nurse specialist, certified nurse-midwife, or certified 47447
nurse practitioner as an employee and negotiating standard care 47448
arrangements on behalf of the employee as necessary to meet the 47449
requirements of this section. A standard care arrangement between 47450
the hospital's employee and the employee's collaborating physician 47451
is subject to approval by the medical staff and governing body of 47452
the hospital prior to implementation of the arrangement at the 47453
hospital. 47454

(C) With respect to a clinical nurse specialist, certified 47455
nurse-midwife, or certified nurse practitioner participating in an 47456
externship pursuant to an initial certificate to prescribe issued 47457
under section 4723.48 of the Revised Code, the physician 47458
responsible for evaluating the externship shall provide the state 47459
medical board with the name of the nurse. If the externship is 47460
terminated for any reason, the physician shall notify the board. 47461

(D) A physician or podiatrist shall cooperate with the board 47462
of nursing in any investigation the board conducts with respect to 47463
a clinical nurse specialist, certified nurse-midwife, or certified 47464
nurse practitioner who collaborates with the physician or 47465
podiatrist or with respect to a certified registered nurse 47466
anesthetist who practices with the supervision of the physician or 47467
podiatrist. 47468

Sec. 4731.65. As used in sections 4731.65 to 4731.71 of the 47469
Revised Code: 47470

(A)(1) "Clinical laboratory services" means either of the 47471
following: 47472

(a) Any examination of materials derived from the human body 47473
for the purpose of providing information for the diagnosis, 47474

prevention, or treatment of any disease or impairment or for the 47475
assessment of health; 47476

(b) Procedures to determine, measure, or otherwise describe 47477
the presence or absence of various substances or organisms in the 47478
body. 47479

(2) "Clinical laboratory services" does not include the mere 47480
collection or preparation of specimens. 47481

(B) "Designated health services" means any of the following: 47482

(1) Clinical laboratory services; 47483

(2) Home health care services; 47484

(3) Outpatient prescription drugs. 47485

(C) "Fair market value" means the value in arms-length 47486
transactions, consistent with general market value and: 47487

(1) With respect to rentals or leases, the value of rental 47488
property for general commercial purposes, not taking into account 47489
its intended use; 47490

(2) With respect to a lease of space, not adjusted to reflect 47491
the additional value the prospective lessee or lessor would 47492
attribute to the proximity or convenience to the lessor if the 47493
lessor is a potential source of referrals to the lessee. 47494

(D) "Governmental health care program" means any program 47495
providing health care benefits that is administered by the federal 47496
government, this state, or a political subdivision of this state, 47497
including the medicare program established under Title XVIII of 47498
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 47499
as amended, health care coverage for public employees, health care 47500
benefits administered by the bureau of workers' compensation, the 47501
medical assistance program established under Chapter 5111. of the 47502
Revised Code, and the disability ~~assistance~~ medical assistance 47503
program established under Chapter 5115. of the Revised Code. 47504

(E)(1) "Group practice" means a group of two or more holders of certificates under this chapter legally organized as a partnership, professional corporation or association, limited liability company, foundation, nonprofit corporation, faculty practice plan, or similar group practice entity, including an organization comprised of a nonprofit medical clinic that contracts with a professional corporation or association of physicians to provide medical services exclusively to patients of the clinic in order to comply with section 1701.03 of the Revised Code and including a corporation, limited liability company, partnership, or professional association described in division (B) of section 4731.226 of the Revised Code formed for the purpose of providing a combination of the professional services of optometrists who are licensed, certificated, or otherwise legally authorized to practice optometry under Chapter 4725. of the Revised Code, chiropractors who are licensed, certificated, or otherwise legally authorized to practice chiropractic under Chapter 4734. of the Revised Code, psychologists who are licensed, certificated, or otherwise legally authorized to practice psychology under Chapter 4732. of the Revised Code, registered or licensed practical nurses who are licensed, certificated, or otherwise legally authorized to practice nursing under Chapter 4723. of the Revised Code, pharmacists who are licensed, certificated, or otherwise legally authorized to practice pharmacy under Chapter 4729. of the Revised Code, physical therapists who are licensed, certificated, or otherwise legally authorized to practice physical therapy under sections 4755.40 to 4755.53 of the Revised Code, mechanotherapists who are licensed, certificated, or otherwise legally authorized to practice mechanotherapy under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are licensed, certificated, or otherwise legally authorized for their respective practices under this chapter, to

which all of the following apply: 47538

(a) Each physician who is a member of the group practice 47539
provides substantially the full range of services that the 47540
physician routinely provides, including medical care, 47541
consultation, diagnosis, or treatment, through the joint use of 47542
shared office space, facilities, equipment, and personnel. 47543

(b) Substantially all of the services of the members of the 47544
group are provided through the group and are billed in the name of 47545
the group and amounts so received are treated as receipts of the 47546
group. 47547

(c) The overhead expenses of and the income from the practice 47548
are distributed in accordance with methods previously determined 47549
by members of the group. 47550

(d) The group practice meets any other requirements that the 47551
state medical board applies in rules adopted under section 4731.70 47552
of the Revised Code. 47553

(2) In the case of a faculty practice plan associated with a 47554
hospital with a medical residency training program in which 47555
physician members may provide a variety of specialty services and 47556
provide professional services both within and outside the group, 47557
as well as perform other tasks such as research, the criteria in 47558
division (E)(1) of this section apply only with respect to 47559
services rendered within the faculty practice plan. 47560

(F) "Home health care services" and "immediate family" have 47561
the same meanings as in the rules adopted under section 4731.70 of 47562
the Revised Code. 47563

(G) "Hospital" has the same meaning as in section 3727.01 of 47564
the Revised Code. 47565

(H) A "referral" includes both of the following: 47566

(1) A request by a holder of a certificate under this chapter 47567

for an item or service, including a request for a consultation 47568
with another physician and any test or procedure ordered by or to 47569
be performed by or under the supervision of the other physician; 47570

(2) A request for or establishment of a plan of care by a 47571
certificate holder that includes the provision of designated 47572
health services. 47573

(I) "Third-party payer" has the same meaning as in section 47574
3901.38 of the Revised Code. 47575

Sec. 4731.71. The auditor of state may implement procedures 47576
to detect violations of section 4731.66 or 4731.69 of the Revised 47577
Code within governmental health care programs administered by the 47578
state. The auditor of state shall report any violation of either 47579
section to the state medical board and shall certify to the 47580
attorney general in accordance with section 131.02 of the Revised 47581
Code the amount of any refund owed to a state-administered 47582
governmental health care program under section 4731.69 of the 47583
Revised Code as a result of a violation. If a refund is owed to 47584
the medical assistance program established under Chapter 5111. of 47585
the Revised Code or the disability ~~assistance~~ medical assistance 47586
program established under Chapter 5115. of the Revised Code, the 47587
auditor of state also shall report the amount to the department of 47588
commerce. 47589

The state medical board also may implement procedures to 47590
detect violations of section 4731.66 or 4731.69 of the Revised 47591
Code. 47592

Sec. 4734.15. (A) The license provided for in this chapter 47593
shall entitle the holder thereof to practice chiropractic in this 47594
state. All of the following apply to the practice of chiropractic 47595
in this state: 47596

(1) A chiropractor is authorized to examine, diagnose, and 47597

assume responsibility for the care of patients, any or all of 47598
which is included in the practice of chiropractic. 47599

(2) The practice of chiropractic does not permit the 47600
chiropractor to treat infectious, contagious, or venereal disease, 47601
to perform surgery or acupuncture, or to prescribe or administer 47602
drugs for treatment. 47603

(3) A chiropractor may use roentgen rays only for diagnostic 47604
purposes. 47605

(4) The practice of chiropractic does not include the 47606
performance of abortions. 47607

(B) An individual holding a valid, current license to 47608
practice chiropractic is entitled to use the title "doctor," 47609
"doctor of chiropractic," "chiropractic physician," or 47610
"chiropractic" and is a "physician" for the purposes of Chapter 47611
4123. of the Revised Code ~~and the medicaid program operated~~ 47612
~~pursuant to Chapter 5111. of the Revised Code.~~ 47613

Sec. 4736.12. (A) The state board of sanitarian registration 47614
shall charge the following fees: 47615

(1) To apply as a sanitarian-in-training, ~~fifty-seven~~ 47616
seventy-five dollars; 47617

(2) For sanitarians-in-training to apply for registration as 47618
sanitarians, ~~fifty-seven~~ seventy-five dollars. The applicant shall 47619
pay this fee only once regardless of the number of times the 47620
applicant takes an examination required under section 4736.08 of 47621
the Revised Code. 47622

(3) For persons other than sanitarians-in-training to apply 47623
for registration as sanitarians, including persons meeting the 47624
requirements of section 4736.16 of the Revised Code, one hundred 47625
~~fourteen~~ fifty dollars. The applicant shall pay this fee only once 47626
regardless of the number of times the applicant takes an 47627

examination required under section 4736.08 of the Revised Code. 47628

(4) The renewal fee for registered sanitarians shall be ~~fixed~~ 47629
~~by the board and shall not exceed sixty one~~ sixty-nine dollars. 47630

(5) The renewal fee for sanitarians-in-training shall be 47631
~~fixed by the board and shall not exceed sixty one~~ sixty-nine 47632
dollars. 47633

(6) For late application for renewal, twenty-five dollars. 47634

The board of sanitarian registration, with the approval of 47635
the controlling board, may establish fees in excess of the amounts 47636
provided in this section, provided that such fees do not exceed 47637
the amounts permitted by this section by more than fifty per cent. 47638

(B) The board of sanitarian registration shall charge 47639
separate fees for examinations as required by section 4736.08 of 47640
the Revised Code, provided that the fees are not in excess of the 47641
actual cost to the board of conducting the examinations. 47642

(C) The board of sanitarian registration may adopt rules 47643
establishing fees for all of the following: 47644

(1) Application for the registration of a training agency 47645
approved under rules adopted by the board pursuant to section 47646
4736.11 of the Revised Code and for the annual registration 47647
renewal of an approved training agency. 47648

(2) Application for the review of continuing education hours 47649
submitted for the board's approval by approved training agencies 47650
or by registered sanitarians or sanitarians-in-training. 47651

Sec. 4743.05. Except as otherwise provided in sections 47652
4701.20, 4723.062, 4723.082, and 4729.65 of the Revised Code, all 47653
money collected under Chapters 3773., 4701., 4703., 4709., 4713., 47654
4715., 4717., 4723., 4725., 4729., 4732., 4733., 4734., 4736., 47655
4741., 4753., 4755., 4757., 4758., 4759., ~~and~~ 4761., 4771., and 47656
4779. of the Revised Code, ~~and until December 31, 2004,~~ money 47657

~~collected under Chapter 4779. of the Revised Code,~~ shall be paid 47658
into the state treasury to the credit of the occupational 47659
licensing and regulatory fund, which is hereby created for use in 47660
administering such chapters. 47661

At the end of each quarter, the director of budget and 47662
management shall transfer from the occupational licensing and 47663
regulatory fund to the nurse education assistance fund created in 47664
section 3333.28 of the Revised Code the amount certified to the 47665
director under division (B) of section 4723.08 of the Revised 47666
Code. 47667

At the end of each quarter, the director shall transfer from 47668
the occupational licensing and regulatory fund to the certified 47669
public accountant education assistance fund created in section 47670
4701.26 of the Revised Code the amount certified to the director 47671
under division (H)(2) of section 4701.10 of the Revised Code. 47672

Sec. 4747.05. (A) The hearing aid dealers and fitters 47673
licensing board shall issue to each applicant, within sixty days 47674
of receipt of a properly completed application and payment of two 47675
hundred ~~fifty~~ sixty-two dollars, a hearing aid dealer's or 47676
fitter's license if the applicant, if an individual: 47677

(1) Is at least eighteen years of age; 47678

(2) Is a person of good moral character; 47679

(3) Is free of contagious or infectious disease; 47680

(4) Has successfully passed a qualifying examination 47681
specified and administered by the board. 47682

(B) If the applicant is a firm, partnership, association, or 47683
corporation, the application, in addition to such information as 47684
the board requires, shall be accompanied by an application for a 47685
license for each person, whether owner or employee, of the firm, 47686
partnership, association, or corporation, who engages in dealing 47687

in or fitting of hearing aids, or shall contain a statement that 47688
such applications are submitted separately. No firm, partnership, 47689
association, or corporation licensed pursuant to this chapter 47690
shall permit any unlicensed person to sell or fit hearing aids. 47691

(C) Each license issued expires on the thirtieth day of 47692
January of the year following that in which it was issued. 47693

Sec. 4747.06. (A) Each person engaged in the practice of 47694
dealing in or fitting of hearing aids who holds a valid hearing 47695
aid dealer's or fitter's license shall apply annually to the 47696
hearing aid dealers and fitters licensing board for renewal of 47697
such license under the standard renewal procedure specified in 47698
Chapter 4745. of the Revised Code. The board shall issue to each 47699
applicant, on proof of completion of the continuing education 47700
required by division (B) of this section and payment of one 47701
hundred ~~fifty~~ fifty-seven dollars on or before the first day of 47702
February, one hundred ~~seventy-five~~ eighty-three dollars on or 47703
before the first day of March, or two hundred ten dollars 47704
thereafter, a renewed hearing aid dealer's or fitter's license. No 47705
person who applies for renewal of a hearing aid dealer's or 47706
fitter's license that has expired shall be required to take any 47707
examination as a condition of renewal provided application for 47708
renewal is made within two years of the date such license expired. 47709

(B) Each person engaged in the practice of dealing in or 47710
fitting of hearing aids who holds a valid hearing aid dealer's or 47711
fitter's license shall complete each year not less than ten hours 47712
of continuing professional education approved by the board. On a 47713
form provided by the board, the person shall certify to the board, 47714
at the time of license renewal pursuant to division (A) of this 47715
section, that in the preceding year the person has completed 47716
continuing education in compliance with this division and shall 47717
submit any additional information required by rule of the board 47718

regarding the continuing education. The board shall adopt rules in 47719
accordance with Chapter 119. of the Revised Code establishing the 47720
standards continuing education programs must meet to obtain board 47721
approval and continuing education reporting requirements. 47722

Continuing education may be applied to meet the requirement 47723
of this division if it is provided or certified by any of the 47724
following: 47725

(1) The national institute of hearing instruments studies 47726
committee of the international hearing society; 47727

(2) The American speech-language hearing association; 47728

(3) The American academy of audiology. 47729

The board may excuse persons licensed under this chapter, as 47730
a group or as individuals, from all or any part of the 47731
requirements of this division because of an unusual circumstance, 47732
emergency, or special hardship. 47733

Sec. 4747.07. Each person who holds a hearing aid dealer's or 47734
fitter's license and engages in the practice of dealing in and 47735
fitting of hearing aids shall display such license in a 47736
conspicuous place in the person's office or place of business at 47737
all times. Each person who maintains more than one office or place 47738
of business shall post a duplicate copy of the license at each 47739
location. The hearing aid dealers and fitters licensing board 47740
shall issue duplicate copies of a license upon receipt of a 47741
properly completed application and payment of ~~fifteen~~ sixteen 47742
dollars for each copy requested. 47743

Sec. 4747.10. Each person currently engaged in training to 47744
become a licensed hearing aid dealer or fitter shall apply to the 47745
hearing aid dealers and fitters licensing board for a hearing aid 47746
dealer's and fitter's trainee permit. The board shall issue to 47747
each applicant within thirty days of receipt of a properly 47748

completed application and payment of one hundred fifty dollars, a 47749
trainee permit if such applicant is: 47750

(A) At least eighteen years of age; 47751

(B) The holder of a diploma from an accredited high school, 47752
or possesses an equivalent education; 47753

(C) A person of good moral character; 47754

(D) Free of contagious or infectious disease. 47755

Each trainee permit issued by the board expires one year from 47756
the date it was first issued, and may be renewed once if the 47757
trainee has not successfully completed the qualifying requirements 47758
for licensing as a hearing aid dealer or fitter before the 47759
expiration date of such permit. The board shall issue a renewed 47760
permit to each applicant upon receipt of a properly completed 47761
application and payment of one hundred five dollars. No person 47762
holding a trainee permit shall engage in the practice of dealing 47763
in or fitting of hearing aids except while under supervision by a 47764
licensed hearing aid dealer or fitter. 47765

Sec. 4749.01. As used in this chapter: 47766

(A) "Private investigator" means any person who engages in 47767
the business of private investigation. 47768

(B) "Business of private investigation" means, except when 47769
performed by one excluded under division (H) of this section, the 47770
conducting, for hire, in person or through a partner or employees, 47771
of any investigation relevant to any crime or wrong done or 47772
threatened, or to obtain information on the identity, habits, 47773
conduct, movements, whereabouts, affiliations, transactions, 47774
reputation, credibility, or character of any person, or to locate 47775
and recover lost or stolen property, or to determine the cause of 47776
or responsibility for any libel or slander, or any fire, accident, 47777
or damage to property, or to secure evidence for use in any 47778

legislative, administrative, or judicial investigation or 47779
proceeding. 47780

(C) "Security guard provider" means any person who engages in 47781
the business of security services. 47782

(D) "Business of security services" means either of the 47783
following: 47784

(1) Furnishing, for hire, watchpersons, guards, private 47785
patrol officers, or other persons whose primary duties are to 47786
protect persons or property; 47787

(2) Furnishing, for hire, guard dogs, or armored motor 47788
vehicle security services, in connection with the protection of 47789
persons or property. 47790

(E) "Class A license" means a license issued under section 47791
4749.03 of the Revised Code that qualifies the person issued the 47792
license to engage in the business of private investigation and the 47793
business of security services. 47794

(F) "Class B license" means a license issued under section 47795
4749.03 of the Revised Code that qualifies the person issued the 47796
license to engage only in the business of private investigation. 47797

(G) "Class C license" means a license issued under section 47798
4749.03 of the Revised Code that qualifies the person issued the 47799
license to engage only in the business of security services. 47800

(H) "Private investigator," "business of private 47801
investigation," "security guard provider," and "business of 47802
security services" do not include: 47803

(1) Public officers and employees whose official duties 47804
require them to engage in investigatory activities; 47805

(2) Attorneys at law or any expert hired by an attorney at 47806
law for consultation or litigation purposes; 47807

(3) A consumer reporting agency, as defined in the "Fair 47808

Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, as 47809
amended, provided that the consumer reporting agency is in 47810
compliance with the requirements of that act and that the agency's 47811
activities are confined to any of the following: 47812

(a) The issuance of consumer credit reports; 47813

(b) The conducting of limited background investigations that 47814
pertain only to a client's prospective tenant and that are engaged 47815
in with the prior written consent of the prospective tenant; 47816

(c) The business of pre-employment background investigation. 47817
As used in division (H)(3)(c) of this section, "business of 47818
pre-employment background investigation" means, and is limited to, 47819
furnishing for hire, in person or through a partner or employees, 47820
the conducting of limited background investigations, in-person 47821
interviews, telephone interviews, or written inquiries that 47822
pertain only to a client's prospective employee and the employee's 47823
employment and that are engaged in with the prior written consent 47824
of the prospective employee. 47825

(4) Certified public insurance adjusters that hold a 47826
certificate of authority issued pursuant to sections 3951.01 to 47827
3951.09 of the Revised Code, while the adjuster is investigating 47828
the cause of or responsibility for a fire, accident, or other 47829
damage to property with respect to a claim or claims for loss or 47830
damage under a policy of insurance covering real or personal 47831
property; 47832

~~(5) Personnel placement services and persons who act as 47833
employees of such entities engaged in investigating matters 47834
related to personnel placement activities; 47835~~

~~(6) An employee in the regular course of the employee's 47836
employment, engaged in investigating matters pertinent to the 47837
business of the employee's employer or protecting property in the 47838
possession of the employee's employer, provided the employer is 47839~~

deducting all applicable state and federal employment taxes on 47840
behalf of the employee and neither the employer nor the employee 47841
is employed by, associated with, or acting for or on behalf of any 47842
private investigator or security guard provider; 47843

~~(7)~~(6) Any better business bureau or similar organization or 47844
any of its employees while engaged in the maintenance of the 47845
quality of business activities relating to consumer sales and 47846
services; 47847

~~(8)~~(7) An accountant who is registered or certified under 47848
Chapter 4701. of the Revised Code or any of the accountant's 47849
employees while engaged in activities for which the accountant is 47850
certified or registered; 47851

~~(9)~~(8) Any person who, for hire or otherwise, conducts 47852
genealogical research in this state. 47853

As used in division (H)~~(9)~~(8) of this section, "genealogical 47854
research" means the determination of the origins and descent of 47855
families, including the identification of individuals, their 47856
family relationships, and the biographical details of their lives. 47857
"Genealogical research" does not include furnishing for hire 47858
services for locating missing persons or natural or birth parents 47859
or children. 47860

~~(10)~~(9) Any person residing in this state who conducts 47861
research for the purpose of locating the last known owner of 47862
unclaimed funds, provided that the person is in compliance with 47863
Chapter 169. of the Revised Code and rules adopted thereunder. The 47864
exemption set forth in division (H)~~(10)~~(9) of this section applies 47865
only to the extent that the person is conducting research for the 47866
purpose of locating the last known owner of unclaimed funds. 47867

As used in division (H)~~(10)~~(9) of this section, "owner" and 47868
"unclaimed funds" have the same meanings as in section 169.01 of 47869
the Revised Code. 47870

~~(11)~~(10) A professional engineer who is registered under Chapter 4733. of the Revised Code or any of his employees. 47871
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As used in division (H)~~(11)~~(10) of this section and notwithstanding division (I) of this section, "employee" has the same meaning as in section 4101.01 of the Revised Code. 47873
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~~(12)~~(11) Any person residing in this state who, for hire or otherwise, conducts research for the purpose of locating persons to whom the state of Ohio owes money in the form of warrants, as defined in division (S) of section 131.01 of the Revised Code, that the state voided but subsequently reissues. 47876
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~~(13)~~(12) An independent insurance adjuster who, as an individual, an independent contractor, an employee of an independent contractor, adjustment bureau association, corporation, insurer, partnership, local recording agent, managing general agent, or self-insurer, engages in the business of independent insurance adjustment, or any person who supervises the handling of claims except while acting as an employee of an insurer licensed in this state while handling claims pertaining to specific policies written by that insurer. 47881
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As used in division (H)~~(13)~~(12) of this section, "independent insurance adjustment" means conducting investigations to determine the cause of or circumstances concerning a fire, accident, bodily injury, or damage to real or personal property; determining the extent of damage of that fire, accident, injury, or property damage; securing evidence for use in a legislative, administrative, or judicial investigation or proceeding, adjusting losses; and adjusting or settling claims, including the investigation, adjustment, denial, establishment of damages, negotiation, settlement, or payment of claims in connection with insurance contractors, self-insured programs, or other similar insurance programs. "Independent adjuster" does not include either 47890
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of the following: 47902

(a) An attorney who adjusts insurance losses incidental to 47903
the practice of law and who does not advertise or represent that 47904
the attorney is an independent insurance adjuster; 47905

(b) A licensed agent or general agent of an insurer licensed 47906
in this state who processes undisputed or uncontested losses for 47907
insurers under policies issued by that agent or general agent. 47908

(14) Except for a commissioned peace officer who engages in 47909
the business of private investigation or compensates others who 47910
engage in the business of private investigation or the business of 47911
security services or both, any commissioned peace officer as 47912
defined in division (B) of section 2935.01 of the Revised Code. 47913

(I) "Employee" means every person who may be required or 47914
directed by any employer, in consideration of direct or indirect 47915
gain or profit, to engage in any employment, or to go, or work, or 47916
be at any time in any place of employment, provided that the 47917
employer of the employee deducts all applicable state and federal 47918
employment taxes on behalf of the employee. 47919

Sec. 4749.02. The ~~department~~ director of ~~commerce public~~ 47920
~~safety~~ shall administer this chapter ~~through the division of real~~ 47921
~~estate and professional licensing~~, and for that purpose, ~~the~~ 47922
~~superintendent of real estate and professional licensing~~ may 47923
appoint such employees and adopt such rules as the ~~superintendent~~ 47924
director considers necessary. 47925

Sec. 4749.03. (A)(1) Any individual, including a partner in a 47926
partnership, may be licensed as a private investigator under a 47927
class B license, or as a security guard provider under a class C 47928
license, or as a private investigator and a security guard 47929
provider under a class A license, if the individual meets the 47930
following requirements: 47931

(a) Has a good reputation for integrity, has not been 47932
convicted of a felony within the last twenty years or any offense 47933
involving moral turpitude, and has not been adjudicated 47934
incompetent for the purpose of holding the license, as provided in 47935
section 5122.301 of the Revised Code, without having been restored 47936
to legal capacity for that purpose. 47937

(b) Depending upon the class of license for which application 47938
is made, for a continuous period of at least two years immediately 47939
preceding application for a license, has been engaged in 47940
investigatory or security services work for a law enforcement or 47941
other public agency engaged in investigatory activities, or for a 47942
private investigator or security guard provider, or engaged in the 47943
practice of law, or has acquired equivalent experience as 47944
determined by rule of the director of ~~commerce~~ public safety. 47945

(c) Demonstrates competency as a private investigator or 47946
security guard provider by passing an examination devised for this 47947
purpose by the director, except that any individually licensed 47948
person who qualifies a corporation for licensure shall not be 47949
required to be reexamined if the person qualifies the corporation 47950
in the same capacity that the person was individually licensed. 47951

(d) Submits evidence of comprehensive general liability 47952
insurance coverage, or other equivalent guarantee approved by the 47953
director in such form and in principal amounts satisfactory to the 47954
director, but not less than one hundred thousand dollars for each 47955
person and three hundred thousand dollars for each occurrence for 47956
bodily injury liability, and one hundred thousand dollars for 47957
property damage liability. 47958

(e) Pays the requisite examination and license fees. 47959

(2) A corporation may be licensed as a private investigator 47960
under a class B license, or as a security guard provider under a 47961
class C license, or as a private investigator and a security guard 47962

provider under a class A license, if an application for licensure 47963
is filed by an officer of the corporation and the officer, another 47964
officer, or the qualifying agent of the corporation satisfies the 47965
requirements of divisions (A)(1) and (F)(1) of this section. 47966
Officers and the statutory agent of a corporation shall be 47967
determined in accordance with Chapter 1701. of the Revised Code. 47968

(3) At least one partner in a partnership shall be licensed 47969
as a private investigator, or as a security guard provider, or as 47970
a private investigator and a security guard provider. Partners in 47971
a partnership shall be determined as provided for in Chapter 1775. 47972
of the Revised Code. 47973

(B) Application for a class A, B, or C license shall be in 47974
writing, under oath, to the director. In the case of an 47975
individual, the application shall state the applicant's name, 47976
birth date, citizenship, physical description, current residence, 47977
residences for the preceding ten years, current employment, 47978
employment for the preceding seven years, experience 47979
qualifications, the location of each of the applicant's offices in 47980
this state, and any other information that is necessary in order 47981
for the director to comply with the requirements of this chapter. 47982
In the case of a corporation, the application shall state the name 47983
of the officer or qualifying agent filing the application; the 47984
state in which the corporation is incorporated and the date of 47985
incorporation; the states in which the corporation is authorized 47986
to transact business; the name of its qualifying agent; the name 47987
of the officer or qualifying agent of the corporation who 47988
satisfies the requirements of divisions (A)(1) and (F)(1) of this 47989
section and the birth date, citizenship, physical description, 47990
current residence, residences for the preceding ten years, current 47991
employment, employment for the preceding seven years, and 47992
experience qualifications of that officer or qualifying agent; and 47993
other information that the director requires. A corporation may 47994

specify in its application information relative to one or more 47995
individuals who satisfy the requirements of divisions (A)(1) and 47996
(F)(1) of this section. 47997

The application shall be accompanied by: 47998

(1) One recent full-face photograph of the applicant or, in 47999
the case of a corporation, of each officer or qualifying agent 48000
specified in the application as satisfying the requirements of 48001
divisions (A)(1) and (F)(1) of this section; 48002

(2) One complete set of the applicant's fingerprints or, in 48003
the case of a corporation, of the fingerprints of each officer or 48004
qualifying agent specified in the application as satisfying the 48005
requirements of divisions (A)(1) and (F)(1) of this section; 48006

(3) Character references from at least five reputable 48007
citizens for the applicant or, in the case of a corporation, for 48008
each officer or qualifying agent specified in the application as 48009
satisfying the requirements of divisions (A)(1) and (F)(1) of this 48010
section, each of whom has known the applicant, officer, or 48011
qualifying agent for at least five years preceding the 48012
application, and none of whom are connected with the applicant, 48013
officer, or qualifying agent by blood or marriage; 48014

(4) An examination fee of twenty-five dollars for the 48015
applicant or, in the case of a corporation, for each officer or 48016
qualifying agent specified in the application as satisfying the 48017
requirements of divisions (A)(1) and (F)(1) of this section, and a 48018
license fee of two hundred fifty dollars. The license fee shall be 48019
refunded if a license is not issued. 48020

(C) Upon receipt of the application and accompanying matter, 48021
the director shall forward to the bureau of criminal 48022
identification and investigation a request that it make an 48023
investigation of the applicant or, in the case of a corporation, 48024
each officer or qualifying agent specified in the application as 48025

satisfying the requirements of divisions (A)(1) and (F)(1) of this 48026
section, to determine whether the applicant, officer, or 48027
qualifying agent meets the requirements of division (A)(1)(a) of 48028
this section. If the director determines that the applicant, 48029
officer, or qualifying agent meets the requirements of divisions 48030
(A)(1)(a), (b) and (d) of this section and that an officer or 48031
qualifying agent meets the requirement of division (F)(1) of this 48032
section, the director shall notify the applicant, officer, or 48033
agent of the time and place for the examination. If the director 48034
determines that an applicant does not meet the requirements of 48035
divisions (A)(1)(a), (b), and (d) of this section, the director 48036
shall notify the applicant that the applicant's application is 48037
refused and refund the license fee. If the director determines 48038
that none of the individuals specified in the application of a 48039
corporation as satisfying the requirements of divisions (A)(1) and 48040
(F)(1) of this section meet the requirements of divisions 48041
(A)(1)(a), (b), and (d) and (F)(1) of this section, the director 48042
shall notify the corporation that its application is refused and 48043
refund the license fee. If the director requests an investigation 48044
of any applicant, officer, or qualifying agent and if the bureau 48045
assesses the director a fee for the investigation, the director, 48046
in addition to any other fee assessed pursuant to this chapter, 48047
may assess the applicant, officer, or qualifying agent, as 48048
appropriate, a fee that is equal to the fee assessed by the 48049
bureau. 48050

(D) If upon application, investigation, and examination, the 48051
director finds that the applicant or, in the case of a 48052
corporation, any officer or qualifying agent specified in the 48053
application as satisfying the requirements of divisions (A)(1) and 48054
(F)(1) of this section, meets the applicable requirements, the 48055
director shall issue the applicant or the corporation a class A, 48056
B, or C license. The director also shall issue to an applicant, 48057
but not an officer or qualifying agent of a corporation, who meets 48058

the applicable requirements an identification card. The license 48059
and identification card shall state the licensee's name, the 48060
classification of the license, the location of the licensee's 48061
principal place of business in this state, and the expiration date 48062
of the license and, in the case of a corporation, it also shall 48063
state the name of each officer or qualifying agent who satisfied 48064
the requirements of divisions (A)(1) and (F)(1) of this section. 48065

Licenses expire on the first day of March following the date 48066
of initial issue, and on the first day of March of each year 48067
thereafter. Renewals shall be according to the standard renewal 48068
procedures contained in Chapter 4745. of the Revised Code, upon 48069
payment of a renewal fee of two hundred fifty dollars. No license 48070
shall be renewed if the licensee or, in the case of a corporation, 48071
each officer or qualifying agent who qualified the corporation for 48072
licensure no longer meets the applicable requirements of this 48073
section. No license shall be renewed unless the licensee provides 48074
evidence of workers' compensation risk coverage and unemployment 48075
compensation insurance coverage, other than for clerical employees 48076
and excepting sole proprietors who are exempted therefrom, as 48077
provided for in Chapters 4123. and 4141. of the Revised Code, 48078
respectively, as well as the licensee's state tax identification 48079
number. No reexamination shall be required for renewal of a 48080
current license. 48081

For purposes of this chapter, a class A, B, or C license 48082
issued to a corporation shall be considered as also having 48083
licensed the individuals who qualified the corporation for 48084
licensure, for as long as they are associated with the 48085
corporation. 48086

For purposes of this division, "sole proprietor" means an 48087
individual licensed under this chapter who does not employ any 48088
other individual. 48089

(E) The director may issue a duplicate copy of a license 48090

issued under this section for the purpose of replacement of a 48091
lost, spoliated, or destroyed license, upon payment of a fee fixed 48092
by the director, not exceeding twenty-five dollars. Any change in 48093
license classification requires new application and application 48094
fees. 48095

(F)(1) In order to qualify a corporation for a class A, B, or 48096
C license, an officer or qualifying agent may qualify another 48097
corporation for similar licensure, provided that the officer or 48098
qualifying agent is actively engaged in the business of both 48099
corporations. 48100

(2) Each officer or qualifying agent who qualifies a 48101
corporation for class A, B, or C licensure shall surrender any 48102
personal license of a similar nature that the officer or 48103
qualifying agent possesses. 48104

(3) Upon written notification to the director, completion of 48105
an application similar to that for original licensure, surrender 48106
of the corporation's current license, and payment of a twenty-five 48107
dollar fee, a corporation's class A, B, or C license may be 48108
transferred to another corporation. 48109

(4) Upon written notification to the director, completion of 48110
an application similar to that for an individual seeking class A, 48111
B, or C licensure, payment of a twenty-five dollar fee, and, if 48112
the individual was the only individual that qualified a 48113
corporation for licensure, surrender of the corporation's license, 48114
any officer or qualifying agent who qualified a corporation for 48115
licensure under this chapter may obtain a similar license in the 48116
individual's own name without reexamination. A request by an 48117
officer or qualifying agent for an individual license shall not 48118
affect a corporation's license unless the individual is the only 48119
individual that qualified the corporation for licensure or all the 48120
other individuals who qualified the corporation for licensure 48121
submit such requests. 48122

(G) If a corporation is for any reason no longer associated with an individual who qualified it for licensure under this chapter, an officer of the corporation shall notify the director of that fact by certified mail, return receipt requested, within ten days after the association terminates. If the notification is so given, the individual was the only individual that qualified the corporation for licensure, and the corporation submits the name of another officer or qualifying agent to qualify the corporation for the license within thirty days after the association terminates, the corporation may continue to operate in the business of private investigation, the business of security services, or both businesses in this state under that license for ninety days after the association terminates. If the officer or qualifying agent whose name is so submitted satisfies the requirements of divisions (A)(1) and (F)(1) of this section, the director shall issue a new license to the corporation within that ninety-day period. The names of more than one individual may be so submitted.

Sec. 4749.04. (A) The director of ~~commerce~~ public safety may revoke, suspend, or refuse to renew, when a renewal form has been submitted, the license of any private investigator or security guard provider, or the registration of any employee of a private investigator or security guard provider, for any of the following:

(1) Violation of any of the provisions of division (B) or (C) of section 4749.13 of the Revised Code;

(2) Conviction of a felony or a crime involving moral turpitude;

(3) Violation of any rule of the director governing private investigators, the business of private investigation, security guard providers, or the business of security services;

(4) Testifying falsely under oath, or suborning perjury, in 48153
any judicial proceeding; 48154

(5) Failure to satisfy the requirements specified in division 48155
(D) of section 4749.03 of the Revised Code. 48156

Any person whose license or registration is revoked, 48157
suspended, or not renewed when a renewal form is submitted may 48158
appeal in accordance with Chapter 119. of the Revised Code. 48159

(B) In lieu of suspending, revoking, or refusing to renew the 48160
class A, B, or C license, or of suspending, revoking, or refusing 48161
to renew the registration of an employee of a class A, B, or C 48162
licensee, the director of ~~commerce~~ may impose a civil penalty of 48163
not more than one hundred dollars for each calendar day of a 48164
violation of any of the provisions of this section or of division 48165
(B) or (C) of section 4749.13 of the Revised Code or of a 48166
violation of any rule of the director governing private 48167
investigators, the business of private investigation, security 48168
guard providers, or the business of security services. 48169

Sec. 4749.05. (A) Each class A, B, or C licensee shall report 48170
the location of branch offices to the department of ~~commerce~~ 48171
public safety, and to the sheriff of the county and the police 48172
chief of any municipal corporation in which the office is located, 48173
and shall post a branch office license conspicuously in that 48174
office. Application for a branch office license shall be made on a 48175
form prescribed by the director of ~~commerce~~ public safety, and a 48176
license shall be issued upon receipt of the form and payment of a 48177
fee fixed by the director, not exceeding one hundred dollars. If a 48178
licensee moves an office, ~~he~~ the licensee shall notify, in 48179
writing, the department of ~~commerce~~ public safety and any affected 48180
sheriff and chief of police within forty-eight hours of the 48181
change. 48182

This division does not apply to a licensed private investigator who is engaging in the business of private investigation as a registered employee of a licensed private investigator.

(B) No class A, B, or C licensee, or any of ~~his~~ such a licensee's employees, shall engage in the business of private investigation or the business of security services unless, within twelve hours ~~of his arrival~~ after arriving, he the licensee or employee reports ~~his~~ the licensee's or employee's presence and length of stay to the sheriff and police chief of any county or municipal corporation in which ~~he~~ the licensee or employee operates.

Sec. 4749.06. (A) Each class A, B, or C licensee shall register the licensee's investigator or security guard employees, with the department of ~~commerce~~ public safety, which shall maintain a record of each licensee and registered employee and make it available, upon request, to any law enforcement agency. The class A, B, or C licensee shall file an application to register a new employee no sooner than three days nor later than seven calendar days after the date on which the employee is hired.

(B)(1) Each employee's registration application shall be accompanied by one complete set of the employee's fingerprints, one recent photograph of the employee, the employee's physical description, and an eighteen-dollar registration fee.

(2) If the director of public safety requests the bureau of criminal identification and investigation to conduct an investigation of a licensee's employee and if the bureau assesses the director a fee for the investigation, the director, in addition to any other fee assessed pursuant to this chapter, may assess the licensee a fee that is equal to the fee assessed by the bureau. If, after investigation, the bureau finds that the

employee has not been convicted of a felony within the last twenty 48214
years, the director shall issue to the employee an identification 48215
card bearing the license number and signature of the licensee, 48216
which in the case of a corporation shall be the signature of its 48217
president or its qualifying agent, and containing the employee's 48218
name, address, age, physical description, and right thumb print or 48219
other identifying mark as the director prescribes, a recent 48220
photograph of the employee, and the employee's signature. The 48221
director may issue a duplicate of a lost, spoliated, or destroyed 48222
identification card issued under this section, upon payment of a 48223
fee fixed by the director, not exceeding five dollars. 48224

(C) Except as provided in division (E) of this section, no 48225
class A, B, or C licensee shall permit an employee, other than an 48226
individual who qualified a corporation for licensure, to engage in 48227
the business of private investigation, the business of security 48228
services, or both businesses until the employee receives an 48229
identification card from the department, except that pending the 48230
issuance of an identification card, a class A, B, or C licensee 48231
may offer for hire security guard or investigator employees 48232
provided the licensee obtains a waiver from the person who 48233
receives, for hire, security guard or investigative services, 48234
acknowledging that the person is aware the employees have not 48235
completed their registration and agreeing to their employment. 48236

(D) If a class A, B, or C licensee, or a registered employee 48237
of a class A, B, or C licensee, intends to carry a firearm, as 48238
defined in section 2923.11 of the Revised Code, in the course of 48239
engaging in the business or employment, the licensee or registered 48240
employee shall satisfactorily complete a firearms basic training 48241
program that includes twenty hours of handgun training and five 48242
hours of training in the use of other firearms, if any other 48243
firearm is to be used, or equivalency training, if authorized, or 48244
shall be a former peace officer who previously had successfully 48245

completed a firearms training course, shall receive a certificate 48246
of satisfactory completion of that program or written evidence of 48247
approval of the equivalency training, shall file an application 48248
for registration, shall receive a firearm-bearer notation on the 48249
licensee's or registered employee's identification card, and shall 48250
annually requalify on a firearms range, all as described in 48251
division (A) of section 4749.10 of the Revised Code. A private 48252
investigator, security guard provider, or employee is authorized 48253
to carry a firearm only in accordance with that division. 48254

(E) This section does not apply to commissioned peace 48255
officers, as defined in division (B) of section 2935.01 of the 48256
Revised Code, working for, either as an employee or independent 48257
contractor, a class A, B, or C licensee. For purposes of this 48258
chapter, a commissioned peace officer is an employee exempt from 48259
registration. 48260

Sec. 4749.07. (A) After refund of any license fees as 48261
required by section 4749.03 of the Revised Code, the department of 48262
~~commerce~~ public safety shall pay all fees received pursuant to 48263
this chapter to the treasurer of state, to be credited to the 48264
private investigator and security guard provider fund, which is 48265
hereby created. 48266

(B) Moneys received in payment of fines levied pursuant to 48267
section 4749.99 of the Revised Code shall be distributed as 48268
follows: 48269

(1) One-third to the general fund of the municipal 48270
corporation or township in which the prosecution occurs; 48271

(2) One-third to the general fund of the county in which the 48272
prosecution occurs; 48273

(3) One-third to the private investigator and security guard 48274
provider fund. 48275

Sec. 4749.08. (A) No class A, B, or C licensee, or registered employee of a class A, B, or C licensee shall be considered, because of licensure or registration under this chapter, a law enforcement officer for any purpose. Nothing in this chapter shall be construed as granting the right to carry a concealed weapon.

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(B) The rules of the department of ~~commerce~~ public safety adopted for the administration of this chapter shall include provisions to assure that any uniform or identification card shall be so designed as to avoid confusion of a private investigator, security guard provider, or registered employee with any law enforcement officer in this state.

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Sec. 4749.10. (A) No class A, B, or C licensee and no registered employee of a class A, B, or C licensee shall carry a firearm, as defined in section 2923.11 of the Revised Code, in the course of engaging in the business of private investigation, the business of security services, or both businesses, unless all of the following apply:

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(1) The licensee or employee either has successfully completed a basic firearm training program at a training school approved by the Ohio peace officer training commission, which program includes twenty hours of training in handgun use and, if any firearm other than a handgun is to be used, five hours of training in the use of other firearms, and has received a certificate of satisfactory completion of that program from the executive director of the commission; the licensee or employee has, within three years prior to the effective date of this section, satisfactorily completed firearms training that has been approved by the commission as being equivalent to such a program and has received written evidence of approval of that training

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from the executive director of the commission; or the licensee or 48306
employee is a former peace officer, as defined in section 109.71 48307
of the Revised Code, who previously had successfully completed a 48308
firearms training course at a training school approved by the Ohio 48309
peace officer training commission and has received a certificate 48310
or other evidence of satisfactory completion of that course from 48311
the executive director of the commission. 48312

(2) The licensee or employee submits an application to the 48313
director of ~~commerce~~ public safety, on a form prescribed by the 48314
director, in which the licensee or employee requests registration 48315
as a class A, B, or C licensee or employee who may carry a 48316
firearm. The application shall be accompanied by a copy of the 48317
certificate or the written evidence or other evidence described in 48318
division (A)(1) of this section, the identification card issued 48319
pursuant to section 4749.03 or 4749.06 of the Revised Code if one 48320
has previously been issued, a statement of the duties that will be 48321
performed while the licensee or employee is armed, and a fee of 48322
ten dollars. In the case of a registered employee, the statement 48323
shall be prepared by the employing class A, B, or C licensee. 48324

(3) The licensee or employee receives a notation on the 48325
licensee's or employee's identification card that the licensee or 48326
employee is a firearm-bearer and carries the identification card 48327
whenever the licensee or employee carries a firearm in the course 48328
of engaging in the business of private investigation, the business 48329
of security services, or both businesses. 48330

(4) At any time within the immediately preceding twelve-month 48331
period, the licensee or employee has requalified in firearms use 48332
on a firearms training range at a firearms requalification program 48333
certified by the Ohio peace officer training commission or on a 48334
firearms training range under the supervision of an instructor 48335
certified by the commission and has received a certificate of 48336
satisfactory requalification from the certified program or 48337

certified instructor, provided that this division does not apply 48338
to any licensee or employee prior to the expiration of eighteen 48339
months after the licensee's or employee's completion of the 48340
program described in division (A)(1) of this section. A 48341
certificate of satisfactory requalification is valid and remains 48342
in effect for twelve months from the date of the requalification. 48343

(5) If division (A)(4) of this section applies to the 48344
licensee or employee, the licensee or employee carries the 48345
certificate of satisfactory requalification that then is in effect 48346
or any other evidence of requalification issued or provided by the 48347
director. 48348

(B)(1) The director ~~of commerce~~ shall register an applicant 48349
under division (A) of this section who satisfies divisions (A)(1) 48350
and (2) of this section, and place a notation on the applicant's 48351
identification card indicating that the applicant is a 48352
firearm-bearer and the date on which the applicant completed the 48353
program described in division (A)(1) of this section. 48354

(2) A firearms requalification training program or instructor 48355
certified by the commission for the annual requalification of 48356
class A, B, or C licensees or employees who are authorized to 48357
carry a firearm under section 4749.10 of the Revised Code shall 48358
award a certificate of satisfactory requalification to each class 48359
A, B, or C licensee or registered employee of a class A, B, or C 48360
licensee who satisfactorily requalifies in firearms training. The 48361
certificate shall identify the licensee or employee and indicate 48362
the date of the requalification. A licensee or employee who 48363
receives such a certificate shall submit a copy of it to the 48364
director ~~of commerce~~. A licensee shall submit the copy of the 48365
requalification certificate at the same time that the licensee 48366
makes application for renewal of the licensee's class A, B, or C 48367
license. The director shall keep a record of all copies of 48368
requalification certificates the director receives under this 48369

division and shall establish a procedure for the updating of 48370
identification cards to provide evidence of compliance with the 48371
annual requalification requirement. The procedure for the updating 48372
of identification cards may provide for the issuance of a new card 48373
containing the evidence, the entry of a new notation containing 48374
the evidence on the existing card, the issuance of a separate card 48375
or paper containing the evidence, or any other procedure 48376
determined by the director to be reasonable. Each person who is 48377
issued a requalification certificate under this division promptly 48378
shall pay to the Ohio peace officer training commission 48379
established by section 109.71 of the Revised Code a fee of five 48380
dollars, which fee shall be transmitted to the treasurer of state 48381
for deposit in the peace officer private security fund established 48382
by section 109.78 of the Revised Code. 48383

Sec. 4749.11. (A) The director of ~~commerce~~ public safety may 48384
investigate any applicant for a class A, B, or C license, any 48385
principal officer or qualifying agent of a corporation who is 48386
specified in an application for licensure as satisfying the 48387
requirements of divisions (A)(1) and (F)(1) of section 4749.03 of 48388
the Revised Code, and any employee of a class A, B, or C licensee 48389
who seeks to be registered under section 4749.06 of the Revised 48390
Code to determine whether the individual satisfies the applicable 48391
requirements for licensure or registration. 48392

(B) The director ~~of commerce~~ may investigate, on ~~his~~ the 48393
director's own initiative, the actions or proposed actions of a 48394
class A, B, or C licensee, or registered employee of a class A, B, 48395
or C licensee to determine whether the person is, has been, or 48396
will be in violation of section 4749.13 of the Revised Code. The 48397
director shall investigate any of these persons if a verified 48398
written complaint is filed indicating that a person has violated, 48399
or is or will be violating, section 4749.13 of the Revised Code, 48400
the complaint is supported by evidence submitted with it, and the 48401

director determines that a prima-facie case exists that a 48402
violation of that section is being, has been, or will be committed 48403
by the person. 48404

(C) The director ~~of commerce~~ may investigate, on ~~his~~ the 48405
director's own initiative, the actions or proposed actions of a 48406
person who is not licensed or registered under this chapter and 48407
who appears to be acting as a class A, B, or C licensee, or 48408
employee of a class A, B, or C licensee. The director shall 48409
investigate such a person if a verified written complaint is filed 48410
indicating that a person was, is, or will be acting as a class A, 48411
B, or C licensee or employee of a class A, B, or C licensee but is 48412
not licensed or registered as such under this chapter, the 48413
complaint is supported by evidence that is submitted with it, and 48414
the director determines that a prima-facie case exists that the 48415
person was, is, or will be acting in the alleged manner. 48416

(D) In connection with investigations under divisions (B) and 48417
(C) of this section, the director ~~of commerce~~ may file an action 48418
with the court of common pleas of Franklin county or the court of 48419
common pleas of the county in which the person who is the subject 48420
of the investigation resides, is engaging in actions, or proposing 48421
to engage in actions, to obtain an injunction, restraining order, 48422
or other appropriate relief. 48423

(E) The director ~~of commerce~~ may compel by subpoena witnesses 48424
to appear and testify in relation to investigations under this 48425
chapter and may require by subpoena duces tecum the production of 48426
any book, paper, or document pertaining to an investigation. If a 48427
person does not comply with a subpoena or subpoena duces tecum, 48428
the director ~~of commerce~~ may apply to the court of common pleas of 48429
Franklin county for an order compelling the person to comply with 48430
the subpoena or subpoena duces tecum or, for failure to do so, to 48431
be held in contempt of court. 48432

(F) If, in an investigation under division (C) of this 48433

section, the director determines that a person is not a class A, 48434
B, or C licensee, or a registered employee of a class A, B, or C 48435
licensee, and that the person was, is, or will be acting in the 48436
alleged manner, the director may issue an order to the person to 48437
show cause why ~~he~~ the person should not be subject to licensing or 48438
registration under this chapter. The director shall hold a hearing 48439
on the order, and if following the hearing ~~he~~ the director 48440
determines that the person has engaged, or is or will be engaging, 48441
in activities requiring licensure or registration under this 48442
chapter, ~~he~~ the director may issue a cease and desist order that 48443
shall describe the person and the activities that are the subject 48444
of it. The cease and desist order is enforceable in and may be 48445
appealed to a court of common pleas pursuant to Chapter 119. of 48446
the Revised Code. 48447

(G) In any proceeding or action brought under this chapter, 48448
the burden of proving an exemption from the licensure requirements 48449
of this chapter is on the person claiming the benefit of the 48450
exemption. 48451

Sec. 4749.12. (A) A person who is a resident of another 48452
state, is licensed as a private investigator, security guard 48453
provider, or as a private investigator and a security guard 48454
provider in another state, and wishes to engage in the business of 48455
private investigation, the business of security services, or both 48456
businesses in this state, shall be licensed pursuant to section 48457
4749.03 of the Revised Code, but the director of ~~commerce~~ public 48458
safety may waive the examination requirement of that section and 48459
issue a license to a nonresident under the circumstances described 48460
in division (B) of this section. 48461

(B) If a nonresident private investigator, security guard 48462
provider, or private investigator and security guard provider 48463
seeking licensure under this chapter submits with the application 48464

and accompanying matter specified in section 4749.03 of the Revised Code proof of licensure in another state, and if the requirements of divisions (A)(1)(a), (b), and (d) and, if applicable, (F)(1) of section 4749.03 of the Revised Code are satisfied and the nonresident meets all current requirements of the laws of the other state regulating the business of private investigation, the business of security services, or both businesses, the director of ~~commerce~~ may waive the examination requirement and fee of that section. This waiver authority may be exercised only if the director determines that the other state has a law similar to this division and extends to residents of this state a similar waiver of examination privilege.

Sec. 4749.13. (A) No person shall engage in the business of private investigation, the business of security services, or both businesses in this state unless ~~he~~ the person is licensed pursuant to this chapter. Each day of continuing violation constitutes a separate offense. Nothing in this chapter shall be construed to require any employee of a class A, B, or C licensee to obtain a class A, B, or C license, provided that an employee shall be registered by a licensee when required by section 4749.06 of the Revised Code. Nothing in this chapter shall be construed to require a partner to be a class A, B, or C licensee except as provided in division (A)(3) of section 4749.03 of the Revised Code. Nothing in this chapter shall be construed to require a director, officer, or qualifying agent of a corporation to individually be a class A, B, or C licensee if the corporation is licensed pursuant to this chapter.

(B) No class A, B, or C licensee, or registered employee of a class A, B, or C licensee shall:

(1) Knowingly violate any provision of this chapter or any rule of the director of ~~commerce~~ public safety adopted for the

administration of this chapter;	48496
(2) Knowingly make a false report with respect to any matter with which he <u>the licensee or registered employee</u> is employed;	48497 48498
(3) Divulge any information acquired from or for a client to persons other than the client or his <u>the client's</u> authorized agent without express authorization to do so or unless required by law;	48499 48500 48501
(4) Knowingly accept employment which includes obtaining information intended for illegal purposes.	48502 48503
(C) No person shall knowingly authorize or permit another person to violate any provision of this chapter or any rule of the director of commerce adopted for the administration of this chapter.	48504 48505 48506 48507
(D) No person who is not licensed as a class A, B, or C licensee shall advertise that he <u>the person</u> is or otherwise hold himself <u>self</u> out as a class A, B, or C licensee. This division does not prohibit registered employees from indicating in the course of authorized employment for a class A, B, or C licensee that they are authorized to engage in investigatory, security services activities, or both activities.	48508 48509 48510 48511 48512 48513 48514
Sec. 4749.14. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the director of commerce <u>public safety</u> shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a license issued pursuant to this chapter.	48515 48516 48517 48518 48519 48520
Sec. 4751.06. (A) An applicant for licensure as a nursing home administrator who has successfully completed the requirements of section 4751.05 of the Revised Code, passed the examination administered by the board of examiners of nursing home administrators or a government or private entity under contract	48521 48522 48523 48524 48525

with the board, and paid to the board an original license fee of 48526
two hundred ~~ten~~ fifty dollars shall be issued a license on a form 48527
provided by the board. Such license shall certify that the 48528
applicant has met the licensure requirements of Chapter 4751. of 48529
the Revised Code and is entitled to practice as a licensed nursing 48530
home administrator. 48531

(B) A temporary license for a period not to exceed one 48532
hundred eighty days may be issued to an individual temporarily 48533
filling the position of a nursing home administrator vacated by 48534
reason of death, illness, or other unexpected cause, pursuant to 48535
regulations adopted by the board. 48536

(C) The fee for a temporary license is one hundred dollars. 48537
Said fee must accompany the application for the temporary license. 48538

(D) Any license or temporary license issued by the board 48539
pursuant to this section shall be under the hand of the 48540
chairperson and the secretary of the board. 48541

(E) A duplicate of the original certificate of registration 48542
or license may be secured to replace one that has been lost or 48543
destroyed by submitting to the board a notarized statement 48544
explaining the conditions of the loss, mutilation, or destruction 48545
of the certificate or license and by paying a fee of twenty-five 48546
dollars. 48547

(F) A duplicate certificate of registration and license may 48548
be issued in the event of a legal change of name by submitting to 48549
the board a certified copy of the court order or marriage license 48550
establishing the change of name, by returning at the same time the 48551
original license and certificate of registration, and by paying a 48552
fee of twenty-five dollars. 48553

Sec. 4751.07. (A) Every individual who holds a valid license 48554
as a nursing home administrator issued under division (A) of 48555

section 4751.06 of the Revised Code, shall immediately upon 48556
issuance thereof be registered with the board of examiners of 48557
nursing home administrators and be issued a certificate of 48558
registration. Such individual shall annually apply to the board 48559
for a new certificate of registration on forms provided for such 48560
purpose prior to the expiration of the certificate of registration 48561
and shall at the same time submit satisfactory evidence to the 48562
board of having attended such continuing education programs or 48563
courses of study as may be prescribed in rules adopted by the 48564
board. 48565

(B) Upon making an application for a new certificate of 48566
registration such individual shall pay the annual registration fee 48567
of two hundred ~~ten~~ fifty dollars. 48568

(C) Upon receipt of such application for registration and the 48569
registration fee required by divisions (A) and (B) of this 48570
section, the board shall issue a certificate of registration to 48571
such nursing home administrator. 48572

(D) The license of a nursing home administrator who fails to 48573
comply with this section shall automatically lapse. 48574

(E) A nursing home administrator who has been licensed and 48575
registered in this state who determines to temporarily abandon the 48576
practice of nursing home administration shall notify the board in 48577
writing immediately; provided, that such individual may thereafter 48578
register to resume the practice of nursing home administration 48579
within the state upon complying with the requirements of this 48580
section regarding annual registration. 48581

(F) Only an individual who has qualified as a licensed and 48582
registered nursing home administrator under Chapter 4751. of the 48583
Revised Code and the rules adopted thereunder, and who holds a 48584
valid current registration certificate pursuant to this section, 48585
may use the title "nursing home administrator," or the 48586

abbreviation "N.H.A." after the individual's name. No other person 48587
shall use such title or such abbreviation or any other words, 48588
letters, sign, card, or device tending to indicate or to imply 48589
that the person is a licensed and registered nursing home 48590
administrator. 48591

(G) Every person holding a valid license entitling the person 48592
to practice nursing home administration in this state shall 48593
display said license in the nursing home which is the person's 48594
principal place of employment, and while engaged in the practice 48595
of nursing home administration shall have at hand the current 48596
registration certificate. 48597

(H) Every person holding a valid temporary license shall have 48598
such license at hand while engaged in the practice of nursing home 48599
administration. 48600

Sec. 4755.03. There is hereby created in the department of 48601
health the Ohio occupational therapy, physical therapy, and 48602
athletic trainers board ~~consisting~~. The board shall consist of 48603
sixteen residents of this state, who shall be appointed by the 48604
governor with the advice and consent of the senate. The board 48605
shall be composed of a physical therapy section, an occupational 48606
therapy section, and an athletic trainers section. 48607

Five members of the board shall be physical therapists who 48608
are licensed to practice physical therapy and who have been 48609
engaged in or actively associated with the practice of physical 48610
therapy in this state for at least five years immediately 48611
preceding appointment. Such members of the board shall sit on the 48612
physical therapy section. The physical therapy section also shall 48613
consist of four additional members, appointed by the governor with 48614
the advice and consent of the senate, who satisfy the same 48615
qualifications as the members of the board sitting on the physical 48616
therapy section, but who are not members of the board. Such 48617

additional members of the physical therapy section are vested with 48618
only such powers and shall perform only such duties as relate to 48619
the affairs of that section, shall serve for the same terms as do 48620
members of the board sitting on the physical therapy section, and 48621
shall subscribe to and file with the secretary of state the 48622
constitutional oath of office. 48623

Five members of the board shall be occupational therapists 48624
who have been engaged in or actively associated with the practice 48625
of occupational therapy in this state for at least five years 48626
immediately preceding appointment. Such members of the board shall 48627
sit on the occupational therapy section. 48628

Four members of the board shall be athletic trainers who have 48629
been engaged in the practice of athletic training in Ohio for at 48630
least five years immediately preceding appointment. One member of 48631
the board shall be a physician licensed to practice medicine and 48632
surgery in this state. Such members of the board shall sit on the 48633
athletic trainers section. 48634

One member of the board shall represent the public and shall 48635
be at least sixty years of age. This member shall sit on the 48636
board. 48637

Terms of office are for three years, each term commencing on 48638
the twenty-eighth day of August and ending on the twenty-seventh 48639
day of August. Each member shall serve subsequent to the 48640
expiration of ~~his~~ the member's term until ~~his~~ the member's 48641
successor is appointed and qualifies, or until a period of sixty 48642
days has elapsed, whichever occurs first. Each member, before 48643
entering upon ~~the~~ official duties ~~of his office~~, shall subscribe 48644
to and file with the secretary of state the constitutional oath of 48645
office. All vacancies shall be filled in the manner prescribed for 48646
the regular appointments to the board and are limited to the 48647
unexpired terms. 48648

Annually, upon the qualification of the member or members 48649
appointed in that year, the board shall organize by selecting from 48650
its members a president and secretary. Each section of the board 48651
shall organize by selecting from its members a ~~chairman~~ 48652
chairperson and secretary. 48653

The majority of the members of the board constitutes a quorum 48654
to transact and vote on the business of the board. A majority of 48655
the members of each section constitutes a quorum to transact and 48656
vote on the affairs of that section. 48657

Each member of the board and each additional member of the 48658
physical therapy section shall receive an amount fixed pursuant to 48659
division (J) of section 124.15 of the Revised Code for each day 48660
employed in the discharge of ~~his~~ official duties. In addition, 48661
each member of the board and each additional member of the 48662
physical therapy section shall receive ~~his~~ the member's actual and 48663
necessary expenses incurred in the performance of ~~his~~ official 48664
duties. 48665

The board of trustees of the Ohio occupational therapy 48666
association, inc., may recommend, after any term expires or 48667
vacancy occurs in an occupational therapy position, at least three 48668
persons to fill each such position or vacancy on the board, and 48669
the governor may make ~~his~~ the appointment from the persons so 48670
recommended. The executive board of the Ohio chapter, inc., of the 48671
American physical therapy association may recommend, after any 48672
term expires or vacancy occurs in a physical therapy position, at 48673
least three persons to fill each such vacancy on the board, and 48674
the governor may make ~~his~~ appointments from the persons so 48675
recommended. The Ohio athletic trainers association shall 48676
recommend to the governor at least three persons for each of the 48677
initial appointments to an athletic trainer's position. The Ohio 48678
athletic trainers association shall also recommend to the governor 48679
at least three persons when any term expires or any vacancy occurs 48680

in such a position. The governor may select one of the 48681
association's recommendations in making such an appointment. 48682

The board shall meet as a whole to determine all 48683
administrative, personnel, and budgetary matters. The executive 48684
director of the board appointed by the board shall not be a 48685
physical therapist, an occupational therapist, or an athletic 48686
trainer who has been licensed to practice physical therapy, 48687
occupational therapy, or as an athletic trainer in this state 48688
within three years immediately preceding appointment. The 48689
executive director shall serve at the pleasure of the board. 48690

The occupational therapy section of the board shall have the 48691
full authority to act on behalf of the board on all matters 48692
concerning the practice of occupational therapy and, in 48693
particular, the examination, licensure, and suspension or 48694
revocation of licensure of applicants, occupational therapists, 48695
and occupational therapy assistants. The physical therapy section 48696
of the board shall have the full authority to act on behalf of the 48697
board on all matters concerning the practice of physical therapy 48698
and, in particular, the examination, licensure, and suspension or 48699
revocation of licensure of applicants, physical therapists, and 48700
physical therapist assistants. The athletic trainers section of 48701
the board shall have the full authority to act on behalf of the 48702
board on all matters concerning the practice of athletic training 48703
and, in particular, the examination, licensure, and suspension or 48704
revocation of licensure of applicants and athletic trainers. All 48705
actions taken by any section of the board under this paragraph 48706
shall be in accordance with Chapter 119. of the Revised Code. 48707

Sec. 4755.031. Notwithstanding any other section of this 48708
chapter, any rules required to be adopted by any section of the 48709
Ohio occupational therapy, physical therapy, and athletic trainers 48710
board shall be adopted on behalf of that section of the board by 48711

the director of health. When adopting rules for a section of the 48712
board, the director shall, to the extent the director considers 48713
appropriate, consult with or accept comments from that section. 48714
Any rules adopted prior to the effective date of this section 48715
shall continue in force as rules of the department of health until 48716
amended or rescinded by the director. 48717

Sec. 4759.08. (A) The Ohio board of dietetics shall charge 48718
and collect fees as described in this section for issuing the 48719
following: 48720

(1) An application for an initial dietitian license, or an 48721
application for ~~reinstatement~~ reactivation of an inactive license, 48722
one hundred ~~ten~~ twenty-five dollars, and for reinstatement of a 48723
lapsed, revoked, or suspended license, one hundred ~~sixty-five~~ 48724
eighty dollars; 48725

(2) License renewal, ~~eighty~~ ninety-five dollars; 48726

(3) A limited permit, and renewal of the permit, ~~fifty-five~~ 48727
sixty-five dollars; 48728

(4) A duplicate license or permit, twenty dollars; 48729

(5) For processing a late application for renewal of any 48730
license or permit, an additional fee equal to fifty per cent of 48731
the fee for the renewal. 48732

(B) The board shall not require a licensed dietitian holding 48733
an inactive license to pay the renewal fee. 48734

(C) Subject to the approval of the controlling board, the 48735
Ohio board of dietetics may establish fees in excess of the 48736
amounts provided in division (A) of this section, provided that 48737
the fees do not exceed the amounts by greater than fifty per cent. 48738

(D) The board may adopt rules pursuant to Chapter 119. of the 48739
Revised Code to waive all or part of the fee for an initial 48740
license if the license is issued within one hundred days of the 48741

date of expiration of the license. 48742

(E) All receipts of the board shall be deposited in the state 48743
treasury to the credit of the occupational licensing and 48744
regulatory fund. All vouchers of the board shall be approved by 48745
the chairperson or secretary of the board, or both, as authorized 48746
by the board. 48747

Sec. 4771.22. The Ohio athletic commission shall deposit all 48748
money it receives under this chapter to the credit of the ~~athlete~~ 48749
~~agents registration~~ occupational licensing and regulatory fund, 48750
~~which is hereby created in the state treasury. The commission~~ 48751
~~shall use the fund to administer and enforce this chapter under~~ 48752
section 4743.05 of the Revised Code. 48753

Sec. 4779.08. (A) The state board of orthotics, prosthetics, 48754
and pedorthics shall adopt rules in accordance with Chapter 119. 48755
of the Revised Code to carry out the purposes of this chapter, 48756
including rules prescribing all of the following: 48757

(1) The form and manner of filing of applications to be 48758
admitted to examinations and for licensure and license renewal; 48759

(2) Standards and procedures for formulating, evaluating, 48760
approving, and administering licensing examinations or recognizing 48761
other entities that conduct examinations; 48762

(3) The form, scoring, and scheduling of licensing 48763
examinations; 48764

(4) Fees for examinations and applications for licensure and 48765
license renewal; 48766

(5) Fees for approval of continuing education courses; 48767

(6) Procedures for issuance, renewal, suspension, and 48768
revocation of licenses and the conduct of disciplinary hearings; 48769

(7) Standards of ethical and professional conduct in the 48770

practice of orthotics, prosthetics, and pedorthics;	48771
(8) Standards for approving national certification organizations in orthotics, prosthetics, and pedorthics;	48772 48773
(9) Fines for violations of this chapter;	48774
(10) Standards for the recognition and approval of educational programs required for licensure, including standards for approving foreign educational credentials;	48775 48776 48777
(11) Standards for continuing education programs required for license renewal;	48778 48779
(12) Provisions for making available the information described in section 4779.22 of the Revised Code.	48780 48781
(B) The board may adopt any other rules necessary for the administration of this chapter.	48782 48783
(C) The fees prescribed by this section shall be paid to the treasurer of state, who shall from the effective date of this section until December 31, 2004, deposit the fees in the occupational licensing and regulatory fund established in section 4743.05 of the Revised Code.	48784 48785 48786 48787 48788
Sec. 4779.17. The state board of orthotics, prosthetics, and pedorthics shall issue a license under section 4779.09 of the Revised Code to practice orthotics, prosthetics, orthotics and prosthetics, or pedorthics without examination to an applicant who meets all of the following requirements:	48789 48790 48791 48792 48793
(A) Applies to the board in accordance with section 4779.09 of the Revised Code;	48794 48795
(B) Holds a license to practice orthotics, prosthetics, orthotics and prosthetics, or pedorthics issued by the appropriate authority of another state;	48796 48797 48798
(C) One of the following applies:	48799

(1) In the case of an applicant for a license to practice orthotics, the applicant meets the requirements in divisions (A)(2) and (3) of section 4779.10 of the Revised Code.	48800 48801 48802
(2) In the case of an applicant for a license to practice prosthetics, the applicant meets the requirements in divisions (A)(2) and (3) of section 4779.11 of the Revised Code.	48803 48804 48805
(3) In the case of an applicant for a license to practice orthotics and prosthetics, the applicant meets the requirements in divisions (A)(2) and (3) of section 4779.12 of the Revised Code.	48806 48807 48808
(4) In the case of an applicant for a license to practice pedorthics, the applicant meets the requirements in divisions (B) and (C) of section 4779.13 of the Revised Code.	48809 48810 48811
(D) The fees prescribed by this section shall be paid to the treasurer of state, who shall from the effective date of this section until December 31, 2004, deposit the fees in the occupational licensing and regulatory fund established in section 4743.05 of the Revised Code.	48812 48813 48814 48815 48816
Sec. 4779.18. (A) The state board of orthotics, prosthetics, and pedorthics shall issue a temporary license to an individual who meets all of the following requirements:	48817 48818 48819
(1) Applies to the board in accordance with rules adopted under section 4779.08 of the Revised Code and pays the application fee specified in the rules;	48820 48821 48822
(2) Is eighteen years of age or older;	48823
(3) Is of good moral character;	48824
(4) One of the following applies:	48825
(a) In the case of an applicant for a license to practice orthotics, the applicant meets the requirements in divisions (A)(2) and (3) of section 4779.10 of the Revised Code.	48826 48827 48828

(b) In the case of an applicant for a license to practice
prosthetics, the applicant meets the requirements in divisions
(A)(2) and (3) of section 4779.11 of the Revised Code.

(c) In the case of an applicant for a license to practice
orthotics and prosthetics, the applicant meets the requirements in
divisions (A)(2) and (3) of section 4779.12 of the Revised Code.

(d) In the case of an applicant for a license to practice
pedorthics, the applicant meets the requirements in divisions (B)
and (C) of section 4779.13 of the Revised Code.

(B) A temporary license issued under this section is valid
for one year and may be renewed once in accordance with rules
adopted by the board under section 4779.08 of the Revised Code.

An individual who holds a temporary license may practice
orthotics, prosthetics, orthotics and prosthetics, or pedorthics
only under the supervision of an individual who holds a license
issued under section 4779.09 of the Revised Code in the same area
of practice.

(C) The fees prescribed by this section shall be paid to the
treasurer of state, who shall ~~from the effective date of this~~
~~section until December 31, 2004,~~ deposit the fees in the
occupational licensing and regulatory fund established in section
4743.05 of the Revised Code.

Sec. 4903.24. If the public utilities commission finds after
investigating that any rate, joint rate, fare, charge, toll,
rental, schedule, or classification of service is unjust,
unreasonable, insufficient, unjustly discriminatory, unjustly
preferential, or in violation of law, or that any service is
inadequate or cannot be obtained, the public utility found to be
at fault shall pay the expenses incurred by the commission upon
such investigation.

All fees, expenses, and costs of, or in connection with, any hearing or investigation may be imposed by the commission upon any party to the record or may be divided among any parties to the record in such proportion as the commission determines.

All fees, expenses, and costs authorized and collected under this section shall be deposited to the credit of the special assessment fund, which is hereby created in the state treasury. Money in the fund shall be used by the commission for the purpose of covering the costs of any investigations or hearings it orders regarding any public utility.

Sec. 4905.79. Any telephone company, as defined in ~~division (D)(2) of~~ section 5727.01 of the Revised Code, that is required to provide any telephone service program implemented after March 27, 1991, to aid the communicatively impaired in accessing the telephone network shall be allowed a tax credit for the costs of any such program under section ~~5727.44~~ 5733.56 of the Revised Code. Relative to any such program, the public utilities commission, in accordance with its rules, shall allow interested parties to intervene and participate in any proceeding or part of a proceeding brought before the commission pursuant to this section. The commission shall adopt rules it considers necessary to carry out this section.

Sec. 4905.91. For the purpose of protecting the public safety with respect to intrastate pipe-line transportation by any operator:

(A) The public utilities commission shall:

(1) Adopt, and may amend or rescind, rules to carry out sections 4905.90 to 4905.96 of the Revised Code, including rules concerning pipe-line safety, drug testing, and enforcement procedures. The commission shall adopt these rules only after

notice and opportunity for public comment. The rules adopted under 48889
this division and any orders issued under sections 4905.90 to 48890
4905.96 of the Revised Code constitute the pipe-line safety code. 48891
The commission shall administer and enforce that code. 48892

(2) Make certifications and reports to the United States 48893
department of transportation as required under the Natural Gas 48894
Pipeline Safety Act. 48895

(B) The commission may: 48896

(1) Investigate any service, act, practice, policy, or 48897
omission by any operator to determine its compliance with sections 48898
4905.90 to 4905.96 of the Revised Code and the pipe-line safety 48899
code; 48900

(2) Investigate any intrastate pipe-line transportation 48901
facility to determine if it is hazardous to life or property, as 48902
provided in 82 Stat. 720 (1968), 49 U.S.C.A. App. 1679b(b)(2) and 48903
(3); 48904

(3) Investigate the existence or report of any safety-related 48905
condition that involves any intrastate pipe-line transportation 48906
facility; 48907

(4) Enter into and perform contracts or agreements with the 48908
United States department of transportation to inspect interstate 48909
transmission facilities pursuant to the Natural Gas Pipeline 48910
Safety Act; 48911

(5) Accept grants-in-aid, ~~fund~~ cash, and reimbursements 48912
provided for or made available to this state by the federal 48913
government to carry out the Natural Gas Pipeline Safety Act or to 48914
enforce sections 4905.90 to 4905.96 of the Revised Code and the 48915
pipe-line safety code. All such grants-in-aid, cash, and 48916
reimbursements shall be deposited to the credit of the gas 48917
pipe-line safety fund, which is hereby created in the state 48918
treasury, to be used by the commission for the purpose of carrying 48919

out this section. 48920

(C) The commission's regulation of gathering lines shall 48921
conform to the regulation of gathering lines in 49 C.F.R. ~~parts~~ 48922
192 and 199, as amended, and the commission's annual certification 48923
agreements with the United States department of transportation, 48924
except that rule 4901:1-16-03, paragraph (D) of rule 4901:1-16-05, 48925
and rule 4901:1-16-06 of the Ohio Administrative Code shall also 48926
apply to gathering lines. The procedural rules under chapter 48927
4901:1-16 of the Ohio Administrative Code shall also apply to 48928
operators of gathering lines. 48929

Sec. 4919.79. (A) The public utilities commission may adopt 48930
safety rules applicable to the highway transportation and offering 48931
for transportation of hazardous materials in interstate commerce, 48932
which highway transportation takes place into or through this 48933
state. 48934

(B) The commission may adopt safety rules applicable to the 48935
highway transportation of persons or property in interstate 48936
commerce, which transportation takes place into or through this 48937
state. 48938

(C) Rules adopted under divisions (A) and (B) of this section 48939
shall be consistent with, and equivalent in scope, coverage, and 48940
content to, the "Hazardous Materials Transportation Act," 88 Stat. 48941
2156 (1975), 49 U.S.C.A. 1801, as amended, and regulations adopted 48942
under it, and the "Motor Carrier Safety Act of 1984," 98 Stat. 48943
2832, 49 U.S.C.A. 2501, and regulations adopted under it, 48944
respectively. No person shall violate a rule adopted under 48945
division (A) or (B) of this section or any order of the commission 48946
issued to secure compliance with any such rule. 48947

(D) The commission shall cooperate with, and permit the use 48948
of, the services, records, and facilities of the commission as 48949
fully as practicable by appropriate officers of the interstate 48950

commerce commission, the United States department of 48951
transportation, and other federal agencies or commissions and 48952
appropriate commissions of other states in the enforcement and 48953
administration of state and federal laws relating to highway 48954
transportation by motor vehicles. The commission may enter into 48955
cooperative agreements with the interstate commerce commission, 48956
the United States department of transportation, and any other 48957
federal agency or commission to enforce the economic and safety 48958
laws and rules of this state and of the United States concerning 48959
highway transportation by motor vehicles. All grants-in-aid, cash, 48960
and reimbursements received by the commission pursuant to those 48961
cooperative agreements shall be deposited to the credit of the 48962
motor carrier safety fund, which is hereby created in the state 48963
treasury, to be used by the commission for the purpose of carrying 48964
out this section. 48965

(E) To achieve the purposes of this section, the commission 48966
may, through its inspectors or other authorized employees, inspect 48967
any vehicles of carriers of persons or property in interstate 48968
commerce subject to the safety rules prescribed by this section 48969
and may enter upon the premises and vehicles of such carriers to 48970
examine any of the carriers' records or documents that relate to 48971
the safety of operation of such carriers. In order to assist the 48972
commission in the performance of its duties under this section, 48973
authorized employees of the commercial motor vehicle safety 48974
enforcement unit, division of state highway patrol, of the 48975
department of public safety may enter in or upon, for purposes of 48976
inspection, any vehicle of any such carrier. 48977

In order to inspect motor vehicles owned or operated by 48978
private motor carriers of persons, authorized employees of the 48979
commercial motor vehicle safety enforcement unit, division of 48980
state highway patrol, of the department of public safety may enter 48981
in or upon the premises of any private carrier of persons in 48982

interstate commerce, subject to the safety rules prescribed by 48983
this section. 48984

Sec. 4928.62. (A) Beginning on the starting date of 48985
competitive retail electric service, there is hereby created the 48986
energy efficiency revolving loan program, which shall be 48987
administered by the director of development. Under the program, 48988
the director may authorize the use of moneys in the energy 48989
efficiency revolving loan fund for financial assistance for 48990
projects in this state. To the extent feasible given approved 48991
applications for assistance, the assistance shall be distributed 48992
among the certified territories of electric distribution utilities 48993
and participating electric cooperatives, and among the service 48994
areas of participating municipal electric utilities, in amounts 48995
proportionate to the remittances of each utility and cooperative 48996
under divisions (B)(1) and (3) of section 4928.61 of the Revised 48997
Code. The assistance ~~shall~~ may be ~~made or~~ provided ~~through~~ 48998
~~approved lending institutions~~ by the director of development in 48999
the form of direct loans, or grants, or through lending 49000
institutions in the form of loan participation agreements at below 49001
market rates, ~~loan guarantees for such loans, and or~~ linked 49002
deposits ~~for such loans~~. The total of all grants provided in any 49003
one fiscal year shall not exceed ten per cent of the revenues paid 49004
into the energy efficiency revolving loan fund during the previous 49005
fiscal year. 49006

The director shall not authorize financial assistance under 49007
the program unless the director first determines all of the 49008
following: 49009

(1) The project will include an investment in products, 49010
technologies, or services, including energy efficiency or 49011
renewable energy for low-income housing, for residential, ~~small~~ 49012
commercial and ~~small~~ industrial business, local government, 49013

educational institution, nonprofit entity, or agricultural 49014
customers of an electric distribution utility in this state or a 49015
participating municipal electric utility or electric cooperative 49016
in this state. 49017

(2) The project will improve energy efficiency, provide for 49018
the use of renewable energy, or monitor energy usage in a 49019
cost-efficient manner by using both the most appropriate national, 49020
federal, or other standards for products as determined by the 49021
director, and the best practices for use of technology, products, 49022
or services in the context of the total facility or building. 49023

(3) The project will benefit the economic and environmental 49024
welfare of the citizens of this state. 49025

(4) The receipt of financial assistance is a major factor in 49026
the applicant's decision to proceed with or invest in the project. 49027

(B) In carrying out sections 4928.61 to 4928.63 of the 49028
Revised Code, the director may do all of the following for the 49029
purpose of the energy efficiency revolving loan program: 49030

(1) Acquire in the name of the director any property of any 49031
kind or character in accordance with this section, by purchase, 49032
purchase at foreclosure, or exchange, on such terms and in such 49033
manner as the director considers proper; 49034

(2) Make and enter into all contracts and agreements 49035
necessary or incidental to the performance of the director's 49036
duties and the exercise of the director's powers under those 49037
sections; 49038

(3) Employ or enter into contracts with financial 49039
consultants, marketing consultants, consulting engineers, 49040
architects, managers, construction experts, attorneys, technical 49041
monitors, energy evaluators, or other employees or agents as the 49042
director considers necessary, and ~~shall~~ fix their compensation; 49043

(4) Adopt rules prescribing the application procedures for 49044
financial assistance under the program; the terms and conditions 49045
of any loans, loan guarantees, grants, linked deposits, and 49046
contracts; criteria pertaining to the eligibility of participating 49047
lending institutions; and any other matters necessary for the 49048
implementation of the program; 49049

(5) Do all things necessary and appropriate for the operation 49050
of the program. 49051

(C) Financial statements, financial data, and trade secrets 49052
submitted to or received by the director from an applicant or 49053
recipient of financial assistance under sections 4928.61 to 49054
4928.63 of the Revised Code, or any information taken from those 49055
statements, data, or trade secrets for any purpose, are not public 49056
records for the purpose of section 149.43 of the Revised Code. 49057

Sec. 4928.63. The director of development and the public 49058
benefits advisory board have the powers and duties provided in 49059
sections 4928.61 and 4928.62 of the Revised Code, in order to 49060
promote the welfare of the people of this state, to stabilize the 49061
economy, to assist in the improvement and development within this 49062
state of not-for-profit entity, industrial, commercial, 49063
distribution, residential, and research buildings and activities 49064
required for the people of this state, to improve the economic 49065
welfare of the people of this state, and also to assist in the 49066
improvement of air, water, or thermal pollution control facilities 49067
and solid waste disposal facilities. It is hereby determined that 49068
the accomplishment of those purposes is essential so that the 49069
people of this state may maintain their present high standards in 49070
comparison with the people of other states and so that 49071
opportunities for improving the economic welfare of the people of 49072
this state, for improving the housing of residents of this state, 49073
and for favorable markets for the products of this state's natural 49074

resources, agriculture, and manufacturing shall be improved; and 49075
that it is necessary for this state to establish the program 49076
authorized pursuant to sections 4928.61 and 4928.62 of the Revised 49077
Code, ~~to establish the energy efficiency revolving loan program~~ 49078
~~and program fund and the energy efficiency revolving loan program~~ 49079
~~advisory board, and to vest the director and the board with the~~ 49080
~~powers and duties provided in sections 4928.61 and 4928.62 of the~~ 49081
Revised Code. 49082

Sec. 4931.45. (A) A final plan may be amended to expand the 49083
territory included in the countywide 9-1-1 system, to upgrade any 49084
part or all of a system from basic 9-1-1 to enhanced 9-1-1 49085
service, to adjust the territory served by a public safety 49086
answering point, to represcribe the funding of public safety 49087
answering points as between the alternatives set forth in division 49088
(B)(5) of section 4931.43 of the Revised Code, or to make any 49089
other necessary adjustments to the plan only by convening a new 49090
9-1-1 planning committee, and adopting an amended final plan. The 49091
convening of a new 9-1-1 planning committee and the proposal and 49092
adoption of an amended final plan shall be made in the same manner 49093
required for the convening of an initial committee and adoption of 49094
an original proposed and final plan under sections 4931.42 to 49095
4931.44 of the Revised Code. Adoption of any resolution under 49096
section 4931.51 of the Revised Code pursuant to a final plan that 49097
both has been adopted and provides for funding through charges 49098
imposed under that section is not an amendment of a final plan for 49099
the purpose of this division. 49100

(B) When a final plan is amended to expand the territory that 49101
receives 9-1-1 service or to upgrade a 9-1-1 system from basic to 49102
enhanced 9-1-1 service, ~~the provisions of~~ sections 4931.47 and 49103
~~5727.39~~ 5733.55 of the Revised Code apply with respect to the 49104
telephone company's recovery of the nonrecurring and recurring 49105
rates and charges for the telephone network portion of the system. 49106

Sec. 4931.47. (A) In accordance with Chapters 4901., 4903., 4905., 4909., and 4931. of the Revised Code, the public utilities commission shall determine the just, reasonable, and compensatory rates, tolls, classifications, charges, or rentals to be observed and charged for the telephone network portion of a basic and enhanced 9-1-1 system, and each telephone company participating in the system shall be subject to such chapters, to the extent they apply, as to the service provided by its portion of the telephone network system as described in the final plan or to be installed pursuant to agreements under section 4931.48 of the Revised Code, and as to the rates, tolls, classifications, charges, or rentals to be observed and charged for that service.

(B) Only the customers of a participating telephone company that are served within the area covered by a 9-1-1 system shall pay the recurring rates for the maintenance and operation of the telephone network in providing 9-1-1 service. Such rates shall be computed by dividing the total monthly recurring rates set forth in a telephone company's schedule as filed in accordance with section 4905.30 of the Revised Code, by the total number of residential and business customer access lines, or their equivalent, within the area served. Each residential and business customer within the area served shall pay the recurring rates based on the number of its residential and business customer access lines or their equivalent. No company may include such amount on any customer's bill until the company has completed its portion of the telephone network in accordance with the terms, conditions, requirements, and specifications of the final plan or an agreement made under section 4931.48 of the Revised Code.

(C)(1) Except as otherwise provided in division (C)(2) of this section, the total nonrecurring charges for the telephone network used in providing 9-1-1 service, as set forth in the

schedule filed by a telephone company in accordance with section 49138
4905.30 of the Revised Code, on completion of the installation of 49139
the network in accordance with the terms, conditions, 49140
requirements, and specifications of the final plan or pursuant to 49141
section 4931.48 of the Revised Code shall be recovered by the 49142
company through the credit authorized by section ~~5727.39~~ 5733.55 49143
of the Revised Code. 49144

(2) The credit shall not be allowed for upgrading of a system 49145
from basic to enhanced 9-1-1 service when: 49146

(a) The telephone company received the credit for the 49147
telephone network portion of the basic 9-1-1 system now proposed 49148
to be upgraded; and 49149

(b) At the time the final plan or agreement pursuant to 49150
section 4931.48 of the Revised Code calling for the basic 9-1-1 49151
system was agreed to, the telephone company was capable of 49152
reasonably meeting the technical and economic requirements of 49153
providing the telephone network portion of an enhanced 9-1-1 49154
system within the territory proposed to be upgraded, as determined 49155
by the public utilities commission under division (A) or (H) of 49156
section 4931.41 or division (C) of section 4931.48 of the Revised 49157
Code. 49158

(3) When the credit is not allowed under division (C)(2) of 49159
this section, the total nonrecurring charges for the telephone 49160
network used in providing 9-1-1 service, as set forth in the 49161
schedule filed by a telephone company in accordance with section 49162
4905.30 of the Revised Code, on completion of the installation of 49163
the network in accordance with the terms, conditions, 49164
requirements, and specifications of the final plan or pursuant to 49165
section 4931.48 of the Revised Code, shall be paid by the 49166
municipal corporations and townships with any territory in the 49167
area in which such upgrade from basic to enhanced 9-1-1 service is 49168
made. 49169

(D) Where customer premises equipment for a public safety answering point is supplied by a telephone company that is required to file a schedule under section 4905.30 of the Revised Code pertaining to customer premises equipment, the recurring and nonrecurring rates and charges for the installation and maintenance of the equipment specified in the schedule shall apply.

Sec. 4931.48. (A) If a final plan is disapproved under division (B) of section 4931.44 of the Revised Code, by resolution, the legislative authority of a municipal corporation or township that contains at least thirty per cent of the county's population may establish within its boundaries, or the legislative authorities of a group of municipal corporations or townships each of which is contiguous with at least one other such municipal corporation or township in the group, together containing at least thirty per cent of the county's population, may jointly establish within their boundaries a 9-1-1 system. For this purpose, the municipal corporation or township may enter into an agreement, and the contiguous municipal corporations or townships may jointly enter into an agreement with a telephone company providing service in the municipal corporations or townships to provide for the telephone network portion of the system.

(B) If no resolution has been adopted to convene a 9-1-1 planning committee under section 4931.42 of the Revised Code, but not sooner than eighteen months after the effective date of such section, by resolution, the legislative authority of any municipal corporation in the county may establish within its boundaries, or the legislative authorities of a group of municipal corporations and townships each of which is contiguous to at least one of the other such municipal corporations or townships in the group may jointly establish within their boundaries, a 9-1-1 system. The

municipal corporation or contiguous municipal corporations and 49201
townships, may enter into an agreement with a telephone company 49202
serving ~~customers~~ customers within the boundaries of the municipal 49203
corporation or contiguous municipal corporations and townships, to 49204
provide for the telephone network portion of a 9-1-1 system. 49205

(C) Whenever a telephone company and one or more municipal 49206
corporations and townships enter into an agreement under this 49207
section to provide for the telephone network portion of a basic 49208
9-1-1 system, the telephone company shall so notify the public 49209
utilities commission, which shall determine whether the telephone 49210
company is capable of reasonably meeting the technical and 49211
economic requirements of providing the telephone network for an 49212
enhanced system within the territory served by the company and 49213
covered by the agreement. The determination shall be made solely 49214
for the purposes of division (C)(2) of section 4931.47 of the 49215
Revised Code. 49216

(D) Within three years from the date of entering into an 49217
agreement under division (A) or (B) of this section, the telephone 49218
company shall have installed the telephone network portion of the 49219
9-1-1 system according to the terms, conditions, requirements, and 49220
specifications set forth in the agreement. 49221

(E) The telephone company shall recover the cost of 49222
installing the telephone network system pursuant to agreements 49223
made under this section as provided in ~~sections~~ section 4931.47 49224
~~and 5727.39~~ of the Revised Code, as authorized under section 49225
5733.55 of the Revised Code. 49226

Sec. 4973.17. (A) Upon the application of any bank, building 49227
and loan association, or association of banks or building and loan 49228
associations in this state, the ~~governor~~ secretary of state may 49229
appoint and commission any persons that the bank, building and 49230
loan association, or association of banks or building and loan 49231

associations designates, or as many of those persons as the 49232
~~governor~~ secretary of state considers proper, to act as police 49233
officers for and on the premises of that bank, building and loan 49234
association, or association of banks or building and loan 49235
associations, or elsewhere, when directly in the discharge of 49236
their duties. Police officers so appointed shall be citizens of 49237
this state and of good character. They shall hold office for three 49238
years, unless, for good cause shown, their commission is revoked 49239
by the ~~governor~~ secretary of state, or by the bank, building and 49240
loan association, or association of banks or building and loan 49241
associations, as provided by law. 49242

(B) Upon the application of a company owning or using a 49243
railroad in this state and subject to section 4973.171 of the 49244
Revised Code, the ~~governor~~ secretary of state may appoint and 49245
commission any persons that the railroad company designates, or as 49246
many of those persons as the ~~governor~~ secretary of state considers 49247
proper, to act as police officers for and on the premises of the 49248
railroad company, its affiliates or subsidiaries, or elsewhere, 49249
when directly in the discharge of their duties. Police officers so 49250
appointed, within the time set by the Ohio peace officer training 49251
commission, shall successfully complete a commission approved 49252
training program and be certified by the commission. They shall 49253
hold office for three years, unless, for good cause shown, their 49254
commission is revoked by the ~~governor~~ secretary of state, or 49255
railroad company, as provided by law. 49256

Any person holding a similar commission in another state may 49257
be commissioned and may hold office in this state without 49258
completing the approved training program required by this division 49259
provided that ~~that~~ the person has completed a substantially 49260
equivalent training program in the other state. The Ohio peace 49261
officer training commission shall determine whether a training 49262
program in another state meets the requirements of this division. 49263

(C) Upon the application of any company under contract with the United States atomic energy commission for the construction or operation of a plant at a site owned by ~~such~~ the commission, the ~~governor~~ secretary of state may appoint and commission ~~such~~ persons ~~as~~ the company designates, not to exceed one hundred fifty, to act as police officers for the company at the plant or site owned by ~~such~~ the commission. 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 company, as provided by law.

(D)(1) Upon the application of any hospital that is operated by a public hospital agency or a nonprofit hospital agency and that employs and maintains its own proprietary police department 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. 49296

(b) Subsequent to the grant of approval described in division 49297
(D)(1)(a) of this section, the hospital has entered into a written 49298
agreement with the chief of police of the municipal corporation in 49299
which the hospital is located, or, if the hospital is located in 49300
the unincorporated area of a county, with the sheriff of that 49301
county, that sets forth the standards and criteria to govern the 49302
interaction and cooperation between persons appointed as police 49303
officers for the hospital under this division and law enforcement 49304
officers serving the agency represented by the chief of police or 49305
sheriff who signed the agreement in areas of their concurrent 49306
jurisdiction. The written agreement shall be signed by the 49307
appointing authority of the hospital and by the chief of police or 49308
sheriff. The standards and criteria may include, but are not 49309
limited to, provisions governing the reporting of offenses 49310
discovered by hospital police officers to the agency represented 49311
by the chief of police or sheriff, provisions governing 49312
investigatory responsibilities relative to offenses committed on 49313
hospital property, and provisions governing the processing and 49314
confinement of persons arrested for offenses committed on hospital 49315
property. The agreement required by this division is intended to 49316
apply in the aggregate to all persons appointed as police officers 49317
for the hospital under this division; a separate agreement is not 49318
required for each appointee on an individual basis. 49319

(c) The person has successfully completed a training program 49320
approved by the Ohio peace officer training commission and has 49321
been certified by the commission. A person appointed as a police 49322
officer under this division may attend a training program approved 49323
by the commission and be certified by the commission regardless of 49324
whether the appropriate chief of police or sheriff has granted the 49325
approval described in division (D)(1)(a) of this section and 49326
regardless of whether the hospital has entered into the written 49327

agreement described in division (D)(1)(b) of this section with the 49328
appropriate chief of police or sheriff. 49329

(2)(a) A person who is appointed as a police officer under 49330
division (D)(1) of this section is entitled, upon the grant of 49331
approval described in division (D)(1)(a) of this section and upon 49332
~~that~~ the person's and the hospital's compliance with the 49333
requirements of divisions (D)(1)(b) and (c) of this section, to 49334
act as a police officer for the hospital on the premises of the 49335
hospital and of its affiliates and subsidiaries that are within 49336
the territory of the municipal corporation served by the chief of 49337
police or the unincorporated area of the county served by the 49338
sheriff who signed the written agreement described in division 49339
(D)(1)(b) of this section, whichever is applicable, and anywhere 49340
else within the territory of that municipal corporation or within 49341
the unincorporated area of that county. The authority to act as a 49342
police officer as described in this division is granted only if 49343
the person, when engaging in that activity, is directly in the 49344
discharge of ~~that~~ the person's duties as a police officer for the 49345
hospital. The authority to act as a police officer as described in 49346
this division shall be exercised in accordance with the standards 49347
and criteria set forth in the written agreement described in 49348
division (D)(1)(b) of this section. 49349

(b) Additionally, a person appointed as a police officer 49350
under division (D)(1) of this section is entitled, upon the grant 49351
of approval described in division (D)(1)(a) of this section and 49352
upon ~~that~~ the person's and the hospital's compliance with the 49353
requirements of divisions (D)(1)(b) and (c) of this section, to 49354
act as a police officer elsewhere, within the territory of a 49355
municipal corporation or within the unincorporated area of a 49356
county, if the chief of police of that municipal corporation or 49357
the sheriff of that county, respectively, has granted approval for 49358
that activity to the hospital, police department, or security 49359

department served by the person as a police officer and if the 49360
person, when engaging in that activity, is directly in the 49361
discharge of ~~that~~ the person's duties as a police officer for the 49362
hospital. The approval described in this division may be general 49363
in nature or may be limited in scope, duration, or applicability, 49364
as determined by the chief of police or sheriff granting the 49365
approval. 49366

(3) Police officers appointed under division (D)(1) of this 49367
section shall hold office for three years, unless, for good cause 49368
shown, their commission is revoked by the ~~governor~~ secretary of 49369
state or by the hospital, as provided by law. As used in divisions 49370
(D)(1) to (3) of this section, "public hospital agency" and 49371
"nonprofit hospital agency" have the same ~~meaning~~ meanings as in 49372
section 140.01 of the Revised Code. 49373

(E) A fee of ~~five~~ fifteen dollars for each commission applied 49374
for under this section shall be paid at the time the application 49375
is made, and this amount shall be returned if for any reason a 49376
commission is not issued. 49377

Sec. 4981.20. (A) Any real or personal property, or both, of 49378
the Ohio rail development commission that is acquired, 49379
constructed, reconstructed, enlarged, improved, furnished, or 49380
equipped, or any combination thereof, and leased or subleased 49381
under authority of sections 4981.11 to 4981.26 of the Revised Code 49382
shall be subject to ad valorem, sales, use, and franchise taxes 49383
and to zoning, planning, and building regulations and fees, to the 49384
same extent and in the same manner as if the lessee-user or 49385
sublessee-user thereof, rather than the issuer, had acquired, 49386
constructed, reconstructed, enlarged, improved, furnished, or 49387
equipped, or any combination thereof, such real or personal 49388
property, and title thereto was in the name of such lessee-user or 49389
sublessee-user. 49390

The transfer of tangible personal property by lease or sublease under authority of sections 4981.11 to 4981.26 of the Revised Code is not a sale as used in Chapter 5739. of the Revised Code. The exemptions provided in divisions (B)(1) and ~~(14)~~(13) of section 5739.02 of the Revised Code shall not be applicable to purchases for a project under sections 4981.11 to 4981.26 of the Revised Code.

The issuer shall be exempt from all taxes on its real or personal property, or both, which has been acquired, constructed, reconstructed, enlarged, improved, furnished, or equipped, or any combination thereof, under sections 4981.11 to 4981.26 of the Revised Code so long as such property is used by the issuer for purposes which would otherwise exempt such property; has ceased to be used by a former lessee-user or sublessee-user and is not occupied or used; or has been acquired by the issuer but development has not yet commenced. The exemption shall be effective as of the date the exempt use begins. All taxes on the exempt real or personal property for the year should be prorated and the taxes for the exempt portion of the year shall be remitted by the county auditor.

(B) Bonds issued under sections 4981.11 to 4981.26 of the Revised Code, the transfer thereof, and the interest and other income from the bonds, including any profit made on the sale thereof, are free from taxation within the state.

Sec. 5101.11. This section does not apply to contracts entered into under section ~~5111.022~~, 5111.90~~7~~, or 5111.91 of the Revised Code.

(A) As used in this section:

(1) "Entity" includes an agency, board, commission, or department of the state or a political subdivision of the state; a

private, nonprofit entity; a school district; a private school; or 49421
a public or private institution of higher education. 49422

(2) "Federal financial participation" means the federal 49423
government's share of expenditures made by an entity in 49424
implementing a program administered by the department of job and 49425
family services. 49426

(B) At the request of any public entity having authority to 49427
implement a program administered by the department of job and 49428
family services or any private entity under contract with a public 49429
entity to implement a program administered by the department, the 49430
department may seek to obtain federal financial participation for 49431
costs incurred by the entity. Federal financial participation may 49432
be sought from programs operated pursuant to Title IV-A, Title 49433
IV-E, and Title XIX of the "Social Security Act," 49 Stat. 620 49434
(1935), 42 U.S.C. 301, as amended; the "Food Stamp Act of 1964," 49435
78 Stat. 703, 7 U.S.C. 2011, as amended; and any other statute or 49436
regulation under which federal financial participation may be 49437
available, except that federal financial participation may be 49438
sought only for expenditures made with funds for which federal 49439
financial participation is available under federal law. 49440

(C) All funds collected by the department of job and family 49441
services pursuant to division (B) of this section shall be 49442
distributed to the entities that incurred the costs, except for 49443
any amounts retained by the department pursuant to division (D)(3) 49444
of this section. 49445

(D) In distributing federal financial participation pursuant 49446
to this section, the department may either enter into an agreement 49447
with the entity that is to receive the funds or distribute the 49448
funds in accordance with rules adopted under division (F) of this 49449
section. If the department decides to enter into an agreement to 49450
distribute the funds, the agreement may include terms that do any 49451
of the following: 49452

(1) Provide for the whole or partial reimbursement of any	49453
cost incurred by the entity in implementing the program;	49454
(2) In the event that federal financial participation is	49455
disallowed or otherwise unavailable for any expenditure, require	49456
the department of job and family services or the entity, whichever	49457
party caused the disallowance or unavailability of federal	49458
financial participation, to assume responsibility for the	49459
expenditures;	49460
(3) Permit the department to retain not more than five per	49461
cent of the amount of the federal financial participation to be	49462
distributed to the entity;	49463
(4) Require the public entity to certify the availability of	49464
sufficient unencumbered funds to match the federal financial	49465
participation it receives under this section;	49466
(5) Establish the length of the agreement, which may be for a	49467
fixed or a continuing period of time;	49468
(6) Establish any other requirements determined by the	49469
department to be necessary for the efficient administration of the	49470
agreement.	49471
(E) An entity that receives federal financial participation	49472
pursuant to this section for a program aiding children and their	49473
families shall establish a process for collaborative planning with	49474
the department of job and family services for the use of the funds	49475
to improve and expand the program.	49476
(F) The director of job and family services shall adopt rules	49477
as necessary to implement this section, including rules for the	49478
distribution of federal financial participation pursuant to this	49479
section. The rules shall be adopted in accordance with Chapter	49480
119. of the Revised Code. The director may adopt or amend any	49481
statewide plan required by the federal government for a program	49482

administered by the department, as necessary to implement this 49483
section. 49484

(G) Federal financial participation received pursuant to this 49485
section shall not be included in any calculation made under 49486
section 5101.16 or 5101.161 of the Revised Code. 49487

Sec. 5101.12. The department of job and family services shall 49488
maximize its receipt of federal revenue. In fulfilling this duty, 49489
the department may enter into contracts to maximize federal 49490
revenue without the expenditure of state money. In selecting 49491
entities with which to contract, the department shall engage in a 49492
request for proposals process. The department may also enter into 49493
contracts with public entities providing revenue maximization 49494
services. 49495

Each year in January and July, the department shall submit a 49496
report to the office of budget and management outlining the 49497
department's success in maximizing federal revenue. The office of 49498
budget and management shall establish procedures and requirements 49499
for preparing and submitting the reports and shall compile data 49500
concerning the amount of federal revenue received by the 49501
department. The department shall submit a copy of each of its 49502
reports to the speaker and minority leader of the house of 49503
representatives, the president and minority leader of the senate, 49504
and the legislative service commission. 49505

Sec. 5101.14. (A) As used in this section and section 49506
5101.144 of the Revised Code, "children services" means services 49507
provided to children pursuant to Chapter 5153. of the Revised 49508
Code. 49509

(B) Within available funds, the department of job and family 49510
services shall ~~make payments~~ distribute funds to the counties 49511
within thirty days after the beginning of each calendar quarter 49512

for a part of ~~their~~ the counties' costs for children services ~~to~~ 49513
~~children performed pursuant to Chapter 5153. of the Revised Code.~~ 49514

Funds provided to the county under this section shall be 49515
deposited into the children services fund created pursuant to 49516
section 5101.144 of the Revised Code. 49517

~~(B)(1) The funds distributed under this section shall be used 49518
for the following:~~ 49519

~~(a) Home based services to children and families;~~ 49520

~~(b) Protective services to children;~~ 49521

~~(c) To find, develop, and approve adoptive homes;~~ 49522

~~(d) Short term, out of home care and treatment for children;~~ 49523

~~(e) Costs for the care of a child who resides with a 49524
caretaker relative, other than the child's parent, and is in the 49525
legal custody of a public children services agency pursuant to a 49526
voluntary temporary custody agreement entered into under division 49527
(A) of section 5103.15 of the Revised Code or in the legal custody 49528
of a public children services agency or the caretaker relative 49529
pursuant to an allegation or adjudication of abuse, neglect, or 49530
dependency made under Chapter 2151. of the Revised Code;~~ 49531

~~(f) Other services a public children services agency 49532
considers necessary to protect children from abuse, neglect, or 49533
dependency.~~ 49534

~~(2) No funds distributed under this section shall be used for 49535
the costs of maintaining a child in a children's home owned and 49536
operated by the county.~~ 49537

(C) In each fiscal year, the amount of funds available for 49538
distribution under this section shall be allocated to counties as 49539
follows: 49540

(1) If the amount is less than the amount initially 49541
appropriated for the immediately preceding fiscal year, each 49542

county shall receive an amount equal to the percentage of the 49543
funding it received in the immediately preceding fiscal year, 49544
exclusive of any releases from or additions to the allocation or 49545
any sanctions imposed under this section; 49546

(2) If the amount is equal to the amount initially 49547
appropriated for the immediately preceding fiscal year, each 49548
county shall receive an amount equal to the amount it received in 49549
the preceding fiscal year, exclusive of any releases from or 49550
additions to the allocation or any sanctions imposed under this 49551
section; 49552

(3) If the amount is greater than the amount initially 49553
appropriated for the immediately preceding fiscal year, each 49554
county shall receive the amount determined under division (C)(2) 49555
of this section as a base allocation, plus a percentage of the 49556
amount that exceeds the amount initially appropriated for the 49557
immediately preceding fiscal year. The amount exceeding the amount 49558
initially appropriated in the immediately preceding fiscal year 49559
shall be allocated to the counties as follows: 49560

(a) Twelve per cent divided equally among all counties; 49561

(b) Forty-eight per cent in the ratio that the number of 49562
residents of the county under the age of eighteen bears to the 49563
total number of such persons residing in this state; 49564

(c) Forty per cent in the ratio that the number of residents 49565
of the county with incomes under the federal poverty guideline 49566
bears to the total number of such persons in this state. 49567

As used in division (C)(3)(c) of this section, "federal 49568
poverty guideline" means the poverty guideline as defined by the 49569
United States office of management and budget and revised by the 49570
United States secretary of health and human services in accordance 49571
with section 673 of the "Community Services Block Grant Act," 95 49572
Stat. 511 (1981), 42 U.S.C.A. 9902, as amended. 49573

~~(D) The director of job and family services may adopt rules as necessary for the allocation of funds under this section. The rules shall be adopted in accordance with section 111.15 of the Revised Code.~~ 49574
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~~(E)(1) As used in this division, "services to children" means children's protective services, home based services to children and families, foster home services, residential treatment services, adoptive services, and independent living services.~~ 49578
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~~(2) Except as otherwise provided in this section, the allocation of funds for a fiscal year to a county under this section shall be reduced by the department if in the preceding calendar year the total amount expended for services to children from local funds was less than the total expended from that source in the second preceding calendar year. The reduction shall be equal to the difference between the total expended in the preceding calendar year and the total expended in the second preceding calendar year.~~ 49582
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~~The determination of whether the amount expended for services to children was less in the preceding calendar year than in the second preceding calendar year shall not include a difference due to any of the following factors to the extent that the difference does not exceed the amount attributable to that factor:~~ 49591
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~~(a) An across the board reduction in the county budget as a whole;~~ 49596
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~~(b) A reduced or failed levy specifically earmarked for children services;~~ 49598
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~~(c) The closure of, or a reduction in the operating capacity of, a children's home owned and operated by the county.~~ 49600
49601

~~(3) Funds withheld under this division may be reallocated by the department to other counties. The department may grant whole~~ 49602
49603

~~or partial waivers of the provisions of this division.~~ 49604

~~(F) Children who are in the temporary or permanent custody of
a certified public or private nonprofit agency or institution, or
who are in adoptions subsidized under division (B) of section
5153.163 of the Revised Code are eligible for medical assistance
through the medical assistance program established under section
5111.01 of the Revised Code.~~ 49605
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~~(G) Within ninety days after the end of each state fiscal
year biennium, each county shall return any unspent funds to the
department.~~ 49611
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~~(H) In accordance with Chapter 119. of the Revised Code, the
(E) The director shall of job and family services may adopt, and
may amend and rescind, the following rules in accordance with
section 111.15 of the Revised Code:~~ 49614
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~~(1) Rules that are necessary for the allocation of funds
under this section;~~ 49618
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~~(2) Rules prescribing reports on expenditures to be submitted
by the counties as necessary for the implementation of this
section.~~ 49620
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Sec. 5101.141. ~~(A) As used in sections 5101.141 to 5101.1410
of the Revised Code, "Title IV-E" means Title IV-E of the "Social
Security Act," 94 Stat. 501, 42 U.S.C. 670 (1980), as amended.~~ 49623
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~~(B) The department of job and family services shall act as
the single state agency to administer federal payments for foster
care and adoption assistance made pursuant to Title IV-E ~~of the
"Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670 (1980), as
amended.~~ The director of job and family services shall adopt rules
to implement this authority. ~~Internal management rules~~ Rules
governing financial and administrative requirements applicable to
public children services agencies, ~~private child placing agencies,~~~~ 49626
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and ~~private noncustodial agencies~~ government entities that provide 49634
Title IV-E reimbursable placement services to children shall be 49635
adopted in accordance with section 111.15 of the Revised Code, as 49636
if they were internal management rules. Rules governing 49637
requirements applicable to private child placing agencies and 49638
private noncustodial agencies and rules establishing eligibility, 49639
program participation, and other requirements concerning Title 49640
IV-E shall be adopted in accordance with Chapter 119. of the 49641
Revised Code. A public children services agency to which the 49642
department distributes Title IV-E funds shall administer the funds 49643
in accordance with those rules. 49644

~~(B)~~(C)(1) The county, on behalf of each child eligible for 49645
foster care maintenance payments under Title IV-E ~~of the "Social~~ 49646
~~Security Act,"~~ shall make payments to cover the cost of providing 49647
all of the following: 49648

(a) The child's food, clothing, shelter, daily supervision, 49649
and school supplies; 49650

(b) The child's personal incidentals; 49651

(c) Reasonable travel to the child's home for visitation. 49652

(2) In addition to payments made under division ~~(B)~~(C)(1) of 49653
this section, the county may, on behalf of each child eligible for 49654
foster care maintenance payments under Title IV-E ~~of the "Social~~ 49655
~~Security Act,"~~ make payments to cover the cost of providing the 49656
following: 49657

(a) Liability insurance with respect to the child; 49658

(b) If the county is participating in the demonstration 49659
project established under division (A) of section 5101.142 of the 49660
Revised Code, services provided under the project. 49661

(3) With respect to a child who is in a child-care 49662
institution, including any type of group home designed for the 49663

care of children or any privately operated program consisting of 49664
two or more certified foster homes operated by a common 49665
administrative unit, the foster care maintenance payments made by 49666
the county on behalf of the child shall include the reasonable 49667
cost of the administration and operation of the institution, group 49668
home, or program, as necessary to provide the items described in 49669
divisions ~~(B)~~(C)(1) and (2) of this section. 49670

~~(C)~~(D) To the extent that either foster care maintenance 49671
payments under division ~~(B)~~ (C) of this section or Title IV-E 49672
adoption assistance payments for maintenance costs require the 49673
expenditure of county funds, the board of county commissioners 49674
shall report the nature and amount of each expenditure of county 49675
funds to the department. 49676

~~(D)~~(E) The department shall distribute to public children 49677
services agencies that incur and report such expenditures federal 49678
financial participation received for administrative and training 49679
costs incurred in the operation of foster care maintenance and 49680
adoption assistance programs. The department may withhold not more 49681
than three per cent of the federal financial participation 49682
received. The funds withheld may be used only to fund the Ohio 49683
child welfare training program established under section 5153.60 49684
of the Revised Code and the university partnership program for 49685
college and university students majoring in social work who have 49686
committed to work for a public children services agency upon 49687
graduation. The funds withheld shall be in addition to any 49688
administration and training cost for which the department is 49689
reimbursed through its own cost allocation plan. 49690

~~(E)~~(F) All federal financial participation funds received by 49691
a county pursuant to this section shall be deposited into the 49692
county's children services fund created pursuant to section 49693
5101.144 of the Revised Code. 49694

~~(F)~~(G) The department shall periodically publish and 49695

distribute the maximum amounts that the department will reimburse 49696
public children services agencies for making payments on behalf of 49697
children eligible for foster care maintenance payments. 49698

~~(G)~~(H) The department, by and through its director, is hereby 49699
authorized to develop, participate in the development of, 49700
negotiate, and enter into one or more interstate compacts on 49701
behalf of this state with agencies of any other states, for the 49702
provision of medical assistance and other social services to 49703
children in relation to whom all of the following apply: 49704

(1) They have special needs. 49705

(2) This state or another state that is a party to the 49706
interstate compact is providing adoption assistance on their 49707
behalf. 49708

(3) They move into this state from another state or move out 49709
of this state to another state. 49710

Sec. 5101.142. (A) The department of job and family services 49711
may apply to the United States secretary of health and human 49712
services for a waiver of requirements established under Title IV-E 49713
~~of the "Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670~~ 49714
~~(1980)~~, or regulations adopted thereunder, to conduct a 49715
demonstration project expanding eligibility for and services 49716
provided under Title IV-E. The department may enter into 49717
agreements with the secretary necessary to implement the 49718
demonstration project, including agreements establishing the terms 49719
and conditions of the waiver authorizing the project. If a 49720
demonstration project is to be established, the department shall 49721
do all of the following: 49722

(1) Have the director of job and family services adopt rules 49723
in accordance with Chapter 119. of the Revised Code governing the 49724
project. The rules shall be consistent with the agreements the 49725

department enters into with the secretary.	49726
(2) Enter into agreements with public children services agencies that the department selects for participation in the project. The department shall not select an agency that objects to participation or refuses to be bound by the terms and conditions of the project.	49727 49728 49729 49730 49731
(3) Contract with persons or governmental agencies providing services under the project;	49732 49733
(4) Amend the state plan required by section 471 of the "Social Security Act," 42 U.S.C.A. 671, as amended, as needed to implement the project;	49734 49735 49736
(5) Conduct ongoing evaluations of the project;	49737
(6) Perform other administrative and operational activities required by the agreement with the secretary.	49738 49739
(B) The department may apply to the United States secretary of health and human services for a waiver of the requirements established under Title IV-B of the "Social Security Act of 1967," 81 Stat. 821, 42 U.S.C.A. 620 or regulations adopted thereunder and established under any other federal law or regulations that affect the children services functions prescribed by Chapter 5153. of the Revised Code, to conduct demonstration projects or otherwise improve the effectiveness and efficiency of the children services function.	49740 49741 49742 49743 49744 49745 49746 49747 49748
Sec. 5101.144. As used in this section, "children services" means services provided to children pursuant to Chapter 5153. of the Revised Code.	49749 49750 49751
Each county shall deposit all funds its public children services agency receives from appropriations made by the board of county commissioners or any other source for the purpose of providing children services into a special fund in the county	49752 49753 49754 49755

treasury known as the children services fund. A county shall use 49756
money in the fund only for the purposes of meeting the expenses of 49757
providing children services. 49758

Sec. 5101.145. (A) ~~For the purposes of this section, "Title 49759
IV-E" means Title IV-E of the "Social Security Act," 94 Stat. 501, 49760
42 U.S.C.A. 670 (1980).~~ 49761

~~(B)~~ In adopting rules under section 5101.141 of the Revised 49762
Code regarding financial requirements applicable to public 49763
children services agencies, private child placing agencies, ~~and~~ 49764
private noncustodial agencies, and government entities that 49765
provide Title IV-E reimbursable placement services to children, 49766
the department of job and family services shall establish both of 49767
the following: 49768

(1) A single form for the agencies or entities to report 49769
costs reimbursable under Title IV-E and costs reimbursable under 49770
medicaid; 49771

(2) Procedures to monitor cost reports submitted by the 49772
agencies or entities. 49773

~~(C)~~(B) The procedures established under division ~~(B)~~(A)(2) of 49774
this section shall be implemented not later than October 1, 2003. 49775
The procedures shall be used to do both of the following: 49776

(1) Determine which of the costs are reimbursable under Title 49777
IV-E; 49778

(2) Ensure that costs reimbursable under medicaid are 49779
excluded from determinations made under division ~~(C)~~(B)(1) of this 49780
section. 49781

Sec. 5101.146. The department of job and family services 49782
shall establish the following penalties, which shall be enforced 49783
at the discretion of the department, for the failure of a public 49784

children services agency, private child placing agency, ~~or~~ private 49785
noncustodial agency, or government entity that provides Title IV-E 49786
reimbursable placement services to children to comply with 49787
procedures the department establishes to ensure fiscal 49788
accountability: 49789

(A) For initial failure, the department and the agency or 49790
entity involved shall jointly develop and implement a corrective 49791
action plan according to a specific schedule. If requested by the 49792
agency or entity involved, the department shall provide technical 49793
assistance to the agency or entity to ensure the fiscal 49794
accountability procedures and goals of the plan are met. 49795

(B) For subsequent failures or failure to achieve the goals 49796
of the plan described in division (A) of this section, ~~either one~~ 49797
of the following: 49798

(1) For public children services agencies, the department may 49799
take any action permitted under division ~~(B)(3)(C)(2)~~, (4), ~~or~~ 49800
(5), or (6) of section 5101.24 of the Revised Code. 49801

(2) For private child placing agencies or private 49802
noncustodial agencies, cancellation of any Title IV-E allowability 49803
rates for the agency involved pursuant to section 5101.141 of the 49804
Revised Code or revocation pursuant to Chapter 119. of the Revised 49805
Code of that agency's certificate issued under section 5103.03 of 49806
the Revised Code; 49807

(3) For government entities, other than public children 49808
services agencies, that provide Title IV-E reimbursable placement 49809
services to children, cancellation of any Title IV-E allowability 49810
rates for the entity involved pursuant to section 5101.141 of the 49811
Revised Code. 49812

Sec. 5101.1410. In addition to the remedies available under 49813
sections 5101.146 and 5101.24 of the Revised Code, the department 49814

of job and family services may certify a claim to the attorney 49815
general under section 131.02 of the Revised Code for the attorney 49816
general to take action under that section against a public 49817
children services agency, private child placing agency, private 49818
noncustodial agency, or government entity that provides Title IV-E 49819
reimbursable placement services to children if all of the 49820
following are the case: 49821

(A) The agency or entity files a cost report with the 49822
department pursuant to rules adopted under division (B) of section 49823
5101.141 of the Revised Code. 49824

(B) The department receives and distributes federal Title 49825
IV-E reimbursement funds based on the cost report. 49826

(C) The agency's or entity's misstatement, misclassification, 49827
overstatement, understatement, or other inclusion or omission of 49828
any cost included in the cost report causes the United States 49829
department of health and human services to disallow all or part of 49830
the federal Title IV-E reimbursement funds the department received 49831
and distributed. 49832

(D) The agency's or entity's misstatement, misclassification, 49833
overstatement, understatement, or other inclusion or omission of 49834
any cost included in the cost report is not the result of 49835
directives the department gave to the agency or entity. 49836

Sec. 5101.16. (A) As used in this section and sections 49837
5101.161 and 5101.162 of the Revised Code: 49838

(1) "Disability financial assistance" means the financial and 49839
medical assistance provided program established under Chapter 49840
5115. of the Revised Code. 49841

(2) "Disability medical assistance" means the medical 49842
assistance program established under Chapter 5115. of the Revised 49843
Code. 49844

<u>(3)</u> "Food stamps" means the program administered by the	49845
department of job and family services pursuant to section 5101.54	49846
of the Revised Code.	49847
(3) <u>(4)</u> "Medicaid" means the medical assistance program	49848
established by Chapter 5111. of the Revised Code, excluding	49849
transportation services provided under that chapter.	49850
(4) <u>(5)</u> "Ohio works first" means the program established by	49851
Chapter 5107. of the Revised Code.	49852
(5) <u>(6)</u> "Prevention, retention, and contingency" means the	49853
program established by Chapter 5108. of the Revised Code.	49854
(6) <u>(7)</u> "Public assistance expenditures" means expenditures	49855
for all of the following:	49856
(a) Ohio works first;	49857
(b) County administration of Ohio works first;	49858
(c) Prevention, retention, and contingency;	49859
(d) County administration of prevention, retention, and	49860
contingency;	49861
(e) Disability <u>financial</u> assistance;	49862
(f) <u>Disability medical assistance</u> ;	49863
<u>(g)</u> County administration of disability <u>financial</u> assistance;	49864
(g) <u>(h)</u> <u>County administration of disability medical</u>	49865
<u>assistance</u> ;	49866
<u>(i)</u> County administration of food stamps;	49867
(h) <u>(j)</u> County administration of medicaid.	49868
<u>(7)</u> <u>"Title IV-A program" has the same meaning as in section</u>	49869
<u>5101.80 of the Revised Code.</u>	49870
(B) Each board of county commissioners shall pay the county	49871
share of public assistance expenditures in accordance with section	49872

5101.161 of the Revised Code. Except as provided in division (C) 49873
of this section, a county's share of public assistance 49874
expenditures is the sum of all of the following for state fiscal 49875
year 1998 and each state fiscal year thereafter: 49876

(1) The amount that is twenty-five per cent of the county's 49877
total expenditures for disability financial assistance and 49878
disability medical assistance and county administration of 49879
~~disability assistance~~ those programs during the state fiscal year 49880
ending in the previous calendar year that the department of job 49881
and family services determines are allowable. 49882

(2) The amount that is ten per cent, or other percentage 49883
determined under division (D) of this section, of the county's 49884
total expenditures for county administration of food stamps and 49885
medicaid during the state fiscal year ending in the previous 49886
calendar year that the department determines are allowable, less 49887
the amount of federal reimbursement credited to the county under 49888
division (E) of this section for the state fiscal year ending in 49889
the previous calendar year; 49890

~~(3)(a) Except as provided in division (B)(3)(b) of this~~ 49891
~~section, A percentage of the actual amount, as determined by the~~ 49892
~~department of job and family services from expenditure reports~~ 49893
~~submitted to the United States department of health and human~~ 49894
~~services,~~ of the county share of program and administrative 49895
expenditures during federal fiscal year 1994 for assistance and 49896
services, other than child day-care, provided under Titles IV-A 49897
and IV-F of the "Social Security Act," 49 Stat. 620 (1935), 42 49898
U.S.C. 301, as those titles existed prior to the enactment of the 49899
"Personal Responsibility and Work Opportunity Reconciliation Act 49900
of 1996," 110 Stat. 2105. The department of job and family 49901
services shall determine the actual amount of the county share 49902
from expenditure reports submitted to the United States department 49903
of health and human services. The percentage shall be the 49904

percentage established in rules adopted under division (F) of this section. 49905
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~~(b) For state fiscal years 2000 and 2001, seventy seven per cent of the amount determined under division (B)(3)(a) of this section.~~ 49907
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(C)(1) If a county's share of public assistance expenditures determined under division (B) of this section for a state fiscal year exceeds one hundred ten per cent of the county's share for those expenditures for the immediately preceding state fiscal year, the department of job and family services shall reduce the county's share for expenditures under divisions (B)(1) and (2) of this section so that the total of the county's share for expenditures under division (B) of this section equals one hundred ten per cent of the county's share of those expenditures for the immediately preceding state fiscal year. 49910
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(2) A county's share of public assistance expenditures determined under division (B) of this section may be increased pursuant to a sanction under section 5101.24 of the Revised Code. 49920
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(D)(1) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and division (D)(2) of this section does not apply to the county, the percentage to be used for the purpose of division (B)(2) of this section is the product of ten multiplied by a fraction of which the numerator is the per capita tax duplicate of the county and the denominator is the per capita tax duplicate of the state as a whole. The department of job and family services shall compute the per capita tax duplicate for the state and for each county by dividing the tax duplicate for the most recent available year by the current estimate of population prepared by the department of development. 49923
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(2) If the percentage of families in a county with an annual 49935

income of less than three thousand dollars is greater than the 49936
percentage of such families in the state and division (D)(1) of 49937
this section does not apply to the county, the percentage to be 49938
used for the purpose of division (B)(2) of this section is the 49939
product of ten multiplied by a fraction of which the numerator is 49940
the percentage of families in the state with an annual income of 49941
less than three thousand dollars a year and the denominator is the 49942
percentage of such families in the county. The department of job 49943
and family services shall compute the percentage of families with 49944
an annual income of less than three thousand dollars for the state 49945
and for each county by multiplying the most recent estimate of 49946
such families published by the department of development, by a 49947
fraction, the numerator of which is the estimate of average annual 49948
personal income published by the bureau of economic analysis of 49949
the United States department of commerce for the year on which the 49950
census estimate is based and the denominator of which is the most 49951
recent such estimate published by the bureau. 49952

(3) If the per capita tax duplicate of a county is less than 49953
the per capita tax duplicate of the state as a whole and the 49954
percentage of families in the county with an annual income of less 49955
than three thousand dollars is greater than the percentage of such 49956
families in the state, the percentage to be used for the purpose 49957
of division (B)(2) of this section shall be determined as follows: 49958

(a) Multiply ten by the fraction determined under division 49959
(D)(1) of this section; 49960

(b) Multiply the product determined under division (D)(3)(a) 49961
of this section by the fraction determined under division (D)(2) 49962
of this section. 49963

(4) The department of job and family services shall 49964
determine, for each county, the percentage to be used for the 49965
purpose of division (B)(2) of this section not later than the 49966
first day of July of the year preceding the state fiscal year for 49967

which the percentage is used. 49968

(E) The department of job and family services shall credit to 49969
a county the amount of federal reimbursement the department 49970
receives from the United States departments of agriculture and 49971
health and human services for the county's expenditures for 49972
administration of food stamps and medicaid that the department 49973
determines are allowable administrative expenditures. 49974

(F)(1) The director of job and family services shall adopt 49975
rules in accordance with section 111.15 of the Revised Code to 49976
establish all of the following: 49977

~~(1)~~(a) The method the department is to use to change a 49978
county's share of public assistance expenditures determined under 49979
division (B) of this section as provided in division (C) of this 49980
section; 49981

~~(2)~~(b) The allocation methodology and formula the department 49982
will use to determine the amount of funds to credit to a county 49983
under this section; 49984

~~(3)~~(c) The method the department will use to change the 49985
payment of the county share of public assistance expenditures from 49986
a calendar-year basis to a state fiscal year basis; 49987

~~(4)~~(d) The percentage to be used for the purpose of division 49988
(B)(3) of this section, which shall meet both of the following 49989
requirements: 49990

(i) The percentage shall not be less than seventy-five per 49991
cent nor more than eighty-two per cent; 49992

(ii) The percentage shall not exceed the percentage that the 49993
state's qualified state expenditures is of the state's historic 49994
state expenditures as those terms are defined in 42 U.S.C. 49995
609(a)(7). 49996

(e) Other procedures and requirements necessary to implement 49997

this section. 49998

(2) The director of job and family services may amend the 49999
rule adopted under division (F)(1)(d) of this section to modify 50000
the percentage on determination that the amount the general 50001
assembly appropriates for Title IV-A programs makes the 50002
modification necessary. The rule shall be adopted and amended as 50003
if an internal management rule and in consultation with the 50004
director of budget and management. 50005

Sec. 5101.162. The Subject to available federal funds and 50006
appropriations made by the general assembly, the department of job 50007
and family services may, at its sole discretion, use available 50008
federal funds to reimburse county expenditures for county 50009
administration of food stamps or medicaid even though the county 50010
expenditures meet or exceed the maximum allowable reimbursement 50011
amount established by rules adopted under section 5101.161 of the 50012
Revised Code if the board of county commissioners has ~~not~~ entered 50013
into a ~~partnership~~ fiscal agreement with the director of job and 50014
family services under section 5101.21 of the Revised Code. The 50015
director may adopt internal management rules in accordance with 50016
section 111.15 of the Revised Code to implement this section. 50017

Sec. 5101.18. (A) When the director of job and family 50018
services adopts rules under section 5107.05 regarding income 50019
requirements for the Ohio works first program and under section 50020
~~5115.05~~ 5115.03 of the Revised Code regarding income and resource 50021
requirements for the disability financial assistance program, the 50022
director shall determine what payments shall be regarded or 50023
disregarded. In making this determination, the director shall 50024
consider: 50025

(1) The source of the payment; 50026

(2) The amount of the payment; 50027

(3) The purpose for which the payment was made;	50028
(4) Whether regarding the payment as income would be in the public interest;	50029 50030
(5) Whether treating the payment as income would be detrimental to any of the programs administered in whole or in part by the department of job and family services and whether such determination would jeopardize the receipt of any federal grant or payment by the state or any receipt of aid under Chapter 5107. of the Revised Code.	50031 50032 50033 50034 50035 50036
(B) Any recipient of aid under Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, whose money payment is discontinued as the result of a general increase in old-age, survivors, and disability insurance benefits under such act, shall remain a recipient for the purpose of receiving medical assistance through the medical assistance program established under section 5111.01 of the Revised Code.	50037 50038 50039 50040 50041 50042 50043
Sec. 5101.181. (A) As used in this section and section 5101.182 of the Revised Code, "public assistance" includes, in addition to Ohio works first; prevention , <u>all of the following:</u>	50044 50045 50046
<u>(1) Prevention</u> retention, and contingency; medicaid	50047
<u>(2) Medicaid</u> ; and disability	50048
<u>(3) Disability financial</u> assistance, general ;	50049
<u>(4) Disability medical</u> assistance;	50050
<u>(5) General</u> assistance provided prior to July 17, 1995, under former Chapter 5113. of the Revised Code.	50051 50052
(B) As part of the procedure for the determination of overpayment to a recipient of public assistance under Chapter 5107., 5108., 5111., or 5115. of the Revised Code, the director of job and family services shall furnish quarterly the name and	50053 50054 50055 50056

social security number of each individual who receives public 50057
assistance to the director of administrative services, the 50058
administrator of the bureau of workers' compensation, and each of 50059
the state's retirement boards. Within fourteen days after 50060
receiving the name and social security number of an individual who 50061
receives public assistance, the director of administrative 50062
services, administrator, or board shall inform the auditor of 50063
state as to whether such individual is receiving wages or 50064
benefits, the amount of any wages or benefits being received, the 50065
social security number, and the address of the individual. The 50066
director of administrative services, administrator, boards, and 50067
any agent or employee of those officials and boards shall comply 50068
with the rules of the director of job and family services 50069
restricting the disclosure of information regarding recipients of 50070
public assistance. Any person who violates this provision shall 50071
thereafter be disqualified from acting as an agent or employee or 50072
in any other capacity under appointment or employment of any state 50073
board, commission, or agency. 50074

(C) The auditor of state may enter into a reciprocal 50075
agreement with the director of job and family services or 50076
comparable officer of any other state for the exchange of names, 50077
current or most recent addresses, or social security numbers of 50078
persons receiving public assistance under Title IV-A or under 50079
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 50080
U.S.C. 301, as amended. 50081

(D)(1) The auditor of state shall retain, for not less than 50082
two years, at least one copy of all information received under 50083
this section and sections 145.27, 742.41, 3307.20, 3309.22, 50084
4123.27, 5101.182, and 5505.04 of the Revised Code. The auditor 50085
shall review the information to determine whether overpayments 50086
were made to recipients of public assistance under Chapters 5107., 50087
5108., 5111., and 5115. of the Revised Code. The auditor of state 50088

shall initiate action leading to prosecution, where warranted, of 50089
recipients who received overpayments by forwarding the name of 50090
each recipient who received overpayment, together with other 50091
pertinent information, to the director of job and family services 50092
and the attorney general, to the district director of job and 50093
family services of the district through which public assistance 50094
was received, and to the county director of job and family 50095
services and county prosecutor of the county through which public 50096
assistance was received. 50097

(2) The auditor of state and the attorney general or their 50098
designees may examine any records, whether in computer or printed 50099
format, in the possession of the director of job and family 50100
services or any county director of job and family services. They 50101
shall provide safeguards which restrict access to such records to 50102
purposes directly connected with an audit or investigation, 50103
prosecution, or criminal or civil proceeding conducted in 50104
connection with the administration of the programs and shall 50105
comply with the rules of the director of job and family services 50106
restricting the disclosure of information regarding recipients of 50107
public assistance. Any person who violates this provision shall 50108
thereafter be disqualified from acting as an agent or employee or 50109
in any other capacity under appointment or employment of any state 50110
board, commission, or agency. 50111

(3) Costs incurred by the auditor of state in carrying out 50112
the auditor of state's duties under this division shall be borne 50113
by the auditor of state. 50114

Sec. 5101.20. (A) As used in this section of the Revised 50115
Code: 50116

(1) "Local area" has the same meaning as in section 101 of 50117
the "Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C. 50118
2801, as amended, and division (A) of section 6301.01 of the 50119

<u>Revised Code;</u>	50120
<u>(2) "Chief elected official" has the same meaning as in</u>	50121
<u>section 101 of the "Workforce Investment Act of 1998," 112 Stat.</u>	50122
<u>936, 29 U.S.C. 2801, as amended, and division (F) of section</u>	50123
<u>6301.01 of the Revised Code;</u>	50124
<u>(3) "Grantee" means the chief elected officials of a local</u>	50125
<u>area.</u>	50126
<u>(B) The director of job and family services shall enter into</u>	50127
<u>one or more written grant agreements with each local area under</u>	50128
<u>which financial assistance is awarded for workforce development</u>	50129
<u>activities included in the agreements. A grant agreement shall</u>	50130
<u>establish the terms and conditions governing the accountability</u>	50131
<u>for and use of grants provided by the department of job and family</u>	50132
<u>services to the grantee for the administration of workforce</u>	50133
<u>development activities funded under the "Workforce Investment Act</u>	50134
<u>of 1998," 112 Stat. 936, 29 U.S.C. 2801, as amended.</u>	50135
<u>(C) In the case of a local area comprised of multiple</u>	50136
<u>political subdivisions, nothing in this section shall preclude the</u>	50137
<u>chief elected officials of a local area from entering into an</u>	50138
<u>agreement among themselves to distribute any liability for</u>	50139
<u>activities of the local area, but such an agreement shall not be</u>	50140
<u>binding on the department of job and family services.</u>	50141
<u>(D) The written grant agreement entered into under division</u>	50142
<u>(B) of this section shall comply with all applicable federal and</u>	50143
<u>state laws governing workforce development activities. All federal</u>	50144
<u>conditions and restrictions that apply to the use of grants</u>	50145
<u>received by the department of job and family services shall apply</u>	50146
<u>to the use of the grants received by the local areas from the</u>	50147
<u>department.</u>	50148
<u>(E) A written grant agreement entered into under division (B)</u>	50149
<u>of this section shall:</u>	50150

<u>(1) Identify the chief elected officials for the local area;</u>	50151
<u>(2) Provide for the incorporation of the local workforce development plan;</u>	50152 50153
<u>(3) Include the chief elected officials' assurance that the local area and any subgrantee or contractor of the local area will do all of the following:</u>	50154 50155 50156
<u>(a) Ensure that the financial assistance awarded under the grant agreement is used, and the workforce development duties included in the agreement are performed, in accordance with requirements established by the department or any of the following: federal or state law, the state plan for receipt of federal financial participation, grant agreements between the department and a federal agency, or executive orders.</u>	50157 50158 50159 50160 50161 50162 50163
<u>(b) Ensure that the chief elected officials and any subgrantee or contractor of the local area utilize a financial management system and other accountability mechanisms that meet requirements the department establishes;</u>	50164 50165 50166 50167
<u>(c) Require the chief elected officials and any subgrantee or contractor of the local area to do both of the following:</u>	50168 50169
<u>(i) Monitor all private and government entities that receive a payment from financial assistance awarded under the grant agreement to ensure that each entity uses the payment in accordance with requirements for the workforce development duties included in the agreement;</u>	50170 50171 50172 50173 50174
<u>(ii) Take action to recover payments that are not used in accordance with the requirements for the workforce development duties that are included in the agreement.</u>	50175 50176 50177
<u>(d) Require the chief elected officials of a local area to promptly reimburse the department the amount that represents the amount a local area is responsible for of funds the department</u>	50178 50179 50180

pays to any entity because of an adverse audit finding, adverse 50181
quality control finding, final disallowance of federal financial 50182
participation, or other sanction or penalty; 50183

(e) Require chief elected officials of a local area to take 50184
prompt corrective action if the department, auditor of state, 50185
federal agency, or other entity authorized by federal or state law 50186
to determine compliance with requirements for a workforce 50187
development duty included in the agreement determines compliance 50188
has not been achieved; 50189

(4) Provide that the award of financial assistance is subject 50190
to the availability of federal funds and appropriations made by 50191
the general assembly; 50192

(5) Provide for annual financial, administrative, or other 50193
incentive awards, if any, to be provided in accordance with 50194
section 5101.23 of the Revised Code. 50195

(6) Establish the method of amending or terminating the grant 50196
agreement and an expedited process for correcting terms or 50197
conditions of the agreement that the director and the chief 50198
elected officials agree are erroneous. 50199

(7) Provide for the department of job and family services to 50200
award financial assistance for the workforce development duties 50201
included in the agreement in accordance with a methodology for 50202
determining the amount of the award established by rules adopted 50203
under division (F) of this section. 50204

(8) Determine the dates that the grant agreement begins and 50205
ends. 50206

(F)(1) The director shall adopt rules in accordance with 50207
section 111.15 of the Revised Code governing grant agreements. The 50208
director shall adopt the rules as if they were internal management 50209
rules. The rules shall establish methodologies to be used to 50210
determine the amount of financial assistance to be awarded under 50211

<u>the agreements and may do any of the following:</u>	50212
<u>(a) Govern the establishment of consolidated funding allocations and other allocations;</u>	50213
<u>(b) Specify allowable uses of financial assistance awarded under the agreements;</u>	50214
<u>(c) Establish reporting, cash management, audit, and other requirements the director determines are necessary to provide accountability for the use of financial assistance awarded under the agreements and determine compliance with requirements established by the department or any of the following: a federal or state law, state plan for receipt of federal financial participation, grant agreement between the department and a federal entity, or executive order.</u>	50215
<u>(2) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.</u>	50216
<u>(3) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.</u>	50217
<u>(4) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.</u>	50218
<u>(5) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.</u>	50219
<u>(6) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.</u>	50220
<u>(7) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.</u>	50221
<u>(8) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.</u>	50222
<u>(9) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.</u>	50223
<u>(10) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.</u>	50224
<u>(11) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.</u>	50225
<u>(12) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.</u>	50226
<u>(13) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.</u>	50227
<u>(14) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.</u>	50228
<u>(15) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.</u>	50229
<u>(16) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.</u>	50230
<u>(17) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.</u>	50231
<u>(18) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.</u>	50232
<u>(19) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.</u>	50233
<u>(20) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.</u>	50234
<u>(21) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.</u>	50235
<u>(22) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.</u>	50236
<u>(23) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.</u>	50237
<u>(24) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.</u>	50238
<u>(25) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.</u>	50239
<u>(26) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.</u>	50240

<u>section to enter into a fiscal agreement;</u>	50241
<u>(3) A county elected official that is a child support enforcement agency if required by division (B) of this section to enter into a fiscal agreement.</u>	50242
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	50244
(B) The director of job and family services shall <u>may</u> enter into a <u>one or more</u> written partnership agreement <u>fiscal agreements</u> with each board <u>boards</u> of county commissioners.	50245
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(C)(1) Each partnership agreement shall include provisions regarding the administration and design of all of the following:	50248
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(a) The Ohio works first program established under Chapter 5107. of the Revised Code;	50250
	50251
(b) The prevention, retention, and contingency program established under Chapter 5108. of the Revised Code;	50252
	50253
(c) Duties assumed by a county department of job and family services pursuant to an agreement entered into under section 329.05 of the Revised Code;	50254
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	50256
(d) Any other county department of job and family services' duties that the director and board mutually agree to include in the agreement;	50257
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	50259
(e) If, for the purpose of Chapter 6301. of the Revised Code, the county the board serves is a local area defined in division (A)(2) or (3) of section 6301.01 of the Revised Code, workforce development activities provided by the workforce development agency established or designated for the local area.	50260
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(2) Each partnership agreement may include provisions regarding the administration and design of the duties of child support enforcement agencies and public children services agencies included in a plan of cooperation entered into under section 307.983 of the Revised Code that the director and board mutually agree to include in the agreement.	50265
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~~(D) Family services duties and workforce development activities included in a partnership agreement shall be vested in the board of county commissioners. The agreement shall comply with federal statutes and regulations, state statutes, and, except as provided in division (D)(9) of this section, state rules governing the family services duties or workforce development activities included in the agreement.~~

A partnership under which financial assistance is awarded for family services duties included in the agreements. Boards of county commissioners shall select which family services duties to include in a fiscal agreement. If a board of county commissioners elects to include family services duties of a public children services agency and a county children services board appointed under section 5153.03 of the Revised Code serves as the county's public children services agency, the board of county commissioners and county children services board shall jointly enter into the fiscal agreement with the director. If a board of county commissioners elects to include family services duties of a child support enforcement agency and the entity designated under former section 2301.35 of the Revised Code prior to October 1, 1997, or designated under section 307.981 of the Revised Code as the county's child support enforcement agency is an elected official of the county, the board of county commissioners and county elected official shall jointly enter into the fiscal agreement with the director. A fiscal agreement shall include responsibilities that the state department of job and family services, county family services agencies administering family services duties included in the agreement, and workforce development agencies administering workforce development activities included in the agreement must satisfy. The agreement shall establish, specify, or provide for do all of the following:

~~(1) Requirements governing the administration and design of,~~

~~and county family services agencies' or workforce development~~ 50303
~~agencies' cooperation to enhance, family services duties or~~ 50304
~~workforce development activities included in the agreement~~ Specify 50305
the family services duties included in the agreement and the 50306
private and government entities designated under section 307.981 50307
of the Revised Code to serve as the county family services 50308
agencies performing the family services duties; 50309

(2) ~~Outcomes that county family services agencies or~~ 50310
~~workforce development agencies are expected to achieve from the~~ 50311
~~administration and design of family services duties or workforce~~ 50312
~~development activities included in the agreement and assistance,~~ 50313
~~services, and technical support the state department will provide~~ 50314
~~the county family services agencies or workforce development~~ 50315
~~agencies to aid the agencies in achieving the expected outcomes~~ 50316
Provide for the department of job and family services to award 50317
financial assistance for the family services duties included in 50318
the agreement in accordance with a methodology for determining the 50319
amount of the award established by rules adopted under division 50320
(D) of this section; 50321

(3) ~~Performance and other administrative standards county~~ 50322
~~family services agencies or workforce development agencies are~~ 50323
~~required to meet in the design, administration, and outcomes of~~ 50324
~~family services duties or workforce development activities~~ 50325
~~included in the agreement and assistance, services, and technical~~ 50326
~~support the state department will provide the county family~~ 50327
~~services agencies or workforce development agencies to aid the~~ 50328
~~agencies in meeting the performance and other administrative~~ 50329
~~standards~~ Specify the form of the award of financial assistance 50330
which may be an allocation, cash draw, reimbursement, property, 50331
or, to the extent authorized by an appropriation made by the 50332
general assembly and to the extent practicable and not in conflict 50333
with a federal or state law, a consolidated funding allocation for 50334

two or more family services duties included in the agreement; 50335

~~(4) Criteria and methodology the state department will use to~~ 50336
~~evaluate whether expected outcomes are achieved and performance~~ 50337
~~and other administrative standards are met and county family~~ 50338
~~services agencies or workforce development agencies will use to~~ 50339
~~evaluate whether the state department is providing agreed upon~~ 50340
~~assistance, services, and technical support~~ Provide that the award 50341
of financial assistance is subject to the availability of federal 50342
funds and appropriations made by the general assembly; 50343

(5) ~~Annual~~ Specify annual financial, administrative, or other 50344
incentive awards, if any, to be provided in accordance with 50345
section 5101.23 of the Revised Code; 50346

(6) ~~The state~~ Include the assurance of each county signer 50347
that the county signer will do all of the following: 50348

(a) Ensure that the financial assistance awarded under the 50349
agreement is used, and the family services duties included in the 50350
agreement are performed, in accordance with requirements for the 50351
duties established by the department, a federal or state law, or 50352
any of the following that concern the family services duties 50353
included in the fiscal agreement and are published under section 50354
5101.212 of the Revised Code: state plans for receipt of federal 50355
financial participation, grant agreements between the department 50356
and a federal agency, and executive orders issued by the governor; 50357

(b) Ensure that the board and county family services agencies 50358
utilize a financial management system and other accountability 50359
mechanisms for the financial assistance awarded under the 50360
agreement that meet requirements the department establishes; 50361

(c) Require the county family services agencies to do both of 50362
the following: 50363

(i) Monitor all private and government entities that receive 50364
a payment from financial assistance awarded under the agreement to 50365

ensure that each entity uses the payment in accordance with requirements for the family services duties included in the agreement; 50366
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(ii) Take action to recover payments that are not used in accordance with the requirements for the family services duties included in the agreement. 50369
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(d) Require county family services agencies to promptly reimburse the department the amount that represents the amount an agency is responsible for, pursuant to action the department takes under division (C) of section 5101.24 of the Revised Code, of funds the department pays to any entity because of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty; 50372
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(e) Require county family services agencies to take prompt corrective action, including paying amounts resulting from an adverse finding, sanction, or penalty, if the department, auditor of state, federal agency, or other entity authorized by federal or state law to determine compliance with requirements for a family services duty included in the agreement determines compliance has not been achieved; 50379
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(f) If the department establishes a consolidated funding allocation for two or more family services duties included in the agreement, require the county family services agencies to use funds available in the consolidated funding allocation only for the purpose for which the funds are appropriated. 50386
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(7) Provide for the department taking action pursuant to division (C) of section 5101.24 of the Revised Code if authorized by division (B)(1), (2), ~~or~~ (3), or (4) of that section applies; 50391
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~~(7) The funding of family services duties or workforce development activities included in the agreement and whether the state department will establish a consolidated funding allocation~~ 50394
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~~under division (E) of this section. The agreement shall either~~ 50397
~~specify the amount of payments to be made for the family services~~ 50398
~~duties or workforce development activities included in the~~ 50399
~~agreement or the method that will be used to determine the amount~~ 50400
~~of payments.~~ 50401

(8) ~~Audits~~ Provide for timely audits required by federal 50402
~~statutes and regulations~~ and state law and ~~requirements for~~ 50403
require prompt release of audit findings and prompt action to 50404
correct problems identified in an audit; 50405

(9) ~~Which, if any, of the state department's rules will be~~ 50406
~~waived so that a policy provided for in the agreement may be~~ 50407
~~implemented~~ Comply with all of the requirements for the family 50408
services duties that are included in the agreement and have been 50409
established by the department, federal or state law, or any of the 50410
following that concern the family services duties included in the 50411
fiscal agreement and are published under section 5101.212 of the 50412
Revised Code: state plans for receipt of federal financial 50413
participation, grant agreements between the department and a 50414
federal agency, and executive orders issued by the governor; 50415

(10) ~~The~~ Provide for dispute resolution procedures in 50416
accordance with section 5101.24 of the Revised Code; 50417

(11) Establish the method of amending or terminating the 50418
agreement and an expedited process for correcting terms or 50419
conditions of the agreement that the director and ~~board of each~~ 50420
county ~~commissioners~~ signer agree are erroneous; 50421

~~(11) Dispute resolution procedures for anticipated and~~ 50422
~~unanticipated disputes. The agreement may establish different~~ 50423
~~dispute resolution procedures for different types of disputes.~~ 50424
~~Dispute resolution procedures may include negotiation, mediation,~~ 50425
~~arbitration, adjudication conducted by a hearing officer or~~ 50426
~~fact-finding panel, and other procedures.~~ 50427

~~(12) The date the agreement is to commence or Except as provided in rules adopted under division (D) of this section, begin on the first day of July of an odd-numbered year and end on the last day of June of the next odd-numbered year. An agreement may not commence before it is entered into nor end later than the last day of the state fiscal biennium for which it is entered into.~~ 50428
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~~(13) If workforce development activities are included in the agreement, all of the following:~~ 50435
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~~(a) The workforce development plan prepared under section 6301.07 of the Revised Code to be attached to and incorporated into the agreement;~~ 50437
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~~(b) A description of the services, and a list of the core services, provided in the one stop system for workforce development activities the county served by the board participates in under section 6301.06 of the Revised Code to be included in the agreement;~~ 50440
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~~(c) If the county served by the board of county commissioners is in the type of local area defined in division (A)(3) of section 6301.01 of the Revised Code, the method and manner by which the board of county commissioners of each county and the chief elected official of a municipal corporation in the local area shall coordinate workforce development activities and resolve disagreements concerning either of the following:~~ 50445
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~~(i) Choices concerning specifically who to appoint to the workforce policy board created under section 6301.06 of the Revised Code, within the criteria for membership set forth in that section;~~ 50452
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~~(ii) Whether a member of the workforce policy board is performing satisfactorily for purposes of serving at the pleasure of the chief elected officials of the local area.~~ 50456
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~~(14) Other provisions determined necessary by the state department, board, county family services agency, and workforce development agency.~~ 50459
50460
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~~(E)(C) The state department shall make payments authorized by a partnership fiscal agreement on vouchers it prepares and may include any funds appropriated or allocated to it for carrying out family services duties or workforce development activities vested in the board of county commissioners under included in the agreement, including funds for personal services and maintenance.~~ 50462
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~~(F)(1) To the extent practicable and not in conflict with federal statutes or regulations, state law, or an appropriation made by the general assembly, the director may establish a consolidated funding allocation for any of the following:~~ 50468
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~~(a) Two or more family services duties included in the agreement;~~ 50472
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~~(b) Two or more workforce development activities included in the agreement;~~ 50474
50475

~~(c) One or more family services duties and workforce development activities included in the agreement.~~ 50476
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~~(2) The consolidated funding allocation may be for either of the following:~~ 50478
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~~(a) A county that is the type of local area defined in division (A)(2) of section 6301.01 of the Revised Code;~~ 50480
50481

~~(b) Two or more counties, or a municipal corporation and one or more counties, in the type of local area defined in division (A)(3) of section 6301.01 of the Revised Code that are coordinating and integrating workforce development activities in the local area.~~ 50482
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~~(3) A county family services agency or workforce development agency shall use funds available in a consolidated funding~~ 50487
50488

~~allocation only for the purpose for which the funds were~~ 50489
~~appropriated.~~ 50490

(D)(1) The director shall adopt rules in accordance with 50491
section 111.15 of the Revised Code governing fiscal agreements. 50492
The director shall adopt the rules as if they were internal 50493
management rules. Before adopting the rules, the director shall 50494
give the public an opportunity to review and comment on the 50495
proposed rules. The rules shall establish methodologies to be used 50496
to determine the amount of financial assistance to be awarded 50497
under the agreements. The rules also shall establish terms and 50498
conditions under which an agreement may be entered into after the 50499
first day of July of an odd-numbered year. The rules may do any or 50500
all of the following: 50501

(a) Govern the establishment of consolidated funding 50502
allocations and specify the time period for which a consolidated 50503
funding allocation is to be provided if the effective date of the 50504
agreement is after the first day of July of an odd-numbered year, 50505
which may include a time period before the effective date of the 50506
agreement; 50507

(b) Govern the establishment of other allocations; 50508

(c) Specify allowable uses of financial assistance awarded 50509
under the agreements; 50510

(d) Establish reporting, cash management, audit, and other 50511
requirements the director determines are necessary to provide 50512
accountability for the use of financial assistance awarded under 50513
the agreements and determine compliance with requirements 50514
established by the department, a federal or state law, or any of 50515
the following that concern the family services duties included in 50516
the agreements and are published under section 5101.212 of the 50517
Revised Code: state plans for receipt of federal financial 50518
participation, grant agreements between the department and a 50519

federal entity, and executive orders issued by the governor. 50520

(2) A requirement of a fiscal agreement established by a rule 50521
adopted under this division is applicable to a fiscal agreement 50522
without having to be restated in the fiscal agreement. 50523

Sec. 5101.211. (A) Except as provided in division (B) of this 50524
section, the director of job and family services may provide for a 50525
fiscal agreement entered into under section 5101.21 of the Revised 50526
Code to have a retroactive effective date of the first day of July 50527
of an odd-numbered year if both of the following are the case: 50528

(1) The agreement is entered into after that date and before 50530
the last day of that July. 50531

(2) The board of county commissioners requests the 50532
retroactive effective date and provides the director good cause 50533
satisfactory to the director for the reason the agreement was not 50534
entered into on or before the first day of that July. 50535

(B) The director may provide for a fiscal agreement to have a 50536
retroactive effective date of July 1, 2003, if both of the 50537
following are the case: 50538

(1) The agreement is entered into after July 1, 2003, and 50539
before August 29, 2003. 50540

(2) The board of county commissioners requests the 50541
retroactive effective date. 50542

Sec. 5101.212. The department of job and family services 50543
shall publish in a manner accessible to the public all of the 50544
following that concern family services duties included in fiscal 50545
agreements entered into under section 5101.21 of the Revised Code: 50546
state plans for receipt of federal financial participation, grant 50547
agreements between the department and a federal agency, and 50548

executive orders issued by the governor. The department may 50549
publish the materials electronically or otherwise. 50550

Sec. 5101.213. (A) Except as provided in section 5101.211 of 50551
the Revised Code, if a fiscal agreement under section 5101.21 of 50552
the Revised Code between the director of job and family services 50553
and a board of county commissioners is not in effect, all of the 50554
following apply: 50555

(1) The department of job and family services shall award to 50556
the county the board serves financial assistance for family 50557
services duties in accordance with a methodology for determining 50558
the amount of the award established by rules adopted under 50559
division (B) of this section. 50560

(2) The financial assistance may be provided in the form of 50561
allocations, cash draws, reimbursements, and property but may not 50562
be made in the form of a consolidated funding allocation. 50563

(3) The award of the financial assistance is subject to the 50564
availability of federal funds and appropriations made by the 50565
general assembly. 50566

(4) The county family services agencies performing the family 50567
services duties for which the financial assistance is awarded 50568
shall do all of the following: 50569

(a) Use the financial assistance, and perform the family 50570
services duties, in accordance with requirements for the duties 50571
established by the department, a federal or state law, or any of 50572
the following that concern the duties: state plans for receipt of 50573
federal financial participation, grant agreements between the 50574
department and a federal agency, and executive orders issued by 50575
the governor; 50576

(b) Utilize a financial management system and other 50577
accountability mechanisms for the financial assistance that meet 50578

requirements the department establishes; 50579

(c) Monitor all private and government entities that receive 50580
a payment from the financial assistance to ensure that each entity 50581
uses the payment in accordance with requirements for the family 50582
services duties and take action to recover payments that are not 50583
used in accordance with the requirements for the family services 50584
duties; 50585

(d) Promptly reimburse the department the amount that 50586
represents the amount an agency is responsible for, pursuant to 50587
action the department takes under division (C) of section 5101.24 50588
of the Revised Code, of funds the department pays to any entity 50589
because of an adverse audit finding, adverse quality control 50590
finding, final disallowance of federal financial participation, or 50591
other sanction or penalty; 50592

(e) Take prompt corrective action, including paying amounts 50593
resulting from an adverse finding, sanction, or penalty, if the 50594
department, auditor of state, federal agency, or other entity 50595
authorized by federal or state law to determine compliance with 50596
requirements for a family services duty determines compliance has 50597
not been achieved. 50598

(B) The director shall adopt rules in accordance with section 50599
111.15 of the Revised Code as necessary to implement this section. 50600
The director shall adopt the rules as if they were internal 50601
management rules. Before adopting the rules, the director shall 50602
give the public an opportunity to review and comment on the 50603
proposed rules. The rules shall establish methodologies to be used 50604
to determine the amount of financial assistance to be awarded and 50605
may do any or all of the following: 50606

(1) Govern the establishment of funding allocations; 50607

(2) Specify allowable uses of financial assistance the 50608
department awards under this section; 50609

(3) Establish reporting, cash management, audit, and other requirements the director determines are necessary to provide accountability for the use of the financial assistance and determine compliance with requirements established by the department, a federal or state law, or any of the following that concern the family services duties for which the financial assistance is awarded: state plans for receipt of federal financial participation, grant agreements between the department and a federal entity, and executive orders issued by the governor.

Sec. ~~5101.211~~ 5101.214. The director of job and family services may enter into a written agreement with one or more state agencies, as defined in section 117.01 of the Revised Code, and state universities and colleges to assist in the coordination, provision, or enhancement of the family services duties of a county family services agency or the workforce development activities of a workforce development agency. The director also may enter into written agreements or contracts with, or issue grants to, private and government entities under which funds are provided for the enhancement or innovation of family services duties or workforce development activities on the state or local level. ~~The terms of an agreement, contract, or grant under this section may be incorporated into a partnership agreement the director enters into with a board of county commissioners under section 5101.21 or with the chief elected official of a municipal corporation under section 5101.213 of the Revised Code, if the director and board or chief elected official and state agency, state university or college, or private or government entity agree.~~

The director may adopt internal management rules in accordance with section 111.15 of the Revised Code to implement this section.

Sec. ~~5101.212~~ 5101.215. If the director of job and family services enters into an agreement or contracts with, or issues a grant to, a religious organization under section ~~5101.211~~ 5101.214 of the Revised Code, the religious organization shall comply with section 104 of the Personal Responsibility and Work Opportunity and Reconciliation Act of 1996 (P.L. 104-193).

Sec. 5101.216. The director of job and family services may enter into one or more written operational agreements with boards of county commissioners to do one or more of the following regarding family services duties:

(A) Provide for the director to amend or rescind a rule the director previously adopted;

(B) Provide for the director to modify procedures or establish alternative procedures to accommodate special circumstances in a county;

(C) Provide for the director and board to jointly identify operational problems of mutual concern and develop a joint plan to address the problems;

(D) Establish a framework for the director and board to modify the use of existing resources in a manner that is beneficial to the department of job and family services and the county that the board serves and improves family services duties for the recipients of the services.

Sec. 5101.22. The department of job and family services may establish performance and other administrative standards for the administration and outcomes of family services duties ~~and workforce development activities~~ and determine at intervals the department decides the degree to which a county family services agency ~~or workforce development agency~~ complies with a performance

or other administrative standard. The department may use 50670
statistical sampling, performance audits, case reviews, or other 50671
methods it determines necessary and appropriate to determine 50672
compliance with performance and administrative standards. 50673

~~A performance or other administrative standard established 50674
under this section for a family service duty or workforce 50675
development activity does not apply to a county family services 50676
agency or workforce development agency administering the duty if a 50677
different performance or administrative standard is specified for 50678
the agency's administration of the duty or activity pursuant to a 50679
partnership agreement entered into under section 5101.21 or 50680
5101.213 of the Revised Code. 50681~~

Sec. 5101.221. (A) Except as provided by division (C) of this 50682
section, if the department of job and family services determines 50683
that a county family services agency has failed to comply with a 50684
performance or other administrative standard established under 50685
section 5101.22 of the Revised Code for the administration or 50686
outcome of a family services duty, the department shall require 50687
the agency to develop, submit to the department for approval, and 50688
comply with a corrective action plan. 50689

(B) If a county family services agency fails to develop, 50690
submit to the department, or comply with a corrective action plan 50691
under division (A) of this section, or the department disapproves 50692
the agency's corrective action plan, the department may require 50693
the agency to develop, submit to the department for approval, and 50694
comply with a corrective action plan that requires the agency to 50695
commit existing resources to the plan. 50696

(C) The department may not require a county family services 50697
agency to take action under this section for failure to comply 50698
with a performance or other administrative standard if either of 50699
the following is the case: 50700

(1) Federal law requires the department to establish the standard. 50701
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(2) The standard is established for an incentive. 50703

Sec. 5101.222. The director of job and family services may adopt rules in accordance with section 111.15 of the Revised Code to implement sections 5111.22 to 5111.222 of the Revised Code. If the director adopts the rules, the director shall adopt the rules as if they were internal management rules. 50704
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Sec. 5101.24. (A) As used in this section, "responsible entity" means ~~the following:~~ 50709
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~~(1) If the family services duty or workforce development activity involved is included in a partnership agreement a board of county commissioners and the director of job and family services enters into under section 5101.21 of the Revised Code, the board regardless of the fact that or a county family services agency performs the family services duty or a workforce development agency performs the workforce development activity.~~ 50711
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~~(2) If the family services duty or workforce development activity involved is not included in a partnership agreement, the county family services agency or workforce development agency, whichever the director of job and family services determines is appropriate to take action against under division (C) of this section.~~ 50718
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(B) The Regardless of whether a family services duty is performed by a county family services agency, private or government entity pursuant to a contract entered into under section 307.982 of the Revised Code or division (C)(2) of section 5153.16 of the Revised Code, or private or government provider of a family service duty, the department of job and family services may take action under division (C) of this section against the 50724
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responsible entity if the department determines any of the 50731
following ~~apply to the county family services agency performing~~ 50732
~~the family services duty or workforce development agency providing~~ 50733
~~the workforce development activity are the case:~~ 50734

(1) ~~The agency fails to meet a performance standard specified~~ 50735
~~in a partnership agreement entered into under section 5101.21 or~~ 50736
~~established A requirement of a fiscal agreement entered into under~~ 50737
~~section 5101.21 of the Revised Code that includes the family~~ 50738
~~services duty, including a requirement for fiscal agreements~~ 50739
~~established by rules adopted under that section, is not complied~~ 50740
~~with;~~ 50741

(2) ~~A county family services agency fails to develop, submit~~ 50742
~~to the department, or comply with a corrective action plan under~~ 50743
~~division (B) of section 5101.221 of the Revised Code, or the~~ 50744
~~department disapproves the agency's corrective action plan~~ 50745
~~developed under division (B) of section 5101.22 5101.221 of the~~ 50746
~~Revised Code for the duty or activity;~~ 50747

~~(2) The agency fails to comply with a~~ (3) ~~A requirement for~~ 50748
~~the family services duty established by the department or any of~~ 50749
~~the following is not complied with: a federal statute or~~ 50750
~~regulations, state statute, or a department rule for the duty or~~ 50751
~~activity law, state plan for receipt of federal financial~~ 50752
~~participation, grant agreement between the department and a~~ 50753
~~federal agency, or executive order issued by the governor;~~ 50754

~~(3)(4) The agency responsible entity is solely or partially~~ 50755
~~responsible, as determined by the director of job and family~~ 50756
~~services, for an adverse audit or finding, adverse quality control~~ 50757
~~finding, final disallowance of federal financial participation, or~~ 50758
~~other sanction or penalty regarding the family services duty or~~ 50759
~~activity.~~ 50760

(C) The department may take one or more of the following 50761

actions against the responsible entity ~~if~~ when authorized by 50762
division (B)(1), (2), ~~or~~ (3), or (4) of this section ~~applies:~~ 50763

(1) Require the responsible entity to ~~submit to and~~ comply 50764
with a corrective action plan pursuant to a time schedule 50765
specified by the department. The corrective action plan shall be 50766
established or approved by the department and shall not require a 50767
county family services agency to commit resources to the plan. 50768

(2) Require the responsible entity to comply with a 50769
corrective action plan pursuant to a time schedule specified by 50770
the department. The corrective action plan shall be established or 50771
approved by the department and require a county family services 50772
agency to commit to the plan existing resources identified by the 50773
agency. 50774

(3) Require the responsible entity to do one of the 50775
following: 50776

(a) Share with the department a final disallowance of federal 50777
financial participation or other sanction or penalty; 50778

(b) Reimburse the department the final amount the department 50779
pays to the federal government or another entity that represents 50780
the amount the ~~agency~~ responsible entity is responsible for of an 50781
adverse audit ~~or~~ finding, adverse quality control finding, final 50782
disallowance of federal financial participation, or other sanction 50783
or penalty issued by the federal government, auditor of state, or 50784
other entity; 50785

(c) Pay the federal government or another entity the final 50786
amount that represents the amount the ~~agency~~ responsible entity is 50787
responsible for of an adverse audit ~~or~~ finding, adverse quality 50788
control finding, final disallowance of federal financial 50789
participation, or other sanction or penalty issued by the federal 50790
government, auditor of state, or other entity; 50791

(d) Pay the department the final amount that represents the 50792

amount the responsible entity is responsible for of an adverse 50793
audit finding or adverse quality control finding. 50794

~~(3)~~(4) Impose ~~a financial or~~ an administrative sanction ~~or~~ 50795
~~adverse audit~~ issued by the department against the responsible 50796
entity. A sanction may be increased if the department has 50797
previously taken action against the responsible entity under this 50798
division. 50799

~~(4)~~(5) Perform, or contract with a government or private 50800
entity for the entity to perform, the family services duty ~~or~~ 50801
~~workforce development activity~~ until the department is satisfied 50802
that the responsible entity ensures that the duty ~~or activity~~ will 50803
be performed satisfactorily. If the department performs or 50804
contracts with an entity to perform a family services duty ~~or~~ 50805
~~workforce development activity~~ under division (C)~~(4)~~(5) of this 50806
section, the department may do either or both of the following: 50807

(a) Spend funds in the county treasury appropriated by the 50808
board of county commissioners for the duty ~~or activity~~; 50809

(b) Withhold funds allocated or reimbursements due to the 50810
responsible entity for the duty ~~or activity~~ and spend the funds 50811
for the duty ~~or activity~~. 50812

~~(5)~~(6) Request that the attorney general bring mandamus 50813
proceedings to compel the responsible entity to take or cease the 50814
action that causes division (B)(1), (2), ~~or~~ (3), or (4) of this 50815
section to apply. The attorney general shall bring mandamus 50816
proceedings in the Franklin county court of appeals at the 50817
department's request. 50818

(7) If the department takes action under this division 50819
because of division (B)(3) of this section, withhold funds 50820
allocated or reimbursement due to the responsible entity until the 50821
department determines that the responsible entity is in compliance 50822
with the requirement. The department shall release the funds when 50823

the department determines that compliance has been achieved. 50824

(D) If the department ~~decides~~ proposes to take action against 50825
the responsible entity under division (C) of this section, the 50826
department shall notify the responsible entity and county auditor. 50827
The notice shall be in writing and specify the action the 50828
department proposes to take. The department shall send the notice 50829
by regular United States mail. 50830

~~The~~ Except as provided by division (E) of this section, the 50831
responsible entity may request an administrative review of a 50832
proposed action, ~~other than a proposed action under division~~ 50833
~~(C)(5) of this section, by sending a written request to the~~ 50834
~~department not later than~~ in accordance with administrative review 50835
procedures the department shall establish. The administrative 50836
review procedures shall comply with all of the following: 50837

(1) A request for an administrative review shall state 50838
specifically all of the following: 50839

(a) The proposed action specified in the notice from the 50840
department for which the review is requested; 50841

(b) The reason why the responsible entity believes the 50842
proposed action is inappropriate; 50843

(c) All facts and legal arguments that the responsible entity 50844
wants the department to consider; 50845

(d) The name of the person who will serve as the responsible 50846
entity's representative in the review. 50847

(2) If the department's notice specifies more than one 50848
proposed action and the responsible entity does not specify all of 50849
the proposed actions in its request pursuant to division (D)(1)(a) 50850
of this section, the proposed actions not specified in the request 50851
shall not be subject to administrative review and the parts of the 50852
notice regarding those proposed actions shall be final and binding 50853

on the responsible entity. 50854

(3) In the case of a proposed action under division (C)(1) of 50855
this section, the responsible entity shall have fifteen calendar 50856
days after the department mails the notice to the responsible 50857
entity to send a written request to the department for an 50858
administrative review. If it receives such a request within the 50859
required time, the department shall postpone taking action under 50860
division (C)(1) of this section for fifteen calendar days 50861
following the day it receives the request. ~~The or extended period~~ 50862
~~of time provided for in division (D)(5) of this section to allow a~~ 50863
~~representative of the department and a representative of the~~ 50864
responsible entity ~~shall attempt~~ an informal opportunity to 50865
resolve any dispute during that fifteen-day or extended period. 50866

~~(2)(4)~~ (4) In the case of a proposed action under division 50867
(C)(2), (3), (4), (5), or (7) of this section, ~~forty five the~~ 50868
responsible entity shall have thirty calendar days after the 50869
department mails the notice to the responsible entity to send a 50870
written request to the department for an administrative review. 50871
~~The administrative review shall be limited solely to the issue of~~ 50872
~~the amount the responsible entity shall share with the department,~~ 50873
~~reimburse the department, or pay to the federal government or~~ 50874
~~another entity under division (C)(2) of this section. The~~ If it 50875
receives such a request within the required time, the department 50876
shall postpone taking action under division (C)(2), (3), (4), (5), 50877
or (7) of this section for thirty calendar days following the day 50878
it receives the request or extended period of time provided for in 50879
division (D)(5) of this section to allow a representative of the 50880
department and a representative of the responsible entity ~~shall~~ 50881
~~attempt~~ an informal opportunity to resolve any dispute ~~within~~ 50882
~~sixty days~~ during that thirty-day or extended period. 50883

~~(3) In the case of a proposed action under division (C)(3) or~~ 50884
~~(4) of this section, forty five days after the department mails~~ 50885

~~the notice to the responsible entity. The department and~~ 50886
~~responsible entity shall attempt to resolve any dispute within~~ 50887
~~sixty days.~~ 50888

~~If the department and responsible entity fail to resolve any~~ 50889
~~dispute within the required time, the department shall conduct a~~ 50890
~~hearing in accordance with Chapter 119. of the Revised Code,~~ 50891
~~except that the department, notwithstanding section 119.07 of the~~ 50892
~~Revised Code, is not required to schedule the hearing within~~ 50893
~~fifteen days of the responsible entity's request.~~ 50894

~~(E)(5) If the informal opportunity provided in division~~ 50895
~~(D)(3) or (4) of this section does not result in a written~~ 50896
~~resolution to the dispute within the fifteen- or thirty-day~~ 50897
~~period, the director of job and family services and representative~~ 50898
~~of the responsible entity may enter into a written agreement~~ 50899
~~extending the time period for attempting an informal resolution of~~ 50900
~~the dispute under division (D)(3) or (4) of this section.~~ 50901

~~(6) In the case of a proposed action under division (C)(3) of~~ 50902
~~this section, the responsible entity may not include in its~~ 50903
~~request disputes over a finding, final disallowance of federal~~ 50904
~~financial participation, or other sanction or penalty issued by~~ 50905
~~the federal government, auditor of state, or entity other than the~~ 50906
~~department.~~ 50907

~~(7) If the responsible entity fails to request an~~ 50908
~~administrative review within the required time, the responsible~~ 50909
~~entity loses the right to request an administrative review of the~~ 50910
~~proposed actions specified in the notice and the notice becomes~~ 50911
~~final and binding on the responsible entity.~~ 50912

~~(8) If the informal opportunity provided in division (D)(3)~~ 50913
~~or (4) of this section does not result in a written resolution to~~ 50914
~~the dispute within the time provided by division (D)(3), (4), or~~ 50915
~~(5) of this section, the director shall appoint an administrative~~ 50916

review panel to conduct the administrative review. The review 50917
panel shall consist of department employees and one director or 50918
other representative of the type of county family services agency 50919
that is responsible for the kind of family services duty that is 50920
the subject of the dispute and serves a different county than the 50921
county served by the responsible entity. No individual involved in 50922
the department's proposal to take action against the responsible 50923
entity may serve on the review panel. The review panel shall 50924
review the responsible entity's request. The review panel may 50925
require that the department or responsible entity submit 50926
additional information and schedule and conduct an informal 50927
hearing to obtain testimony or additional evidence. A review of a 50928
proposal to take action under division (C)(3) of this section 50929
shall be limited solely to the issue of the amount the responsible 50930
entity shall share with the department, reimburse the department, 50931
or pay to the federal government, department, or other entity 50932
under division (C)(3) of this section. The review panel is not 50933
required to make a stenographic record of its hearing or other 50934
proceedings. 50935

(9) After finishing an administrative review, an 50936
administrative review panel appointed under division (D)(8) of 50937
this section shall submit a written report to the director setting 50938
forth its findings of fact, conclusions of law, and 50939
recommendations for action. The director may approve, modify, or 50940
disapprove the recommendations. If the director modifies or 50941
disapproves the recommendations, the director shall state the 50942
reasons for the modification or disapproval and the actions to be 50943
taken against the responsible entity. 50944

(10) The director's approval, modification, or disapproval 50945
under division (D)(9) of this section shall be final and binding 50946
on the responsible entity and shall not be subject to further 50947
departmental review. 50948

<u>(E) The responsible entity is not entitled to an</u>	50949
<u>administrative review under division (D) of this section for any</u>	50950
<u>of the following:</u>	50951
<u>(1) An action taken under division (C)(6) of this section;</u>	50952
<u>(2) An action taken under section 5101.242 of the Revised</u>	50953
<u>Code;</u>	50954
<u>(3) An action taken under division (C)(3) of this section if</u>	50955
<u>the federal government, auditor of state, or entity other than the</u>	50956
<u>department has identified the county family services agency as</u>	50957
<u>being solely or partially responsible for an adverse audit</u>	50958
<u>finding, adverse quality control finding, final disallowance of</u>	50959
<u>federal financial participation, or other sanction or penalty;</u>	50960
<u>(4) An adjustment to an allocation, cash draw, advance, or</u>	50961
<u>reimbursement to a county family services agency that the</u>	50962
<u>department determines necessary for budgetary reasons;</u>	50963
<u>(5) Withholding of a cash draw or reimbursement due to</u>	50964
<u>noncompliance with a reporting requirement established in rules</u>	50965
<u>adopted under section 5101.243 of the Revised Code.</u>	50966
<u>(F) This section does not apply to other actions the</u>	50967
<u>department takes against the responsible entity pursuant to</u>	50968
<u>authority granted by another state law unless the other state law</u>	50969
<u>requires the department to take the action in accordance with this</u>	50970
<u>section.</u>	50971
<u>(G) The director of job and family services may adopt rules</u>	50972
<u>in accordance with Chapter 119. of the Revised Code as necessary</u>	50973
<u>to implement this section.</u>	50974
<u>Sec. 5101.241. (A) As used in this section:</u>	50975
<u>(1) "Local area" and "chief elected official" have the same</u>	50976
<u>meaning as in section 5101.20 of the Revised Code.</u>	50977

(2) "Responsible entity" means the chief elected officials of a local area. 50978
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(B) The department of job and family services may take action under division (C) of this section against the responsible entity, regardless of who performs the workforce development activity, if the department determines any of the following are the case: 50980
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(1) A requirement of a grant agreement entered into under section 5101.20 of the Revised Code that includes the workforce development activity, including a requirement for grant agreements established by rules adopted under that section, is not complied with; 50984
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(2) A performance standard for the workforce development activity established by the federal government or the department is not met; 50989
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(3) A requirement for the workforce development activity established by the department or any of the following is not complied with: a federal or state law, state plan for receipt of federal financial participation, grant agreement between the department and a federal agency, or executive order; 50992
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(4) The responsible entity is solely or partially responsible, as determined by the director of job and family services, for an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty regarding the workforce development activity. 50997
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(C) The department may take one or more of the following actions against the responsible entity when authorized by division (B)(1), (2), (3), or (4) of this section: 51003
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(1) Require the responsible entity to submit to and comply with a corrective action plan, established or approved by the 51006
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<u>department, pursuant to a time schedule specified by the</u>	51008
<u>department;</u>	51009
<u>(2) Require the responsible entity to do one of the</u>	51010
<u>following:</u>	51011
<u>(a) Share with the department a final disallowance of federal</u>	51012
<u>financial participation or other sanction or penalty;</u>	51013
<u>(b) Reimburse the department the amount the department pays</u>	51014
<u>to the federal government or another entity that represents the</u>	51015
<u>amount the responsible entity is responsible for of an adverse</u>	51016
<u>audit finding, adverse quality control finding, final disallowance</u>	51017
<u>of federal financial participation, or other sanction or penalty</u>	51018
<u>issued by the federal government, auditor of state, or other</u>	51019
<u>entity;</u>	51020
<u>(c) Pay the federal government or another entity the amount</u>	51021
<u>that represents the amount the responsible entity is responsible</u>	51022
<u>for of an adverse audit finding, adverse quality control finding,</u>	51023
<u>final disallowance of federal financial participation, or other</u>	51024
<u>sanction or penalty issued by the federal government, auditor of</u>	51025
<u>state, or other entity;</u>	51026
<u>(d) Pay the department the amount that represents the amount</u>	51027
<u>the responsible entity is responsible for of an adverse audit</u>	51028
<u>finding, adverse quality control finding, or other sanction or</u>	51029
<u>penalty issued by the department.</u>	51030
<u>(3) Impose a financial or administrative sanction or adverse</u>	51031
<u>audit finding issued by the department against the responsible</u>	51032
<u>entity, which may be increased with each subsequent action taken</u>	51033
<u>against the responsible entity.</u>	51034
<u>(4) Perform or contract with a government or private entity</u>	51035
<u>for the entity to perform the workforce development activity until</u>	51036
<u>the department is satisfied that the responsible entity ensures</u>	51037
<u>that the activity will be performed to the department's</u>	51038

satisfaction. If the department performs or contracts with an 51039
entity to perform the workforce development activity under 51040
division (C)(4) of this section, the department may withhold funds 51041
allocated to or reimbursements due to the responsible entity for 51042
the activity and use those funds to implement division (C)(4) of 51043
this section. 51044

(5) Request the attorney general to bring mandamus 51045
proceedings to compel the responsible entity to take or cease the 51046
actions listed in division (B) of this section. The attorney 51047
general shall bring any mandamus proceedings in the Franklin 51048
county court of appeals at the department's request. 51049

(6) If the department takes action under this division 51050
because of division (B)(3) of this section, withhold funds 51051
allocated or reimbursement due to the responsible entity until the 51052
department determines that the responsible entity is in compliance 51053
with the requirement. The department shall release the funds when 51054
the department determines that compliance has been achieved. 51055

(D) The department shall notify the responsible entity and 51056
the appropriate county auditor when the department proposes to 51057
take action under division (C) of this section. The notice shall 51058
be in writing and specify the action the department proposes to 51059
take. The department shall send the notice by regular United 51060
States mail. Except as provided in division (E) of this section, 51061
the responsible entity may request an administrative review of a 51062
proposed action in accordance with administrative review 51063
procedures the department shall establish. The administrative 51064
review procedures shall comply with all of the following: 51065

(1) A request for an administrative review shall state 51066
specifically all of the following: 51067

(a) The proposed action specified in the notice from the 51068
department for which the review is requested; 51069

<u>(b) The reason why the responsible entity believes the proposed action is inappropriate;</u>	51070
	51071
<u>(c) All facts and legal arguments that the responsible entity wants the department to consider;</u>	51072
	51073
<u>(d) The name of the person who will serve as the responsible entity's representative in the review.</u>	51074
	51075
<u>(2) If the department's notice specifies more than one proposed action and the responsible entity does not specify all of the proposed actions in its request pursuant to division (D)(1)(a) of this section, the proposed actions not specified in the request shall not be subject to administrative review and the parts of the notice regarding those proposed actions shall be final and binding on the responsible entity.</u>	51076
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<u>(3) In the case of a proposed action under division (C)(1) of this section, the responsible entity shall have fifteen calendar days after the department mails the notice to the responsible entity to send a written request to the department for an administrative review. If it receives such a request within the required time, the department shall postpone taking action under division (C)(1) of this section for fifteen calendar days following the day it receives the request to allow a representative of the department and a representative of the responsible entity an informal opportunity to resolve any dispute during that fifteen-day period.</u>	51083
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<u>(4) In the case of a proposed action under division (C)(2), (3), or (4) of this section, the responsible entity shall have thirty calendar days after the department mails the notice to the responsible entity to send a written request to the department for an administrative review. If it receives such a request within the required time, the department shall postpone taking action under division (C)(2), (3), or (4) of this section for thirty calendar</u>	51094
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days following the day it receives the request to allow a 51101
representative of the department and a representative of the 51102
responsible entity an informal opportunity to resolve any dispute 51103
during that thirty-day period. 51104

(5) In the case of a proposed action under division (C)(2) of 51105
this section, the responsible entity may not include in its 51106
request disputes over a finding, final disallowance of federal 51107
financial participation, or other sanction or penalty issued by 51108
the federal government, auditor of state, or other entity other 51109
than the department. 51110

(6) If the responsible entity fails to request an 51111
administrative review within the required time, the responsible 51112
entity loses the right to request an administrative review of the 51113
proposed actions specified in the notice and the notice becomes 51114
final and binding on the responsible entity. 51115

(7) If the informal opportunity provided in division (D)(3) 51116
or (4) of this section does not result in a written resolution to 51117
the dispute, the director of job and family services shall appoint 51118
an administrative review panel to conduct the administrative 51119
review. The review panel shall consist of department employees who 51120
are not involved in the department's proposal to take action 51121
against the responsible entity. The review panel shall review the 51122
responsible entity's request. The review panel may require that 51123
the department or responsible entity submit additional information 51124
and schedule and conduct an informal hearing to obtain testimony 51125
or additional evidence. A review of a proposal to take action 51126
under division (C)(2) of this section shall be limited solely to 51127
the issue of the amount the responsible entity shall share with 51128
the department, reimburse the department, or pay to the federal 51129
government, department, or other entity under division (C)(2) of 51130
this section. The review panel is not required to make a 51131
stenographic record of its hearing or other proceedings. 51132

(8) After finishing an administrative review, an administrative review panel appointed under division (D)(7) of this section shall submit a written report to the director setting forth its findings of fact, conclusions of law, and recommendations for action. The director may approve, modify, or disapprove the recommendations. If the director modifies or disapproves the recommendations, the director shall state the reasons for the modification or disapproval and the actions to be taken against the responsible entity. 51133
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(9) The director's approval, modification, or disapproval under division (D)(8) of this section shall be final and binding on the responsible entity and shall not be subject to further departmental review. 51142
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(E) The responsible entity is not entitled to an administrative review under division (D) of this section for any of the following: 51146
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(1) An action taken under division (C)(5) or (6) of this section; 51149
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(2) An action taken under section 5101.242 of the Revised Code; 51151
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(3) An action taken under division (C)(2) of this section if the federal government, auditor of state, or entity other than the department has identified the responsible entity as being solely or partially responsible for an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty; 51153
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(4) An adjustment to an allocation, cash draw, advance, or reimbursement to the responsible entity's local area that the department determines necessary for budgetary reasons; 51159
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(5) Withholding of a cash draw or reimbursement due to 51162

noncompliance with a reporting requirement established in rules 51163
adopted under section 5101.243 of the Revised Code. 51164

(F) This section does not apply to other actions the 51165
department takes against the responsible entity pursuant to 51166
authority granted by another state law unless the other state law 51167
requires the department to take the action in accordance with this 51168
section. 51169

(G) The director of job and family services may adopt rules 51170
in accordance with Chapter 119. of the Revised Code as necessary 51171
to implement this section. 51172

Sec. 5101.242. The department of job and family services may 51173
certify a claim to the attorney general under section 131.02 of 51174
the Revised Code for the attorney general to take action under 51175
that section against a responsible entity to recover any funds 51176
that the department determines the responsible entity owes the 51177
department for actions taken under division (C)(2), (3), (4), or 51178
(5) of section 5101.24 or 5101.241 of the Revised Code. 51179

Sec. 5101.243. The director of job and family services may 51180
adopt rules in accordance with section 111.15 of the Revised Code 51181
establishing reporting requirements for family services duties and 51182
workforce development activities. If the director adopts the 51183
rules, the director shall adopt the rules as if they were internal 51184
management rules and, before adopting the rules, give the public 51185
an opportunity to review and comment on the proposed rules. 51186

Sec. 5101.26. As used in this section and in sections 5101.27 51187
to 5101.30 of the Revised Code: 51188

(A) "County agency" means a county department of job and 51189
family services or a public children services agency. 51190

(B) "Fugitive felon" means an individual who is fleeing to 51191

avoid prosecution, or custody or confinement after conviction, 51192
under the laws of the place from which the individual is fleeing, 51193
for a crime or an attempt to commit a crime that is a felony under 51194
the laws of the place from which the individual is fleeing or, in 51195
the case of New Jersey, a high misdemeanor, regardless of whether 51196
the individual has departed from the individual's usual place of 51197
residence. 51198

(C) "Information" means records as defined in section 149.011 51199
of the Revised Code, any other documents in any format, and data 51200
derived from records and documents that are generated, acquired, 51201
or maintained by the department of job and family services, a 51202
county agency, or an entity performing duties on behalf of the 51203
department or a county agency. 51204

(D) "Law enforcement agency" means the state highway patrol, 51205
an agency that employs peace officers as defined in section 109.71 51206
of the Revised Code, the adult parole authority, a county 51207
department of probation, a prosecuting attorney, the attorney 51208
general, similar agencies of other states, federal law enforcement 51209
agencies, and postal inspectors. "Law enforcement agency" includes 51210
the peace officers and other law enforcement officers employed by 51211
the agency. 51212

(E) "Medical assistance provided under a public assistance 51213
program" means medical assistance provided under the programs 51214
established under sections 5101.49, 5101.50 to 5101.503, and 51215
5101.51 to 5101.5110, Chapters 5111. and 5115., or any other 51216
provision of the Revised Code. 51217

(F) "Public assistance" means financial assistance, medical 51218
assistance, or social services provided under a program 51219
administered by the department of job and family services or a 51220
county agency pursuant to Chapter 329., 5101., 5104., 5107., 51221
5108., 5111., or 5115. of the Revised Code or an executive order 51222
issued under section 107.17 of the Revised Code. 51223

~~(F)~~(G) "Public assistance recipient" means an applicant for 51224
or recipient or former recipient of public assistance. 51225

Sec. 5101.27. (A) Except as permitted by this section, 51226
section 5101.28 or 5101.29 of the Revised Code, or the rules 51227
adopted under division (A) of section 5101.30 of the Revised Code, 51228
or required by federal law, no person or government entity shall 51229
solicit, disclose, receive, use, or knowingly permit, or 51230
participate in the use of any information regarding a public 51231
assistance recipient for any purpose not directly connected with 51232
the administration of a public assistance program. 51233

(B)~~(1)~~ To the extent permitted by federal law, the department 51234
of job and family services and county agencies shall ~~release~~ do 51235
both of the following: 51236

(1) Release information regarding a public assistance 51237
recipient for purposes directly connected to the administration of 51238
the program to a government entity responsible for administering a 51239
that public assistance program ~~or any other state, federal, or~~ 51240
~~federally assisted program that provides cash or in-kind~~ 51241
~~assistance or services directly to individuals based on need or~~ 51242
~~for the purpose of protecting children to a government entity~~ 51243
~~responsible for administering a children's protective services~~ 51244
~~program.~~i 51245

~~(2) To the extent permitted by federal law, the department~~ 51246
~~and county agencies shall provide~~ Provide information regarding a 51247
public assistance recipient to a law enforcement agency for the 51248
purpose of any investigation, prosecution, or criminal or civil 51249
proceeding relating to the administration of a that public 51250
assistance program. 51251

(C) To the extent permitted by federal law and section 51252
1347.08 of the Revised Code, the department and county agencies 51253

shall provide access to information regarding a public assistance recipient to all of the following:

(1) The recipient;

(2) The authorized representative, ~~as defined in rules adopted under section 5101.30 of the Revised Code, of the recipient;~~

(3) The ~~parent or~~ legal guardian of the recipient;

(4) The attorney of the recipient, if the attorney has written authorization that complies with section 5101.271 of the Revised Code from the recipient.

(D) To the extent permitted by federal law and subject to division (E) of this section, the department and county agencies may release do both of the following:

(1) Release information about a public assistance recipient if the recipient gives voluntary, written ~~consent that specifically identifies the persons or government entities to which the information may be released.~~

The authorization that complies with section 5101.271 of the Revised Code;

(2) Release information regarding a public assistance recipient to a state, federal, or federally assisted program that provides cash or in-kind assistance or services directly to individuals based on need or for the purpose of protecting children to a government entity responsible for administering a children's protective services program.

(E) Except when the release is required by division (B), (C), or (D)(2) of this section, the department or county agency shall release the information only to the persons or government entities specified in the document evidencing consent. Consent may be time limited or ongoing, at the discretion of the individual

~~giving it, and may be rescinded at any time; however, an~~ 51284
~~individual cannot rescind consent retroactively. The document~~ 51285
~~evidencing consent must state that consent may be rescinded in~~ 51286
~~accordance with the authorization. The department or county agency~~ 51287
~~shall provide, at no cost, a copy of each written authorization to~~ 51288
~~the individual who signed it.~~ 51289

(F) The department or a county agency may release information 51290
under this division (D) of this section concerning a the receipt 51291
of medical assistance provided under Chapter 5111. of the Revised 51292
Code a public assistance program only if both all of the following 51293
conditions are the case met: 51294

(1) The release of information is for purposes directly 51295
connected to the administration of ~~programs created under Chapter~~ 51296
~~5111. of the Revised Code or services provision of medical~~ 51297
~~assistance provided under programs created under that chapter a~~ 51298
~~public assistance program;~~ 51299

(2) The information is released to persons or government 51300
entities that are subject to standards of confidentiality and 51301
safeguarding information substantially comparable to those 51302
established for ~~programs created under Chapter 5111. of the~~ 51303
~~Revised Code medical assistance provided under a public assistance~~ 51304
~~program;~~ 51305

(3) The department or county agency has obtained an 51306
authorization consistent with section 5101.271 of the Revised 51307
Code. 51308

(G) Information concerning the receipt of medical assistance 51309
provided under a public assistance program may be released only if 51310
the release complies with this section and rules adopted by the 51311
department pursuant to section 5101.30 of the Revised Code or, if 51312
more restrictive, the Health Insurance Portability and 51313
Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1955, 51314

42 U.S.C. 1320d, et seq., as amended, and regulations adopted by 51315
the United States department of health and human services to 51316
implement the act. 51317

(H) The department of job and family services may adopt rules 51318
defining "authorized representative" for purposes of division 51319
(C)(2) of this section. 51320

Sec. 5101.271. (A) For the purposes of section 5101.27 of the 51321
Revised Code, an authorization shall be made on a form that uses 51322
language understandable to the average person and contains all of 51323
the following: 51324

(1) A description of the information to be used or disclosed 51325
that identifies the information in a specific and meaningful 51326
fashion; 51327

(2) The name or other specific identification of the person 51328
or class of persons authorized to make the requested use or 51329
disclosure; 51330

(3) The name or other specific identification of the person 51331
or governmental entity to which the information may be released; 51332

(4) A description of each purpose of the requested use or 51333
disclosure of the information; 51334

(5) The date on which the authorization expires or an event 51335
related either to the individual who is the subject of the request 51336
or to the purposes of the requested use or disclosure, the 51337
occurrence of which will cause the authorization to expire; 51338

(6) A statement that the information used or disclosed 51339
pursuant to the authorization may be disclosed by the recipient of 51340
the information and may no longer be protected from disclosure; 51341

(7) The signature of the individual or the individual's 51342
authorized representative and the date on which the authorization 51343
was signed; 51344

(8) If signed by an authorized representative, a description of the representative's authority to act for the individual; 51345
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(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: 51347
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(a) A description of how the individual or authorized representative may revoke the authorization; 51350
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(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. 51352
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(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. 51356
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(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. 51360
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Sec. 5101.28. ~~(A) The department of job and family services shall enter into written agreements with law enforcement agencies to exchange, obtain, or share~~ (1) On request of the department of job and family services or a county agency, a law enforcement agency shall provide information regarding public assistance recipients to enable the department, ~~or county agencies, and law enforcement agencies~~ agency to determine, for eligibility purposes, whether a recipient or a member of a recipient's assistance group is either of the following: 51366
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~~(1) A a fugitive felon;~~ 51375

~~(2) Violating felon or violating a condition of probation, a~~ 51376
~~community control sanction, parole, or a post-release control~~ 51377
~~sanction imposed under state or federal law.~~ 51378

(2) A county agency may enter into a written agreement with a 51379
local law enforcement agency establishing procedures concerning 51380
access to information and providing for compliance with division 51381
(F) of this section. 51382

(B) The To the extent permitted by federal law, the 51383
department and county agencies shall provide information, except 51384
information directly related to the receipt of medical assistance 51385
or medical services, regarding recipients of public assistance 51386
under a program administered by the state department or a county 51387
agency pursuant to Chapter 5107., 5108., or 5115. of the Revised 51388
Code to law enforcement agencies on request for the purposes of 51389
investigations, prosecutions, and criminal and civil proceedings 51390
that are within the scope of the law enforcement agencies' 51391
official duties. 51392

(C) Information about a recipient shall be exchanged, 51393
obtained, or shared only if the department, county agency, or law 51394
enforcement agency requesting the information gives sufficient 51395
information to specifically identify the recipient. In addition to 51396
the recipient's name, identifying information may include the 51397
recipient's current or last known address, social security number, 51398
other identifying number, age, gender, physical characteristics, 51399
any information specified in an agreement entered into under 51400
division (A) of this section, or any information considered 51401
appropriate by the department or agency. 51402

(D)(1) The department and its officers and employees are not 51403
liable in damages in a civil action for any injury, death, or loss 51404
to person or property that allegedly arises from the release of 51405

information in accordance with divisions (A), (B), and (C) of this 51406
section. This section does not affect any immunity or defense that 51407
the department and its officers and employees may be entitled to 51408
under another section of the Revised Code or the common law of 51409
this state, including section 9.86 of the Revised Code. 51410

(2) The county agencies and their employees are not liable in 51411
damages in a civil action for any injury, death, or loss to person 51412
or property that allegedly arises from the release of information 51413
in accordance with divisions (A), (B), and (C) of this section. 51414
"Employee" has the same meaning as in division (B) of section 51415
2744.01 of the Revised Code. This section does not affect any 51416
immunity or defense that the county agencies and their employees 51417
may be entitled to under another section of the Revised Code or 51418
the common law of this state, including section 2744.02 and 51419
division (A)(6) of section 2744.03 of the Revised Code. 51420

(E) To the extent permitted by federal law, the department 51421
and county agencies shall provide access to information to the 51422
auditor of state acting pursuant to Chapter 117. or sections 51423
5101.181 and 5101.182 of the Revised Code and to any other 51424
government entity authorized by ~~or~~ federal law to conduct an audit 51425
of or similar activity involving a public assistance program. 51426

(F) The auditor of state shall prepare an annual report on 51427
the outcome of the agreements required under division (A) of this 51428
section. The report shall include the number of fugitive felons 51429
and probation and parole violators apprehended during the 51430
immediately preceding year as a result of the exchange of 51431
information pursuant to that division. The auditor of state shall 51432
file the report with the governor, the president and minority 51433
leader of the senate, and the speaker and minority leader of the 51434
house of representatives. The state department, county agencies, 51435
and law enforcement agencies shall cooperate with the auditor of 51436
state's office in gathering the information required under this 51437

division. 51438

(G) To the extent permitted by federal law, the department of 51439
job and family services, county departments of job and family 51440
services, and employees of the departments may report to a public 51441
children services agency or other appropriate agency information 51442
on known or suspected physical or mental injury, sexual abuse or 51443
exploitation, or negligent treatment or maltreatment, of a child 51444
receiving public assistance, if circumstances indicate that the 51445
child's health or welfare is threatened. 51446

Sec. 5101.35. (A) As used in this section: 51447

(1) "Agency" means the following entities that administer a 51448
family services program: 51449

(a) The department of job and family services; 51450

(b) A county department of job and family services; 51451

(c) A public children services agency; 51452

(d) A private or government entity administering, in whole or 51453
in part, a family services program for or on behalf of the 51454
department of job and family services or a county department of 51455
job and family services or public children services agency. 51456

(2) "Appellant" means an applicant, participant, former 51457
participant, recipient, or former recipient of a family services 51458
program who is entitled by federal or state law to a hearing 51459
regarding a decision or order of the agency that administers the 51460
program. 51461

(3) "Family services program" means assistance provided under 51462
a Title IV-A program as defined in section 5101.80 of the Revised 51463
Code or under Chapter 5104., 5111., or 5115. or section 173.35, 51464
5101.141, 5101.46, 5101.54, 5153.163, or 5153.165 of the Revised 51465
Code, other than assistance provided under section 5101.46 of the 51466
Revised Code by the department of mental health, the department of 51467

mental retardation and developmental disabilities, a board of 51468
alcohol, drug addiction, and mental health services, or a county 51469
board of mental retardation and developmental disabilities. 51470

(B) Except as provided ~~in~~ by division (G) of this section, an 51471
appellant who appeals under federal or state law a decision or 51472
order of an agency administering a family services program shall, 51473
at the appellant's request, be granted a state hearing by the 51474
department of job and family services. This state hearing shall be 51475
conducted in accordance with rules adopted under this section. The 51476
state hearing shall be tape-recorded, but neither the recording 51477
nor a transcript of the recording shall be part of the official 51478
record of the proceeding. A state hearing decision is binding upon 51479
the agency and department, unless it is reversed or modified on 51480
appeal to the director of job and family services or a court of 51481
common pleas. 51482

(C) Except as provided by division (G) of this section, an 51483
appellant who disagrees with a state hearing decision may make an 51484
administrative appeal to the director of job and family services 51485
in accordance with rules adopted under this section. This 51486
administrative appeal does not require a hearing, but the director 51487
or the director's designee shall review the state hearing decision 51488
and previous administrative action and may affirm, modify, remand, 51489
or reverse the state hearing decision. Any person designated to 51490
make an administrative appeal decision on behalf of the director 51491
shall have been admitted to the practice of law in this state. An 51492
administrative appeal decision is the final decision of the 51493
department and is binding upon the department and agency, unless 51494
it is reversed or modified on appeal to the court of common pleas. 51495

(D) An agency shall comply with a decision issued pursuant to 51496
division (B) or (C) of this section within the time limits 51497
established by rules adopted under this section. If a county 51498
department of job and family services or a public children 51499

services agency fails to comply within these time limits, the 51500
department may take action pursuant to section 5101.24 of the 51501
Revised Code. If another agency fails to comply within the time 51502
limits, the department may force compliance by withholding funds 51503
due the agency or imposing another sanction established by rules 51504
adopted under this section. 51505

(E) An appellant who disagrees with an administrative appeal 51506
decision of the director of job and family services or the 51507
director's designee issued under division (C) of this section may 51508
appeal from the decision to the court of common pleas pursuant to 51509
section 119.12 of the Revised Code. The appeal shall be governed 51510
by section 119.12 of the Revised Code except that: 51511

(1) The person may appeal to the court of common pleas of the 51512
county in which the person resides, or to the court of common 51513
pleas of Franklin county if the person does not reside in this 51514
state. 51515

(2) The person may apply to the court for designation as an 51516
indigent and, if the court grants this application, the appellant 51517
shall not be required to furnish the costs of the appeal. 51518

(3) The appellant shall mail the notice of appeal to the 51519
department of job and family services and file notice of appeal 51520
with the court within thirty days after the department mails the 51521
administrative appeal decision to the appellant. For good cause 51522
shown, the court may extend the time for mailing and filing notice 51523
of appeal, but such time shall not exceed six months from the date 51524
the department mails the administrative appeal decision. Filing 51525
notice of appeal with the court shall be the only act necessary to 51526
vest jurisdiction in the court. 51527

(4) The department shall be required to file a transcript of 51528
the testimony of the state hearing with the court only if the 51529
court orders the department to file the transcript. The court 51530

shall make such an order only if it finds that the department and 51531
the appellant are unable to stipulate to the facts of the case and 51532
that the transcript is essential to a determination of the appeal. 51533
The department shall file the transcript not later than thirty 51534
days after the day such an order is issued. 51535

(5) Section 119.092 of the Revised Code does not apply to the 51536
appeal. 51537

(F) The department of job and family services shall adopt 51538
rules in accordance with Chapter 119. of the Revised Code to 51539
implement this section, including rules governing the following: 51540

(1) State hearings under division (B) of this section. The 51541
rules shall include provisions regarding notice of eligibility 51542
termination and the opportunity of an appellant appealing a 51543
decision or order of a county department of job and family 51544
services to request a county conference with the county department 51545
before the state hearing is held. 51546

(2) Administrative appeals under division (C) of this 51547
section; 51548

(3) Time limits for complying with a decision issued under 51549
division (B) or (C) of this section; 51550

(4) Sanctions that may be applied against an agency under 51551
division (D) of this section. 51552

(G) The department of job and family services may adopt rules 51553
in accordance with Chapter 119. of the Revised Code establishing 51554
~~in~~ an appeals process for an appellant who appeals a decision or 51555
order regarding a Title IV-A program identified under division 51556
(A)(3)(c) or (d) of section 5101.80 of the Revised Code that is 51557
different from the appeals process established by this section. 51558
The different appeals process may include having a state agency 51559
that administers the Title IV-A program pursuant to an interagency 51560
agreement entered into under section 5101.801 of the Revised Code 51561

administer the appeals process. 51562

(H) The requirements of Chapter 119. of the Revised Code 51563
apply to a state hearing or administrative appeal under this 51564
section only to the extent, if any, specifically provided by rules 51565
adopted under this section. 51566

Sec. 5101.36. Any application for public assistance gives a 51567
right of subrogation to the department of job and family services 51568
for any workers' compensation benefits payable to a person who is 51569
subject to a support order, as defined in section 3119.01 of the 51570
Revised Code, on behalf of the applicant, to the extent of any 51571
public assistance payments made on the applicant's behalf. If the 51572
director of job and family services, in consultation with a child 51573
support enforcement agency and the administrator of the bureau of 51574
workers' compensation, determines that a person responsible for 51575
support payments to a recipient of public assistance is receiving 51576
workers' compensation, the director shall notify the administrator 51577
of the amount of the benefit to be paid to the department of job 51578
and family services. 51579

For purposes of this section, "public assistance" means 51580
medical assistance provided through the medical assistance program 51581
established under section 5111.01 of the Revised Code; Ohio works 51582
first provided under Chapter 5107. of the Revised Code; 51583
prevention, retention, and contingency benefits and services 51584
provided under Chapter 5108. of the Revised Code; ~~or~~ disability 51585
financial assistance provided under Chapter 5115. of the Revised 51586
Code; or disability medical assistance provided under Chapter 51587
5115. of the Revised Code. 51588

Sec. 5101.58. As used in this section and section 5101.59 of 51589
the Revised Code, "public assistance" means aid provided under 51590
Chapter 5111. or 5115. of the Revised Code and participation in 51591

the Ohio works first program established under Chapter 5107. of 51592
the Revised Code. 51593

The acceptance of public assistance gives a right of recovery 51594
to the department of job and family services and a county 51595
department of job and family services against the liability of a 51596
third party for the cost of medical services and care arising out 51597
of injury, disease, or disability of the public assistance 51598
recipient or participant. When an action or claim is brought 51599
against a third party by a public assistance recipient or 51600
participant, the entire amount of any settlement or compromise of 51601
the action or claim, or any court award or judgment, is subject to 51602
the recovery right of the department of job and family services or 51603
county department of job and family services. Except in the case 51604
of a recipient or participant who receives medical services or 51605
care through a managed care organization, the department's or 51606
county department's claim shall not exceed the amount of medical 51607
expenses paid by the departments on behalf of the recipient or 51608
participant. In the case of a recipient or participant who 51609
receives medical services or care through a managed care 51610
organization, the amount of the department's or county 51611
department's claim shall be the amount the managed care 51612
organization pays for medical services or care rendered to the 51613
recipient or participant, even if that amount is more than the 51614
amount the departments pay to the managed care organization for 51615
the recipient's or participant's medical services or care. Any 51616
settlement, compromise, judgment, or award that excludes the cost 51617
of medical services or care shall not preclude the departments 51618
from enforcing their rights under this section. 51619

Prior to initiating any recovery action, the recipient or 51620
participant, or the recipient's or participant's representative, 51621
shall disclose the identity of any third party against whom the 51622
recipient or participant has or may have a right of recovery. 51623

Disclosure shall be made to the department of job and family 51624
services when medical expenses have been paid pursuant to Chapter 51625
5111. or 5115. of the Revised Code. Disclosure shall be made to 51626
both the department of job and family services and the appropriate 51627
county department of job and family services when medical expenses 51628
have been paid pursuant to Chapter 5115. of the Revised Code. No 51629
settlement, compromise, judgment, or award or any recovery in any 51630
action or claim by a recipient or participant where the 51631
departments have a right of recovery shall be made final without 51632
first giving the appropriate departments notice and a reasonable 51633
opportunity to perfect their rights of recovery. If the 51634
departments are not given appropriate notice, the recipient or 51635
participant is liable to reimburse the departments for the 51636
recovery received to the extent of medical payments made by the 51637
departments. The departments shall be permitted to enforce their 51638
recovery rights against the third party even though they accepted 51639
prior payments in discharge of their rights under this section if, 51640
at the time the departments received such payments, they were not 51641
aware that additional medical expenses had been incurred but had 51642
not yet been paid by the departments. The third party becomes 51643
liable to the department of job and family services or county 51644
department of job and family services as soon as the third party 51645
is notified in writing of the valid claims for recovery under this 51646
section. 51647

The right of recovery does not apply to that portion of any 51648
judgment, award, settlement, or compromise of a claim, to the 51649
extent of attorneys' fees, costs, or other expenses incurred by a 51650
recipient or participant in securing the judgment, award, 51651
settlement, or compromise, or to the extent of medical, surgical, 51652
and hospital expenses paid by such recipient or participant from 51653
the recipient's or participant's own resources. Attorney fees and 51654
costs or other expenses in securing any recovery shall not be 51655
assessed against any claims of the departments. 51656

To enforce their recovery rights, the departments may do any 51657
of the following: 51658

(A) Intervene or join in any action or proceeding brought by 51659
the recipient or participant or on the recipient's or 51660
participant's behalf against any third party who may be liable for 51661
the cost of medical services and care arising out of the 51662
recipient's or participant's injury, disease, or disability; 51663

(B) Institute and pursue legal proceedings against any third 51664
party who may be liable for the cost of medical services and care 51665
arising out of the recipient's or participant's injury, disease, 51666
or disability; 51667

(C) Initiate legal proceedings in conjunction with the 51668
injured, diseased, or disabled recipient or participant or the 51669
recipient's or participant's legal representative. 51670

Recovery rights created by this section may be enforced 51671
separately or jointly by the department of job and family services 51672
and the county department of job and family services. 51673

The right of recovery given to the department under this 51674
section does not include rights to support from any other person 51675
assigned to the state under sections 5107.20 and ~~5115.13~~ 5115.07 51676
of the Revised Code, but includes payments made by a third party 51677
under contract with a person having a duty to support. 51678

The director of job and family services may adopt rules in 51679
accordance with Chapter 119. of the Revised Code the department 51680
considers necessary to implement this section. 51681

Sec. 5101.59. (A) The application for or acceptance of public 51682
assistance constitutes an automatic assignment of certain rights 51683
to the department of job and family services. This assignment 51684
includes the rights of the applicant, recipient, or participant 51685
and also the rights of any other member of the assistance group 51686

for whom the applicant, recipient, or participant can legally make an assignment. 51687
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Pursuant to this section, the applicant, recipient, or participant assigns to the department any rights to medical support available to the applicant, recipient, or participant or for other members of the assistance group under an order of a court or administrative agency, and any rights to payments from any third party liable to pay for the cost of medical care and services arising out of injury, disease, or disability of the applicant, recipient, participant, or other members of the assistance group. 51689
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Medicare benefits shall not be assigned pursuant to this section. Benefits assigned to the department by operation of this section are directly reimbursable to the department by liable third parties. 51698
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(B) Refusal by the applicant, recipient, or participant to cooperate in obtaining medical support and payments for self or any other member of the assistance group renders the applicant, recipient, or participant ineligible for public assistance, unless cooperation is waived by the department. Eligibility shall continue for any individual who cannot legally assign the individual's own rights and who would have been eligible for public assistance but for the refusal to assign the individual's rights or to cooperate as required by this section by another person legally able to assign the individual's rights. 51702
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If the applicant, recipient, or participant or any member of the assistance group becomes ineligible for public assistance, the department shall restore to the applicant, recipient, participant, or member of the assistance group any future rights to benefits assigned under this section. 51712
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The rights of assignment given to the department under this 51717

section do not include rights to support assigned under section 51718
5107.20 or ~~5115.13~~ 5115.07 of the Revised Code. 51719

(C) The director of job and family services may adopt rules 51720
in accordance with Chapter 119. of the Revised Code to implement 51721
this section, including rules that specify what constitutes 51722
cooperating with efforts to obtain medical support and payments 51723
and when the cooperation requirement may be waived. 51724

Sec. 5101.75. (A) As used in sections 5101.75, 5101.751, 51725
5101.752, 5101.753, and 5101.754 of the Revised Code: 51726

(1) "Alternative source of long-term care" includes a 51727
residential care facility licensed under Chapter 3721. of the 51728
Revised Code, an adult care facility licensed under Chapter 3722. 51729
of the Revised Code, home and community-based services, and a 51730
nursing home licensed under Chapter 3721. of the Revised Code that 51731
is not a nursing facility. 51732

(2) "Medicaid" means the medical assistance program 51733
established under Chapter 5111. of the Revised Code. 51734

(3) "Nursing facility" has the same meaning as in section 51735
5111.20 of the Revised Code. 51736

(4) "Representative" means a person acting on behalf of an 51737
applicant for admission to a nursing facility. A representative 51738
may be a family member, attorney, hospital social worker, or any 51739
other person chosen to act on behalf of an applicant. 51740

(5) "Third-party payment source" means a third-party payer as 51741
defined in section 3901.38 of the Revised Code or medicaid. 51742

(B) Effective July 1, 1994, the department of job and family 51743
services may assess a person applying or intending to apply for 51744
admission to a nursing facility who is not an applicant for or 51745
recipient of medicaid to determine whether the person is in need 51746
of nursing facility services and whether an alternative source of 51747

long-term care is more appropriate for the person in meeting the 51748
person's physical, mental, and psychosocial needs than admission 51749
to the facility to which the person has applied. 51750

Each assessment shall be performed by the department or an 51751
agency designated by the department under section 5101.751 of the 51752
Revised Code and shall be based on information provided by the 51753
person or the person's representative. It shall consider the 51754
person's physical, mental, and psychosocial needs and the 51755
availability and effectiveness of informal support and care. The 51756
department or designated agency shall determine the person's 51757
physical, mental, and psychosocial needs by using, to the maximum 51758
extent appropriate, information from the resident assessment 51759
instrument specified in rules adopted by the department under 51760
division (A) of section 5111.231 of the Revised Code. The 51761
department or designated agency shall also use the criteria and 51762
procedures established in rules adopted by the department under 51763
division (I) of this section. Assessments may be performed only by 51764
persons certified by the department under section 5101.752 of the 51765
Revised Code. The department or designated agency shall make a 51766
recommendation on the basis of the assessment and, not later than 51767
the time the assessment is required to be performed under division 51768
(D) of this section, give the person assessed written notice of 51769
the recommendation, which shall explain the basis for the 51770
recommendation. If the department or designated agency determines 51771
pursuant to an assessment that an alternative source of long-term 51772
care is more appropriate for the person than admission to the 51773
facility to which the person has applied, the department or 51774
designated agency shall include in the notice possible sources of 51775
financial assistance for the alternative source of long-term care. 51776
If the department or designated agency has been informed that the 51777
person has a representative, it shall give the notice to the 51778
representative. 51779

(C) A person is not required to be assessed under division	51780
(B) of this section if any of the following apply:	51781
(1) The circumstances specified by rules adopted under	51782
division (I) of this section exist.	51783
(2) The person is to receive care in a nursing facility under	51784
a contract for continuing care as defined in section 173.13 of the	51785
Revised Code.	51786
(3) The person has a contractual right to admission to a	51787
nursing facility operated as part of a system of continuing care	51788
in conjunction with one or more facilities that provide a less	51789
intensive level of services, including a residential care facility	51790
licensed under Chapter 3721. of the Revised Code, an adult-care	51791
facility licensed under Chapter 3722. of the Revised Code, or an	51792
independent living arrangement;	51793
(4) The person is to receive continual care in a home for the	51794
aged exempt from taxation under section 5701.13 of the Revised	51795
Code;	51796
(5) The person is to receive care in the nursing facility for	51797
not more than fourteen days in order to provide temporary relief	51798
to the person's primary caregiver and the nursing facility	51799
notifies the department of the person's admittance not later than	51800
twenty-four hours after admitting the person;	51801
(6) The person is to be transferred from another nursing	51802
facility, unless the nursing facility from which or to which the	51803
person is to be transferred determines that the person's medical	51804
condition has changed substantially since the person's admission	51805
to the nursing facility from which the person is to be transferred	51806
or a review is required by a third-party payment source;	51807
(7) The person is to be readmitted to a nursing facility	51808
following a period of hospitalization, unless the hospital or	51809

nursing facility determines that the person's medical condition 51810
has changed substantially since the person's admission to the 51811
hospital, or a review is required by a third-party payment source; 51812

(8) The department or designated agency fails to complete an 51813
assessment within the time required by division (D) or (E) of this 51814
section or determines after a partial assessment that the person 51815
should be exempt from the assessment. 51816

(D) The department or designated agency shall perform a 51817
complete assessment, or, if circumstances provided by rules 51818
adopted under division (I) of this section exist, a partial 51819
assessment, as follows: 51820

(1) In the case of a hospitalized person applying or 51821
intending to apply to a nursing facility, not later than two 51822
working days after the person or the person's representative is 51823
notified that a bed is available in a nursing facility; 51824

(2) In the case of an emergency as determined in accordance 51825
with rules adopted under division (I) of this section, not later 51826
than one working day after the person or the person's 51827
representative is notified that a bed is available in a nursing 51828
facility; 51829

(3) In all other cases, not later than five calendar days 51830
after the person or the person's representative who submits the 51831
application is notified that a bed is available in a nursing 51832
facility. 51833

(E) If the department or designated agency conducts a partial 51834
assessment under division (D) of this section, it shall complete 51835
the rest of the assessment not later than one hundred eighty days 51836
after the date the person is admitted to the nursing facility 51837
unless the assessment entity determines the person should be 51838
exempt from the assessment. 51839

(F) A person assessed under this section or the person's 51840

representative may file a complaint with the department about the 51841
assessment process. The department shall work to resolve the 51842
complaint in accordance with rules adopted under division (I) of 51843
this section. 51844

(G) A person is not required to seek an alternative source of 51845
long-term care and may be admitted to or continue to reside in a 51846
nursing facility even though an alternative source of long-term 51847
care is available or the person is determined pursuant to an 51848
assessment under this section not to need nursing facility 51849
services. 51850

(H) No nursing facility ~~with~~ for which an operator has a 51851
provider agreement with the department under section 5111.22 of 51852
the Revised Code shall admit or retain any person, other than a 51853
person exempt from the assessment requirement as provided by 51854
division (C) of this section, as a resident unless the nursing 51855
facility has received evidence that a complete or partial 51856
assessment has been completed. 51857

(I) The director of job and family services shall adopt rules 51858
in accordance with Chapter 119. of the Revised Code to implement 51859
and administer this section. The rules shall include all of the 51860
following: 51861

(1) The information a person being assessed or the person's 51862
representative must provide to enable the department or designated 51863
agency to do the assessment; 51864

(2) Criteria to be used to determine whether a person is in 51865
need of nursing facility services; 51866

(3) Criteria to be used to determine whether an alternative 51867
source of long-term care is appropriate for the person being 51868
assessed; 51869

(4) Criteria and procedures to be used to determine a 51870
person's physical, mental, and psychosocial needs; 51871

(5) Criteria to be used to determine the effectiveness and continued availability of a person's current source of informal support and care;	51872 51873 51874
(6) Circumstances, in addition to those specified in division (C) of this section, under which a person is not required to be assessed;	51875 51876 51877
(7) Circumstances under which the department or designated agency may perform a partial assessment under division (D) of this section;	51878 51879 51880
(8) The method by which a situation will be determined to be an emergency for the purpose of division (D)(2) of this section;	51881 51882
(9) The method by which the department will attempt to resolve complaints filed under division (F) of this section.	51883 51884
(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:	51885 51886 51887 51888
(1) The nursing facility fails to notify the department within the required time about an admission described in division (C)(5) of this section;	51889 51890 51891
(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.	51892 51893 51894 51895
The director shall deposit all fines collected under this division into the residents protection fund established by section 5111.62 of the Revised Code.	51896 51897 51898
Sec. 5101.80. (A) As used in this section and in section 5101.801 of the Revised Code:	51899 51900

(1) "County family services agency" has the same meaning as 51901
in section 307.981 of the Revised Code. 51902

(2) "State agency" has the same meaning as in section 9.82 of 51903
the Revised Code. 51904

(3) "Title IV-A program" means all of the following that are 51905
funded in part with funds provided under the temporary assistance 51906
for needy families block grant established by Title IV-A of the 51907
"Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as 51908
amended: 51909

(a) The Ohio works first program established under Chapter 51910
5107. of the Revised Code; 51911

(b) The prevention, retention, and contingency program 51912
established under Chapter 5108. of the Revised Code; 51913

(c) A program established by the general assembly or an 51914
executive order issued by the governor that is administered or 51915
supervised by the department of job and family services pursuant 51916
to section 5101.801 of the Revised Code; 51917

(d) A component of a Title IV-A program identified under 51918
divisions (A)(3)(a) to (c) of this section that the Title IV-A 51919
state plan prepared under division (C)(1) of this section 51920
identifies as a component. 51921

(B) The department of job and family services shall act as 51922
the single state agency to administer and supervise the 51923
administration of Title IV-A programs. The Title IV-A state plan 51924
and amendments to the plan prepared under division (C) of this 51925
section are binding on county family services agencies and state 51926
agencies that administer a Title IV-A program. No county family 51927
services agency or state agency administering a Title IV-A program 51928
may establish, by rule or otherwise, a policy governing the Title 51929
IV-A program that is inconsistent with a Title IV-A program policy 51930

established, in rule or otherwise, by the director of job and family services. 51931
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(C) The department of job and family services shall do all of the following: 51933
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(1) Prepare and submit to the United States secretary of health and human services a Title IV-A state plan for Title IV-A programs; 51935
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(2) Prepare and submit to the United States secretary of health and human services amendments to the Title IV-A state plan that the department determines necessary, including amendments necessary to implement Title IV-A programs identified in division (A)(3)(c) and (d) of this section; 51938
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(3) Prescribe forms for applications, certificates, reports, records, and accounts of county family services agencies and state agencies administering a Title IV-A program, and other matters related to Title IV-A programs; 51943
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(4) Make such reports, in such form and containing such information as the department may find necessary to assure the correctness and verification of such reports, regarding Title IV-A programs; 51947
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(5) Require reports and information from each county family services agency and state agency administering a Title IV-A program as may be necessary or advisable regarding the Title IV-A program; 51951
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(6) Afford a fair hearing in accordance with section 5101.35 of the Revised Code to any applicant for, or participant or former participant of, a Title IV-A program aggrieved by a decision regarding the program; 51955
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(7) Administer and expend, pursuant to Chapters 5104., 5107., and 5108. of the Revised Code and section 5101.801 of the Revised 51959
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Code, any sums appropriated by the general assembly for the 51961
purpose of those chapters and section and all sums paid to the 51962
state by the secretary of the treasury of the United States as 51963
authorized by Title IV-A of the "Social Security Act," 110 Stat. 51964
2113 (1996), 42 U.S.C. 601, as amended; 51965

(8) Conduct investigations and audits as are necessary 51966
regarding Title IV-A programs; 51967

(9) Enter into reciprocal agreements with other states 51968
relative to the provision of Ohio works first and prevention, 51969
retention, and contingency to residents and nonresidents; 51970

(10) Contract with a private entity to conduct an independent 51971
on-going evaluation of the Ohio works first program and the 51972
prevention, retention, and contingency program. The contract must 51973
require the private entity to do all of the following: 51974

(a) Examine issues of process, practice, impact, and 51975
outcomes; 51976

(b) Study former participants of Ohio works first who have 51977
not participated in Ohio works first for at least one year to 51978
determine whether they are employed, the type of employment in 51979
which they are engaged, the amount of compensation they are 51980
receiving, whether their employer provides health insurance, 51981
whether and how often they have received benefits or services 51982
under the prevention, retention, and contingency program, and 51983
whether they are successfully self sufficient; 51984

(c) Provide the department with reports at times the 51985
department specifies. 51986

(11) Not later than January 1, 2001, and the first day of 51987
each January and July thereafter, prepare a report containing 51988
information on the following: 51989

(a) Individuals exhausting the time limits for participation 51990

in Ohio works first set forth in section 5107.18 of the Revised Code. 51991
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(b) Individuals who have been exempted from the time limits set forth in section 5107.18 of the Revised Code and the reasons for the exemption. 51993
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(12) Not later than January 1, 2001, and on a quarterly basis thereafter until December 1, 2003, prepare, to the extent the necessary data is available to the department, a report based on information determined under section 5107.80 of the Revised Code that states how many former Ohio works first participants entered the workforce during the most recent previous quarter for which the information is known and includes information regarding the earnings of those former participants. The report shall include a county-by-county breakdown and shall not contain the names or social security numbers of former participants. 51996
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(13) To the extent authorized by section 5101.801 of the Revised Code, enter into interagency agreements with state agencies for the administration of Title IV-A programs identified under division (A)(3)(c) and (d) of this section. 52006
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(D) The department shall provide copies of the reports it receives under division (C)(10) of this section and prepares under divisions (C)(11) and (12) of this section to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives. The department shall provide copies of the reports to any private or government entity on request. 52010
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(E) An authorized representative of the department or a county family services agency or state agency administering a Title IV-A program shall have access to all records and information bearing thereon for the purposes of investigations conducted pursuant to this section. 52017
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Sec. 5101.83. (A) As used in this section: 52022

(1) "Assistance group" has the same meaning as in ~~sections~~ 52023
section 5107.02 ~~and 5108.01~~ of the Revised Code, except that it 52024
also means a group provided benefits and services under the 52025
prevention, retention, and contingency program ~~because the members~~ 52026
~~of the group share a common need for benefits and services.~~ 52027

(2) "Fraudulent assistance" means assistance and service, 52028
including cash assistance, provided under the Ohio works first 52029
program established under Chapter 5107., or benefits and services 52030
provided under the prevention, retention, and contingency program 52031
established under Chapter 5108. of the Revised Code, to or on 52032
behalf of an assistance group that is provided as a result of 52033
fraud by a member of the assistance group, including an 52034
intentional violation of the program's requirements. "Fraudulent 52035
assistance" does not include assistance or services to or on 52036
behalf of an assistance group that is provided as a result of an 52037
error that is the fault of a county department of job and family 52038
services or the state department of job and family services. 52039

(B) If a county director of job and family services 52040
determines that an assistance group has received fraudulent 52041
assistance, the assistance group is ineligible to participate in 52042
the Ohio works first program or the prevention, retention, and 52043
contingency program until a member of the assistance group repays 52044
the cost of the fraudulent assistance. If a member repays the cost 52045
of the fraudulent assistance and the assistance group otherwise 52046
meets the eligibility requirements for the Ohio works first 52047
program or the prevention, retention, and contingency program, the 52048
assistance group shall not be denied the opportunity to 52049
participate in the program. 52050

This section does not limit the ability of a county 52051
department of job and family services to recover erroneous 52052

payments under section 5107.76 of the Revised Code. 52053

The state department of job and family services shall adopt 52054
rules in accordance with Chapter 119. of the Revised Code to 52055
implement this section. 52056

Sec. 5101.97. (A)(1) Not later than the ~~first~~ last day of 52057
each July and January, the department of job and family services 52058
shall complete a report on the characteristics of the individuals 52059
who participate in or receive services through the programs 52060
operated by the department and the outcomes of the individuals' 52061
participation in or receipt of services through the programs. The 52062
~~report reports shall be for the six-month periods ending on the~~ 52063
last days of June and December and shall include information on 52064
the following: 52065

(a) Work activities, developmental activities, and 52066
alternative work activities established under sections 5107.40 to 52067
5107.69 of the Revised Code; 52068

(b) Programs of publicly funded child day-care, as defined in 52069
section 5104.01 of the Revised Code; 52070

(c) Child support enforcement programs; 52071

(d) Births to recipients of the medical assistance program 52072
established under Chapter 5111. of the Revised Code. 52073

~~(2) Not later than the first day of each July, the department 52074
shall complete a progress report on the partnership agreements 52075
between the director of job and family services and boards of 52076
county commissioners under section 5101.21 of the Revised Code. 52077
The report shall include a review of whether the county family 52078
services agencies and workforce development agencies satisfied 52079
performance standards included in the agreements and whether the 52080
department provided assistance, services, and technical support 52081
specified in the agreements to aid the agencies in meeting the 52082~~

~~performance standards.~~ 52083

(3) The department shall submit the reports required under 52084
~~divisions~~ division (A)(1) ~~and (2)~~ of this section to the speaker 52085
and minority leader of the house of representatives, the president 52086
and minority leader of the senate, the legislative budget officer, 52087
the director of budget and management, and each board of county 52088
commissioners. The department shall provide copies of ~~each report~~ 52089
the reports to any person or government entity on request. 52090

In designing the format for ~~each report~~ the reports, the 52091
department shall consult with individuals, organizations, and 52092
government entities interested in the programs operated by the 52093
department, so that the reports are designed to enable the general 52094
assembly and the public to evaluate the effectiveness of the 52095
programs and identify any needs that the programs are not meeting. 52096

(B) Whenever the federal government requires that the 52097
department submit a report on a program that is operated by the 52098
department or is otherwise under the department's jurisdiction, 52099
the department shall prepare and submit the report in accordance 52100
with the federal requirements applicable to that report. To the 52101
extent possible, the department may coordinate the preparation and 52102
submission of a particular report with any other report, plan, or 52103
other document required to be submitted to the federal government, 52104
as well as with any report required to be submitted to the general 52105
assembly. The reports required by the Personal Responsibility and 52106
Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) may be 52107
submitted as an annual summary. 52108

Sec. 5103.031. (A) Except as provided in section 5103.033 of 52109
the Revised Code, the department of job and family services may 52110
not issue a certificate under section 5103.03 of the Revised Code 52111
to a foster home unless the foster caregiver successfully 52112
completes the following amount of preplacement training through 52113

~~the Ohio child welfare training program~~ or a preplacement training 52114
program operated under section 5103.034 or 5153.60 of the Revised 52115
Code: 52116

(1) If the foster home is a family foster home, at least 52117
twelve hours; 52118

(2) If the foster home is a specialized foster home, at least 52119
thirty-six hours. 52120

(B) No child may be placed in a family foster home unless the 52121
foster caregiver completes at least twelve additional hours of 52122
preplacement training through ~~the Ohio child welfare training~~ 52123
~~program~~ or a preplacement training program operated under section 52124
5103.034 or 5153.60 of the Revised Code. 52125

Sec. 5103.033. The department of job and family services may 52126
issue or renew a certificate under section 5103.03 of the Revised 52127
Code to a foster home for the care of a child who is in the 52128
custody of a public children services agency or private child 52129
placing agency pursuant to an agreement entered into under section 52130
5103.15 of the Revised Code regarding a child who was less than 52131
six months of age on the date the agreement was executed if the 52132
foster caregiver successfully completes the following amount of 52133
training: 52134

(A) For an initial certificate, at least twelve hours of 52135
preplacement training through ~~the Ohio child welfare training~~ 52136
~~program~~ or a preplacement training program operated under section 52137
5103.034 or 5153.60 of the Revised Code; 52138

(B) For renewal of a certificate, at least twelve hours each 52139
year of continuing training in accordance with the foster 52140
caregiver's needs assessment and continuing training plan 52141
developed and implemented under section 5103.035 of the Revised 52142
Code. 52143

Sec. 5103.034. (A) A public children services agency, private 52144
child placing agency, or private noncustodial agency operating a 52145
preplacement training program or continuing training program 52146
approved by the department of job and family services under 52147
section 5103.038 of the Revised Code or the Ohio child welfare 52148
training program operating a preplacement training program or 52149
continuing training program pursuant to section 5153.60 of the 52150
Revised Code shall make the program available to foster 52151
caregivers. The agency or program shall make the programs 52152
available without regard to the type of recommending agency from 52153
which a foster caregiver seeks a recommendation and without charge 52154
to the foster caregiver. 52155

(B) A private child placing agency or private noncustodial 52156
agency operating a preplacement training program or continuing 52157
training program approved by the department of job and family 52158
services under section 5103.038 of the Revised Code may condition 52159
the enrollment of a foster caregiver in a program on either or 52160
both of the following: 52161

(1) Availability of space in the training program; 52162

(2) If applicable, payment of an instruction or registration 52163
fee, if any, by the foster caregiver's recommending agency. 52164

(C) The Ohio child welfare training program operating a 52165
preplacement training program or continuing training program 52166
pursuant to section 5153.60 of the Revised Code may condition the 52167
enrollment in a preplacement training program or continuing 52168
training program of a foster caregiver whose recommending agency 52169
is a private child placing agency or private noncustodial agency 52170
on either or both of the following: 52171

(1) Availability of space in the training program; 52172

(2) Assignment to the program by the foster caregiver's 52173

recommending agency of the allowance payable under section 52174
5103.0313 of the Revised Code. 52175

(D) A private child placing agency or private noncustodial 52176
agency may contract with an individual or a public or private 52177
entity to administer a preplacement training program or continuing 52178
training program operated by the agency and approved by the 52179
department of job and family services under section 5103.038 of 52180
the Revised Code. 52181

Sec. 5103.036. For the purpose of determining whether a 52182
foster caregiver has satisfied the requirement of section 5103.031 52183
or 5103.032 of the Revised Code, a recommending agency shall 52184
accept training obtained from ~~the Ohio child welfare training~~ 52185
~~program or pursuant to~~ a preplacement training program or 52186
continuing training program operated under section 5103.034 or 52187
5153.60 of the Revised Code regardless of whether the program is 52188
operated by the recommending agency ~~operated the preplacement~~ 52189
~~training program or continuing training program.~~ The agency may 52190
require that the foster caregiver successfully complete additional 52191
training as a condition of the agency recommending that the 52192
department of job and family services certify or recertify the 52193
foster caregiver's foster home under section 5103.03 of the 52194
Revised Code. 52195

Sec. 5103.037. The department of job and family services, in 52196
consultation with the departments of youth services, mental 52197
health, education, mental retardation and developmental 52198
disabilities, and alcohol and drug addiction services, shall 52199
develop a model design of a preplacement training program for 52200
foster caregivers seeking an initial certificate under section 52201
5103.03 of the Revised Code and a model design of a continuing 52202
training program for foster caregivers seeking renewal of a 52203
certificate under that section. The model design of a preplacement 52204

training program shall comply with section 5103.039 of the Revised Code. The model design of a continuing training program shall comply with section 5103.0310 of the Revised Code. The department of job and family services shall make the model designs available to ~~public children services agencies~~ the Ohio child welfare training program, private child placing agencies, and private noncustodial agencies.

Sec. 5103.038. (A) Every other year by a date specified in rules adopted under section 5103.0316 of the Revised Code, each ~~public children services agency~~, private child placing agency, and private noncustodial agency that seeks to operate a preplacement training program or continuing training program under section 5103.034 of the Revised Code shall submit to the department of job and family services a proposal outlining the program. The proposal may be the same as, a modification of, or different from, a model design developed under section 5103.037 of the Revised Code. ~~The proposal shall include a budget for the program regarding the cost associated with trainers, obtaining sites at which the training is provided, and the administration of the training. The budget shall be consistent with rules adopted under section 5103.0316 of the Revised Code governing the department of job and family services' reimbursement of public children services agencies, private child placing agencies, and private noncustodial agencies under section 5103.0313 of the Revised Code.~~

(B) Not later than thirty days after receiving a proposal under division (A) of this section, the department shall either approve or disapprove the proposed program. The department shall approve a proposed preplacement training program if it complies with section 5103.039 or 5103.0310 of the Revised Code, as appropriate, and, in the case of a proposal submitted by an agency operating a preplacement training program at the time the proposal is submitted, the department is satisfied with the agency's

operation of the program. The department shall approve a proposed 52237
continuing training program if it complies with section 5103.0310 52238
or 5103.0311 of the Revised Code, as appropriate, and, in the case 52239
of a proposal submitted by an agency operating a continuing 52240
training program at the time the proposal is submitted, the 52241
department is satisfied with the agency's operation of the 52242
program. ~~The department shall disapprove a proposed program if the 52243~~
~~program's budget is not consistent with rules adopted under 52244~~
~~section 5103.0316 of the Revised Code governing the department's 52245~~
~~reimbursement of public children services agencies, private child 52246~~
~~placing agencies, and private noncustodial agencies under section 52247~~
~~5103.0313 of the Revised Code.~~ If the department disapproves a 52248
proposal, it shall provide the reason for disapproval to the 52249
agency that submitted the proposal and advise the agency of how to 52250
revise the proposal so that the department can approve it. 52251

(C) The department's approval under division (B) of this 52252
section of a proposed preplacement training program or continuing 52253
training program is valid only for two years following the year 52254
the proposal for the program is submitted to the department under 52255
division (A) of this section. 52256

Sec. 5103.0312. A public children services agency, private 52257
child placing agency, or private noncustodial agency acting as a 52258
recommending agency for foster caregivers who hold certificates 52259
issued under section 5103.03 of the Revised Code shall pay those 52260
foster caregivers ~~who have had at least one foster child placed in 52261~~
~~their home~~ a stipend to reimburse them for attending ~~training 52262~~
~~courses provided by the Ohio child welfare training program or 52263~~
~~pursuant to~~ a preplacement training program or continuing training 52264
program operated under section 5103.034 or 5153.60 of the Revised 52265
Code. The payment shall be based on a stipend rate established by 52266
the department of job and family services. The stipend rate shall 52267
be the same regardless of the type of recommending agency from 52268

which a foster caregiver seeks a recommendation. The department 52269
shall, pursuant to rules adopted under section 5103.0316 of the 52270
Revised Code, reimburse the recommending agency for stipend 52271
payments it makes in accordance with this section. 52272

Sec. 5103.0313. The department of job and family services 52273
shall ~~reimburse the following~~ compensate a private child placing 52274
agency or private noncustodial agency for the cost of ~~providing~~ 52275
procuring or operating preplacement and continuing training ~~to~~ 52276
~~foster caregivers:~~ 52277

~~(A) The Ohio child welfare training program;~~ 52278

~~(B) A public children services agency, private child placing~~ 52279
~~agency, or private noncustodial agency through a preplacement~~ 52280
~~training program or continuing training program operated~~ programs 52281
under section 5103.034 of the Revised Code for foster caregivers 52282
who are recommended for initial certification or recertification 52283
by the agency. 52284

The ~~reimbursement~~ compensation shall be ~~on a per diem basis~~ 52285
and limited to the cost associated with the trainer, ~~obtaining a~~ 52286
~~site at which the training is provided, and the administration of~~ 52287
the training paid to the agency in the form of an allowance for 52288
each hour of preplacement and continuing training provided or 52289
received. A reimbursement rate shall be the same regardless of 52290
whether the training program is operated by the Ohio child welfare 52291
training program or a public children services agency, private 52292
child placing agency, or private noncustodial agency. 52293

Sec. 5103.0314. The department of job and family services 52294
shall not ~~reimburse~~ compensate a recommending agency for ~~the cost~~ 52295
~~of~~ any training the agency requires a foster caregiver to undergo 52296
as a condition of the agency recommending the department certify 52297
or recertify the foster caregiver's foster home under section 52298

5103.03 of the Revised Code if the training is in addition to the 52299
minimum training required by section 5103.031 or 5103.032 of the 52300
Revised Code. 52301

Sec. 5103.0315. The department of job and family services 52302
shall seek federal financial participation for the cost of making 52303
payments under section 5103.0312 of the Revised Code and 52304
~~reimbursements~~ allowances under section 5103.0313 of the Revised 52305
Code. The department shall notify the governor, president of the 52306
senate, minority leader of the senate, speaker of the house of 52307
representatives, and minority leader of the house of 52308
representatives of any proposed federal legislation that endangers 52309
the federal financial participation. 52310

Sec. 5103.0316. ~~Not later than ninety days after January 1,~~ 52311
~~2001, the~~ The department of job and family services shall adopt 52312
rules in accordance with Chapter 119. of the Revised Code as 52313
necessary for the efficient administration of sections 5103.031 to 52314
5103.0316 of the Revised Code. The rules shall provide for all of 52315
the following: 52316

(A) For the purpose of section 5103.038 of the Revised Code, 52317
the date by which a ~~public children services agency,~~ private child 52318
placing agency~~,~~ or private noncustodial agency that seeks to 52319
operate a preplacement training program or continuing training 52320
program under section 5103.034 of the Revised Code must submit to 52321
the department a proposal outlining the program; 52322

(B) Requirements governing the department's ~~reimbursement~~ 52323
compensation of the ~~Ohio child welfare training program and public~~ 52324
~~children services agencies,~~ private child placing agencies~~,~~ and 52325
private noncustodial agencies under sections 5103.0312 and 52326
5103.0313 of the Revised Code; 52327

(C) Any other matter the department considers appropriate. 52328

Sec. 5103.154. (A) Information concerning all children who 52329
are, pursuant to section 2151.353 or 5103.15 of the Revised Code, 52330
in the permanent custody of an institution or association 52331
certified by the department of job and family services under 52332
section 5103.03 of the Revised Code shall be listed with the 52333
department within ninety days after permanent custody is 52334
effective, unless the child has been placed for adoption or unless 52335
an application for placement was initiated under section 5103.16 52336
of the Revised Code. 52337

(B) All persons who wish to adopt children, and are approved 52338
by an agency so empowered under this chapter, shall be listed with 52339
the department within ninety days of approval, unless a person 52340
requests in writing that that person's name not be so listed, or 52341
has had a child placed in that person's home in preparation for 52342
adoption, or has filed a petition for adoption. 52343

(C) All persons who wish to adopt a child with special needs 52344
as defined in rules adopted under section 5153.163 of the Revised 52345
Code, and who are approved by an agency so empowered under this 52346
chapter, shall be listed separately by the department within 52347
ninety days of approval, unless a person requests in writing that 52348
that person's name not be so listed, or has had a child with 52349
special needs placed in that person's home in preparation for 52350
adoption, or has filed a petition for adoption. 52351

(D) The department shall forward information on such children 52352
and listed persons at least quarterly, to all public children 52353
services agencies and all certified agencies. 52354

(E) The appropriate listed names shall be removed when a 52355
child is placed in an adoptive home or when a person withdraws an 52356
application for adoption. 52357

(F) No later than six months after the end of each fiscal 52358

year, the department shall compile a report of its conclusions 52359
regarding the effectiveness of its actions pursuant to this 52360
section and of the restrictions on placement under division ~~(E)~~(G) 52361
of section 5153.163 of the Revised Code in increasing adoptive 52362
placements of children with special needs, together with its 52363
recommendations, and shall submit a copy of the report to the 52364
chairpersons of the principal committees of the senate and the 52365
house of representatives who consider welfare legislation. 52366

Sec. 5103.155. As used in this section, "children with 52367
special needs" has the same meaning as in rules adopted under 52368
section 5153.163 of the Revised Code. 52369

If the department of job and family services determines that 52370
money in the putative father registry fund created under section 52371
2101.16 of the Revised Code is more than is needed to perform its 52372
duties related to the putative father registry, the department may 52373
use surplus moneys in the fund to promote adoption of children 52374
with special needs. 52375

Sec. 5104.01. As used in this chapter: 52376

(A) "Administrator" means the person responsible for the 52377
daily operation of a center or type A home. The administrator and 52378
the owner may be the same person. 52379

(B) "Approved child day camp" means a child day camp approved 52380
pursuant to section 5104.22 of the Revised Code. 52381

(C) "Authorized provider" means a person authorized by a 52382
county director of job and family services to operate a certified 52383
type B family day-care home. 52384

(D) "Border state child day-care provider" means a child 52385
day-care provider that is located in a state bordering Ohio and 52386
that is licensed, certified, or otherwise approved by that state 52387
to provide child day-care. 52388

(E) "Caretaker parent" means the father or mother of a child 52389
whose presence in the home is needed as the caretaker of the 52390
child, a person who has legal custody of a child and whose 52391
presence in the home is needed as the caretaker of the child, a 52392
guardian of a child whose presence in the home is needed as the 52393
caretaker of the child, and any other person who stands in loco 52394
parentis with respect to the child and whose presence in the home 52395
is needed as the caretaker of the child. 52396

(F) "Certified type B family day-care home" and "certified 52397
type B home" mean a type B family day-care home that is certified 52398
by the director of the county department of job and family 52399
services pursuant to section 5104.11 of the Revised Code to 52400
receive public funds for providing child day-care pursuant to this 52401
chapter and any rules adopted under it. 52402

(G) "Chartered nonpublic school" means a school that meets 52403
standards for nonpublic schools prescribed by the state board of 52404
education for nonpublic schools pursuant to section 3301.07 of the 52405
Revised Code. 52406

(H) "Child" includes an infant, toddler, preschool child, or 52407
school child. 52408

(I) "Child care block grant act" means the "Child Care and 52409
Development Block Grant Act of 1990," established in section 5082 52410
of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 52411
1388-236 (1990), 42 U.S.C. 9858, as amended. 52412

(J) "Child day camp" means a program in which only school 52413
children attend or participate, that operates for no more than 52414
seven hours per day, that operates only during one or more public 52415
school district's regular vacation periods or for no more than 52416
fifteen weeks during the summer, and that operates outdoor 52417
activities for each child who attends or participates in the 52418
program for a minimum of fifty per cent of each day that children 52419

attend or participate in the program, except for any day when 52420
hazardous weather conditions prevent the program from operating 52421
outdoor activities for a minimum of fifty per cent of that day. 52422
For purposes of this division, the maximum seven hours of 52423
operation time does not include transportation time from a child's 52424
home to a child day camp and from a child day camp to a child's 52425
home. 52426

(K) "Child day-care" means administering to the needs of 52427
infants, toddlers, preschool children, and school children outside 52428
of school hours by persons other than their parents or guardians, 52429
custodians, or relatives by blood, marriage, or adoption for any 52430
part of the twenty-four-hour day in a place or residence other 52431
than a child's own home. 52432

(L) "Child day-care center" and "center" mean any place in 52433
which child day-care or publicly funded child day-care is provided 52434
for thirteen or more children at one time or any place that is not 52435
the permanent residence of the licensee or administrator in which 52436
child day-care or publicly funded child day-care is provided for 52437
seven to twelve children at one time. In counting children for the 52438
purposes of this division, any children under six years of age who 52439
are related to a licensee, administrator, or employee and who are 52440
on the premises of the center shall be counted. "Child day-care 52441
center" and "center" do not include any of the following: 52442

(1) A place located in and operated by a hospital, as defined 52443
in section 3727.01 of the Revised Code, in which the needs of 52444
children are administered to, if all the children whose needs are 52445
being administered to are monitored under the on-site supervision 52446
of a physician licensed under Chapter 4731. of the Revised Code or 52447
a registered nurse licensed under Chapter 4723. of the Revised 52448
Code, and the services are provided only for children who, in the 52449
opinion of the child's parent, guardian, or custodian, are 52450
exhibiting symptoms of a communicable disease or other illness or 52451

are injured;	52452
(2) A child day camp;	52453
(3) A place that provides child day-care, but not publicly funded child day-care, if all of the following apply:	52454 52455
(a) An organized religious body provides the child day-care;	52456
(b) A parent, custodian, or guardian of at least one child receiving child day-care is on the premises and readily accessible at all times;	52457 52458 52459
(c) The child day-care is not provided for more than thirty days a year;	52460 52461
(d) The child day-care is provided only for preschool and school children.	52462 52463
(M) "Child day-care resource and referral service organization" means a community-based nonprofit organization that provides child day-care resource and referral services but not child day-care.	52464 52465 52466 52467
(N) "Child day-care resource and referral services" means all of the following services:	52468 52469
(1) Maintenance of a uniform data base of all child day-care providers in the community that are in compliance with this chapter, including current occupancy and vacancy data;	52470 52471 52472
(2) Provision of individualized consumer education to families seeking child day-care;	52473 52474
(3) Provision of timely referrals of available child day-care providers to families seeking child day-care;	52475 52476
(4) Recruitment of child day-care providers;	52477
(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	52478 52479 52480

providers, employers, and the community;	52481
(6) Collection and analysis of data on the supply of and demand for child day-care in the community;	52482 52483
(7) Technical assistance concerning locally, state, and federally funded child day-care and early childhood education programs;	52484 52485 52486
(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;	52487 52488 52489
(9) Provision of written educational materials to caretaker parents and informational resources to child day-care providers;	52490 52491
(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;	52492 52493 52494 52495 52496
(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.	52497 52498 52499 52500
(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.	52501 52502 52503 52504 52505
(P) "Drop-in child day-care center," "drop-in center," "drop-in type A family day-care home," and "drop-in type A home" mean a center or type A home that provides child day-care or publicly funded child day-care for children on a temporary, irregular basis.	52506 52507 52508 52509 52510

(Q) "Employee" means a person who either:	52511
(1) Receives compensation for duties performed in a child day-care center or type A family day-care home;	52512 52513
(2) Is assigned specific working hours or duties in a child day-care center or type A family day-care home.	52514 52515
(R) "Employer" means a person, firm, institution, organization, or agency that operates a child day-care center or type A family day-care home subject to licensure under this chapter.	52516 52517 52518 52519
(S) "Federal poverty line" means the official poverty guideline as revised annually in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.	52520 52521 52522 52523 52524
(T) "Head start program" means a comprehensive child development program that receives funds distributed under the "Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as amended, or under section <u>sections</u> 3301.31 to <u>3301.37</u> of the Revised Code.	52525 52526 52527 52528 52529
(U) "Income" means gross income, as defined in section 5107.10 of the Revised Code, less any amounts required by federal statutes or regulations to be disregarded.	52530 52531 52532
(V) "Indicator checklist" means an inspection tool, used in conjunction with an instrument-based program monitoring information system, that contains selected licensing requirements that are statistically reliable indicators or predictors of a child day-care center or type A family day-care home's compliance with licensing requirements.	52533 52534 52535 52536 52537 52538
(W) "Infant" means a child who is less than eighteen months of age.	52539 52540

(X) "In-home aide" means a person certified by a county director of job and family services pursuant to section 5104.12 of the Revised Code to provide publicly funded child day-care to a child in a child's own home pursuant to this chapter and any rules adopted under it.

(Y) "Instrument-based program monitoring information system" means a method to assess compliance with licensing requirements for child day-care centers and type A family day-care homes in which each licensing requirement is assigned a weight indicative of the relative importance of the requirement to the health, growth, and safety of the children that is used to develop an indicator checklist.

(Z) "License capacity" means the maximum number in each age category of children who may be cared for in a child day-care center or type A family day-care home at one time as determined by the director of job and family services considering building occupancy limits established by the department of commerce, number of available child-care staff members, amount of available indoor floor space and outdoor play space, and amount of available play equipment, materials, and supplies.

(AA) "Licensed preschool program" or "licensed school child program" means a preschool program or school child program, as defined in section 3301.52 of the Revised Code, that is licensed by the department of education pursuant to sections 3301.52 to 3301.59 of the Revised Code.

(BB) "Licensee" means the owner of a child day-care center or type A family day-care home that is licensed pursuant to this chapter and who is responsible for ensuring its compliance with this chapter and rules adopted pursuant to this chapter.

(CC) "Operate a child day camp" means to operate, establish, manage, conduct, or maintain a child day camp.

(DD) "Owner" includes a person, as defined in section 1.59 of the Revised Code, or government entity. 52572
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(EE) "Parent cooperative child day-care center," "parent cooperative center," "parent cooperative type A family day-care home," and "parent cooperative type A home" mean a corporation or association organized for providing educational services to the children of members of the corporation or association, without gain to the corporation or association as an entity, in which the services of the corporation or association are provided only to children of the members of the corporation or association, ownership and control of the corporation or association rests solely with the members of the corporation or association, and at least one parent-member of the corporation or association is on the premises of the center or type A home during its hours of operation. 52574
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(FF) "Part-time child day-care center," "part-time center," "part-time type A family day-care home," and "part-time type A home" mean a center or type A home that provides child day-care or publicly funded child day-care for no more than four hours a day for any child. 52587
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(GG) "Place of worship" means a building where activities of an organized religious group are conducted and includes the grounds and any other buildings on the grounds used for such activities. 52592
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(HH) "Preschool child" means a child who is three years old or older but is not a school child. 52596
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(II) "Protective day-care" means publicly funded child day-care for the direct care and protection of a child to whom either of the following applies: 52598
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(1) A case plan prepared and maintained for the child pursuant to section 2151.412 of the Revised Code indicates a need 52601
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for protective day-care and the child resides with a parent, 52603
stepparent, guardian, or another person who stands in loco 52604
parentis as defined in rules adopted under section 5104.38 of the 52605
Revised Code; 52606

(2) The child and the child's caretaker either temporarily 52607
reside in a facility providing emergency shelter for homeless 52608
families or are determined by the county department of job and 52609
family services to be homeless, and are otherwise ineligible for 52610
publicly funded child day-care. 52611

(JJ) "Publicly funded child day-care" means administering to 52612
the needs of infants, toddlers, preschool children, and school 52613
children under age thirteen during any part of the 52614
twenty-four-hour day by persons other than their caretaker parents 52615
for remuneration wholly or in part with federal or state funds, 52616
including funds available under the child care block grant act 52617
~~funds~~ Title IV-A, and Title XX, distributed by the department of 52618
job and family services. 52619

(KK) "Religious activities" means any of the following: 52620
worship or other religious services; religious instruction; Sunday 52621
school classes or other religious classes conducted during or 52622
prior to worship or other religious services; youth or adult 52623
fellowship activities; choir or other musical group practices or 52624
programs; meals; festivals; or meetings conducted by an organized 52625
religious group. 52626

(LL) "School child" means a child who is enrolled in or is 52627
eligible to be enrolled in a grade of kindergarten or above but is 52628
less than fifteen years old. 52629

(MM) "School child day-care center," "school child center," 52630
"school child type A family day-care home," and "school child type 52631
A family home" mean a center or type A home that provides child 52632
day-care for school children only and that does either or both of 52633

the following: 52634

(1) Operates only during that part of the day that 52635
immediately precedes or follows the public school day of the 52636
school district in which the center or type A home is located; 52637

(2) Operates only when the public schools in the school 52638
district in which the center or type A home is located are not 52639
open for instruction with pupils in attendance. 52640

(NN) "State median income" means the state median income 52641
calculated by the department of development pursuant to division 52642
(A)(1)(g) of section 5709.61 of the Revised Code. 52643

(OO) "Title IV-A" means Title IV-A of the "Social Security 52644
Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 52645

(PP) "Title XX" means Title XX of the "Social Security Act," 52646
88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 52647

(OO) "Toddler" means a child who is at least eighteen months 52648
of age but less than three years of age. 52649

~~(PP)~~(RR) "Type A family day-care home" and "type A home" mean 52650
a permanent residence of the administrator in which child day-care 52651
or publicly funded child day-care is provided for seven to twelve 52652
children at one time or a permanent residence of the administrator 52653
in which child day-care is provided for four to twelve children at 52654
one time if four or more children at one time are under two years 52655
of age. In counting children for the purposes of this division, 52656
any children under six years of age who are related to a licensee, 52657
administrator, or employee and who are on the premises of the type 52658
A home shall be counted. "Type A family day-care home" does not 52659
include a residence in which the needs of children are 52660
administered to, if all of the children whose needs are being 52661
administered to are siblings of the same immediate family and the 52662
residence is the home of the siblings. "Type A family day-care 52663
home" and "type A home" do not include any child day camp. 52664

~~(SS)~~(SS) "Type B family day-care home" and "type B home" mean 52665
a permanent residence of the provider in which child day-care is 52666
provided for one to six children at one time and in which no more 52667
than three children are under two years of age at one time. In 52668
counting children for the purposes of this division, any children 52669
under six years of age who are related to the provider and who are 52670
on the premises of the type B home shall be counted. "Type B 52671
family day-care home" does not include a residence in which the 52672
needs of children are administered to, if all of the children 52673
whose needs are being administered to are siblings of the same 52674
immediate family and the residence is the home of the siblings. 52675
"Type B family day-care home" and "type B home" do not include any 52676
child day camp. 52677

Sec. 5104.011. (A) The director of job and family services 52678
shall adopt rules pursuant to Chapter 119. of the Revised Code 52679
governing the operation of child day-care centers, including, but 52680
not limited to, parent cooperative centers, part-time centers, 52681
drop-in centers, and school child centers, which rules shall 52682
reflect the various forms of child day-care and the needs of 52683
children receiving child day-care or publicly funded child 52684
day-care and, ~~no later than January 1, 1992,~~ shall include 52685
specific rules for school child day-care centers that are 52686
developed in consultation with the department of education. The 52687
rules shall not require an existing school facility that is in 52688
compliance with applicable building codes to undergo an additional 52689
building code inspection or to have structural modifications. The 52690
rules shall include the following: 52691

(1) Submission of a site plan and descriptive plan of 52692
operation to demonstrate how the center proposes to meet the 52693
requirements of this chapter and rules adopted pursuant to this 52694
chapter for the initial license application; 52695

(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 parents and employees are met;

(7) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the center

while under the care of a center employee;	52727
(8) Procedures for record keeping, organization, and administration;	52728 52729
(9) Procedures for issuing, renewing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;	52730 52731 52732
(10) Inspection procedures;	52733
(11) Procedures and standards for setting initial and renewal license application fees;	52734 52735
(12) Procedures for receiving, recording, and responding to complaints about centers;	52736 52737
(13) Procedures for enforcing section 5104.04 of the Revised Code;	52738 52739
(14) A standard requiring the inclusion, on and after July 1, 1987, of a current department of job and family services toll-free telephone number on each center provisional license or license which any person may use to report a suspected violation by the center of this chapter or rules adopted pursuant to this chapter;	52740 52741 52742 52743 52744
(15) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention. Training requirements for child day-care centers adopted under this division shall be consistent with divisions (B)(6) and (C)(1) of this section.	52745 52746 52747 52748 52749 52750
(16) Procedures to be used by licensees for checking the references of potential employees of centers and procedures to be used by the director for checking the references of applicants for licenses to operate centers;	52751 52752 52753 52754
(17) Standards providing for the special needs of children who are handicapped or who require treatment for health conditions	52755 52756

while the child is receiving child day-care or publicly funded 52757
child day-care in the center; 52758

(18) Any other procedures and standards necessary to carry 52759
out this chapter. 52760

(B)(1) The child day-care center shall have, for each child 52761
for whom the center is licensed, at least thirty-five square feet 52762
of usable indoor floor space wall-to-wall regularly available for 52763
the child day-care operation exclusive of any parts of the 52764
structure in which the care of children is prohibited by law or by 52765
rules adopted by the board of building standards. The minimum of 52766
thirty-five square feet of usable indoor floor space shall not 52767
include hallways, kitchens, storage areas, or any other areas that 52768
are not available for the care of children, as determined by the 52769
director, in meeting the space requirement of this division, and 52770
bathrooms shall be counted in determining square footage only if 52771
they are used exclusively by children enrolled in the center, 52772
except that the exclusion of hallways, kitchens, storage areas, 52773
bathrooms not used exclusively by children enrolled in the center, 52774
and any other areas not available for the care of children from 52775
the minimum of thirty-five square feet of usable indoor floor 52776
space shall not apply to: 52777

(a) Centers licensed prior to or on September 1, 1986, that 52778
continue under licensure after that date; 52779

(b) Centers licensed prior to or on September 1, 1986, that 52780
are issued a new license after that date solely due to a change of 52781
ownership of the center. 52782

(2) The child day-care center shall have on the site a safe 52783
outdoor play space which is enclosed by a fence or otherwise 52784
protected from traffic or other hazards. The play space shall 52785
contain not less than sixty square feet per child using such space 52786
at any one time, and shall provide an opportunity for supervised 52787

outdoor play each day in suitable weather. The director may exempt 52788
a center from the requirement of this division, if an outdoor play 52789
space is not available and if all of the following are met: 52790

(a) The center provides an indoor recreation area that has 52791
not less than sixty square feet per child using the space at any 52792
one time, that has a minimum of one thousand four hundred forty 52793
square feet of space, and that is separate from the indoor space 52794
required under division (B)(1) of this section. 52795

(b) The director has determined that there is regularly 52796
available and scheduled for use a conveniently accessible and safe 52797
park, playground, or similar outdoor play area for play or 52798
recreation. 52799

(c) The children are closely supervised during play and while 52800
traveling to and from the area. 52801

The director also shall exempt from the requirement of this 52802
division a child day-care center that was licensed prior to 52803
September 1, 1986, if the center received approval from the 52804
director prior to September 1, 1986, to use a park, playground, or 52805
similar area, not connected with the center, for play or 52806
recreation in lieu of the outdoor space requirements of this 52807
section and if the children are closely supervised both during 52808
play and while traveling to and from the area and except if the 52809
director determines upon investigation and inspection pursuant to 52810
section 5104.04 of the Revised Code and rules adopted pursuant to 52811
that section that the park, playground, or similar area, as well 52812
as access to and from the area, is unsafe for the children. 52813

(3) The child day-care center shall have at least two 52814
responsible adults available on the premises at all times when 52815
seven or more children are in the center. The center shall 52816
organize the children in the center in small groups, shall provide 52817
child-care staff to give continuity of care and supervision to the 52818

children on a day-by-day basis, and shall ensure that no child is 52819
left alone or unsupervised. Except as otherwise provided in 52820
division (E) of this section, the maximum number of children per 52821
child-care staff member and maximum group size, by age category of 52822
children, are as follows: 52823

	Maximum Number of		
	Children Per	Maximum	
Age Category	Child-Care	Group	
of Children	Staff Member	Size	
(a) Infants:			52828
(i) Less than twelve			52829
months old	5:1, or		52830
	12:2 if two		52831
	child-care		52832
	staff members		52833
	are in the room	12	52834
(ii) At least twelve			52835
months old, but			52836
less than eighteen			52837
months old	6:1	12	52838
(b) Toddlers:			52839
(i) At least eighteen			52840
months old, but			52841
less than thirty			52842
months old	7:1	14	52843
(ii) At least thirty months			52844
old, but less than			52845
three years old	8:1	16	52846
(c) Preschool			52847
children:			52848
(i) Three years old	12:1	24	52849
(ii) Four years old and			52850
five years old who			52851

are not school			52852
children	14:1	28	52853
(d) School children:			52854
(i) A child who is			52855
enrolled in or is			52856
eligible to be			52857
enrolled in a grade			52858
of kindergarten			52859
or above, but			52860
is less than			52861
eleven years old	18:1	36	52862
(ii) Eleven through fourteen			52863
years old	20:1	40	52864
Except as otherwise provided in division (E) of this section,			52865
the maximum number of children per child-care staff member and			52866
maximum group size requirements of the younger age group shall			52867
apply when age groups are combined.			52868
(4)(a) The child day-care center administrator shall show the			52869
director both of the following:			52870
(i) Evidence of at least high school graduation or			52871
certification of high school equivalency by the state board of			52872
education or the appropriate agency of another state;			52873
(ii) Evidence of having completed at least two years of			52874
training in an accredited college, university, or technical			52875
college, including courses in child development or early childhood			52876
education, or at least two years of experience in supervising and			52877
giving daily care to children attending an organized group			52878
program.			52879
(b) In addition to the requirements of division (B)(4)(a) of			52880
this section, any administrator employed or designated on or after			52881
September 1, 1986, shall show evidence of, and any administrator			52882

employed or designated prior to September 1, 1986, shall show 52883
evidence within six years after such date of, at least one of the 52884
following: 52885

(i) Two years of experience working as a child-care staff 52886
member in a center and at least four courses in child development 52887
or early childhood education from an accredited college, 52888
university, or technical college, except that a person who has two 52889
years of experience working as a child-care staff member in a 52890
particular center and who has been promoted to or designated as 52891
administrator of that center shall have one year from the time the 52892
person was promoted to or designated as administrator to complete 52893
the required four courses; 52894

(ii) Two years of training, including at least four courses 52895
in child development or early childhood education from an 52896
accredited college, university, or technical college; 52897

(iii) A child development associate credential issued by the 52898
national child development associate credentialing commission; 52899

(iv) An associate or higher degree in child development or 52900
early childhood education from an accredited college, technical 52901
college, or university, or a license designated for teaching in an 52902
associate teaching position in a preschool setting issued by the 52903
state board of education. 52904

(5) All child-care staff members of a child day-care center 52905
shall be at least eighteen years of age, and shall furnish the 52906
director evidence of at least high school graduation or 52907
certification of high school equivalency by the state board of 52908
education or the appropriate agency of another state or evidence 52909
of completion of a training program approved by the department of 52910
job and family services or state board of education, except as 52911
follows: 52912

(a) A child-care staff member may be less than eighteen years 52913

of age if the staff member is either of the following:	52914
(i) A graduate of a two-year vocational child-care training program approved by the state board of education;	52915 52916
(ii) A student enrolled in the second year of a vocational child-care training program approved by the state board of education which leads to high school graduation, provided that the student performs the student's duties in the child day-care center under the continuous supervision of an experienced child-care staff member, receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school, and meets all other requirements of this chapter and rules adopted pursuant to this chapter.	52917 52918 52919 52920 52921 52922 52923 52924 52925
(b) A child-care staff member shall be exempt from the educational requirements of this division if the staff member:	52926 52927
(i) Prior to January 1, 1972, was employed or designated by a child day-care center and has been continuously employed since either by the same child day-care center employer or at the same child day-care center; or	52928 52929 52930 52931
(ii) Is a student enrolled in the second year of a vocational child-care training program approved by the state board of education which leads to high school graduation, provided that the student performs the student's duties in the child day-care center under the continuous supervision of an experienced child-care staff member, receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school, and meets all other requirements of this chapter and rules adopted pursuant to this chapter.	52932 52933 52934 52935 52936 52937 52938 52939 52940
(6) Every child day-care staff member of a child day-care center annually shall complete fifteen hours of inservice training in child development or early childhood education, child abuse recognition and prevention, first aid, and in prevention,	52941 52942 52943 52944

recognition, and management of communicable diseases, until a 52945
total of forty-five hours of training has been completed, unless 52946
the staff member furnishes one of the following to the director: 52947

(a) Evidence of an associate or higher degree in child 52948
development or early childhood education from an accredited 52949
college, university, or technical college; 52950

(b) A license designated for teaching in an associate 52951
teaching position in a preschool setting issued by the state board 52952
of education; 52953

(c) Evidence of a child development associate credential; 52954

(d) Evidence of a preprimary credential from the American 52955
Montessori society or the association Montessori international. 52956
For the purposes of division (B)(6) of this section, "hour" means 52957
sixty minutes. 52958

(7) The administrator of each child day-care center shall 52959
prepare at least once annually and for each group of children at 52960
the center a roster of names and telephone numbers of parents, 52961
custodians, or guardians of each group of children attending the 52962
center and upon request shall furnish the roster for each group to 52963
the parents, custodians, or guardians of the children in that 52964
group. The administrator may prepare a roster of names and 52965
telephone numbers of all parents, custodians, or guardians of 52966
children attending the center and upon request shall furnish the 52967
roster to the parents, custodians, or guardians of the children 52968
who attend the center. The administrator shall not include in any 52969
roster the name or telephone number of any parent, custodian, or 52970
guardian who requests the administrator not to include the 52971
parent's, custodian's, or guardian's name or number and shall not 52972
furnish any roster to any person other than a parent, custodian, 52973
or guardian of a child who attends the center. 52974

(C)(1) Each child day-care center shall have on the center 52975

premises and readily available at all times at least one 52976
child-care staff member who has completed a course in first aid 52977
and in prevention, recognition, and management of communicable 52978
diseases which is approved by the state department of health and a 52979
staff member who has completed a course in child abuse recognition 52980
and prevention training which is approved by the department of job 52981
and family services. 52982

(2) The administrator of each child day-care center shall 52983
maintain enrollment, health, and attendance records for all 52984
children attending the center and health and employment records 52985
for all center employees. The records shall be confidential, 52986
except as otherwise provided in division (B)(7) of this section 52987
and except that they shall be disclosed by the administrator to 52988
the director upon request for the purpose of administering and 52989
enforcing this chapter and rules adopted pursuant to this chapter. 52990
Neither the center nor the licensee, administrator, or employees 52991
of the center shall be civilly or criminally liable in damages or 52992
otherwise for records disclosed to the director by the 52993
administrator pursuant to this division. It shall be a defense to 52994
any civil or criminal charge based upon records disclosed by the 52995
administrator to the director that the records were disclosed 52996
pursuant to this division. 52997

(3)(a) Any parent who is the residential parent and legal 52998
custodian of a child enrolled in a child day-care center and any 52999
custodian or guardian of such a child shall be permitted unlimited 53000
access to the center during its hours of operation for the 53001
purposes of contacting their children, evaluating the care 53002
provided by the center, evaluating the premises of the center, or 53003
for other purposes approved by the director. A parent of a child 53004
enrolled in a child day-care center who is not the child's 53005
residential parent shall be permitted unlimited access to the 53006
center during its hours of operation for those purposes under the 53007

same terms and conditions under which the residential parent of 53008
that child is permitted access to the center for those purposes. 53009
However, the access of the parent who is not the residential 53010
parent is subject to any agreement between the parents and, to the 53011
extent described in division (C)(3)(b) of this section, is subject 53012
to any terms and conditions limiting the right of access of the 53013
parent who is not the residential parent, as described in division 53014
(I) of section 3109.051 of the Revised Code, that are contained in 53015
a parenting time order or decree issued under that section, 53016
section 3109.12 of the Revised Code, or any other provision of the 53017
Revised Code. 53018

(b) If a parent who is the residential parent of a child has 53019
presented the administrator or the administrator's designee with a 53020
copy of a parenting time order that limits the terms and 53021
conditions under which the parent who is not the residential 53022
parent is to have access to the center, as described in division 53023
(I) of section 3109.051 of the Revised Code, the parent who is not 53024
the residential parent shall be provided access to the center only 53025
to the extent authorized in the order. If the residential parent 53026
has presented such an order, the parent who is not the residential 53027
parent shall be permitted access to the center only in accordance 53028
with the most recent order that has been presented to the 53029
administrator or the administrator's designee by the residential 53030
parent or the parent who is not the residential parent. 53031

(c) Upon entering the premises pursuant to division (C)(3)(a) 53032
or (b) of this section, the parent who is the residential parent 53033
and legal custodian, the parent who is not the residential parent, 53034
or the custodian or guardian shall notify the administrator or the 53035
administrator's designee of the parent's, custodian's, or 53036
guardian's presence. 53037

(D) The director of job and family services, in addition to 53038
the rules adopted under division (A) of this section, shall adopt 53039

rules establishing minimum requirements for child day-care 53040
centers. The rules shall include, but not be limited to, the 53041
requirements set forth in divisions (B) and (C) of this section. 53042
Except as provided in section 5104.07 of the Revised Code, the 53043
rules shall not change the square footage requirements of division 53044
(B)(1) or (2) of this section; the maximum number of children per 53045
child-care staff member and maximum group size requirements of 53046
division (B)(3) of this section; the educational and experience 53047
requirements of division (B)(4) of this section; the age, 53048
educational, and experience requirements of division (B)(5) of 53049
this section; the number of inservice training hours required 53050
under division (B)(6) of this section; or the requirement for at 53051
least annual preparation of a roster for each group of children of 53052
names and telephone numbers of parents, custodians, or guardians 53053
of each group of children attending the center that must be 53054
furnished upon request to any parent, custodian, or guardian of 53055
any child in that group required under division (B)(7) of this 53056
section; however, the rules shall provide procedures for 53057
determining compliance with those requirements. 53058

(E)(1) When age groups are combined, the maximum number of 53059
children per child-care staff member shall be determined by the 53060
age of the youngest child in the group, except that when no more 53061
than one child thirty months of age or older receives services in 53062
a group in which all the other children are in the next older age 53063
group, the maximum number of children per child-care staff member 53064
and maximum group size requirements of the older age group 53065
established under division (B)(3) of this section shall apply. 53066

(2) The maximum number of toddlers or preschool children per 53067
child-care staff member in a room where children are napping shall 53068
be twice the maximum number of children per child-care staff 53069
member established under division (B)(3) of this section if all 53070
the following criteria are met: 53071

(a) At least one child-care staff member is present in the room.	53072 53073
(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.	53074 53075 53076 53077
(c) Naptime preparations are complete and all napping children are resting or sleeping on cots.	53078 53079
(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.	53080 53081 53082
(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:	53083 53084 53085 53086 53087 53088 53089 53090
(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;	53091 53092 53093 53094
(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;	53095 53096 53097 53098
(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;	53099 53100 53101

(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;	53102 53103 53104 53105 53106 53107
(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;	53108 53109 53110 53111 53112 53113 53114 53115
(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;	53116 53117 53118 53119
(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;	53120 53121 53122
(8) Procedures for record keeping, organization, and administration;	53123 53124
(9) Procedures for issuing, renewing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;	53125 53126 53127
(10) Inspection procedures;	53128
(11) Procedures and standards for setting initial and renewal license application fees;	53129 53130
(12) Procedures for receiving, recording, and responding to	53131

complaints about type A homes;	53132
(13) Procedures for enforcing section 5104.04 of the Revised Code;	53133 53134
(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;	53135 53136 53137 53138 53139 53140
(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;	53141 53142 53143 53144
(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;	53145 53146 53147 53148
(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;	53149 53150 53151 53152
(18) Standards for the maximum number of children per child-care staff member;	53153 53154
(19) Requirements for the amount of usable indoor floor space for each child;	53155 53156
(20) Requirements for safe outdoor play space;	53157
(21) Qualifications and training requirements for administrators and for child-care staff members;	53158 53159
(22) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to	53160 53161

the type A home during its hours of operation; 53162

(23) Standards for the preparation and distribution of a 53163
roster of parents, custodians, and guardians; 53164

(24) Any other procedures and standards necessary to carry 53165
out this chapter. 53166

(G) The director of job and family services shall adopt rules 53167
pursuant to Chapter 119. of the Revised Code governing the 53168
certification of type B family day-care homes. 53169

(1) The rules shall include procedures, standards, and other 53170
necessary provisions for granting limited certification to type B 53171
family day-care homes that are operated by the following adult 53172
providers: 53173

(a) Persons who provide child day-care for eligible children 53174
who are great-grandchildren, grandchildren, nieces, nephews, or 53175
siblings of the provider or for eligible children whose caretaker 53176
parent is a grandchild, child, niece, nephew, or sibling of the 53177
provider; 53178

(b) Persons who provide child day-care for eligible children 53179
all of whom are the children of the same caretaker parent. 53180

The rules shall require, and shall include procedures for the 53181
director to ensure, that type B family day-care homes that receive 53182
a limited certification provide child day-care to children in a 53183
safe and sanitary manner. With regard to providers who apply for 53184
limited certification, a provider shall be granted a provisional 53185
limited certification on signing a declaration under oath 53186
attesting that the provider meets the standards for limited 53187
certification. Such provisional limited certifications shall 53188
remain in effect for no more than sixty calendar days and shall 53189
entitle the provider to offer publicly funded child day-care 53190
during the provisional period. Except as otherwise provided in 53191
division (G)(1) of this section, prior to the expiration of the 53192

provisional limited certificate, a county department of job and 53193
family services shall inspect the home and shall grant limited 53194
certification to the provider if the provider meets the 53195
requirements of this division. Limited certificates remain valid 53196
for two years unless earlier revoked. Except as otherwise provided 53197
in division (G)(1) of this section, providers operating under 53198
limited certification shall be inspected annually. 53199

If a provider is a person described in division (G)(1)(a) of 53200
this section or a person described in division (G)(1)(b) of this 53201
section who is a friend of the caretaker parent, the provider and 53202
the caretaker parent may verify in writing to the county 53203
department of job and family services that minimum health and 53204
safety requirements are being met in the home. If such 53205
verification is provided, the county shall waive any inspection 53206
and any criminal records check required by this chapter and grant 53207
limited certification to the provider. 53208

(2) The rules shall provide for safeguarding the health, 53209
safety, and welfare of children receiving child day-care or 53210
publicly funded child day-care in a certified type B home and 53211
shall include the following: 53212

(a) Standards for ensuring that the type B home and the 53213
physical surroundings of the type B home are safe and sanitary, 53214
including, but not limited to, physical environment, physical 53215
plant, and equipment; 53216

(b) Standards for the supervision, care, and discipline of 53217
children receiving child day-care or publicly funded child 53218
day-care in the home; 53219

(c) Standards for a program of activities, and for play 53220
equipment, materials, and supplies to enhance the development of 53221
each child; however, any educational curricula, philosophies, and 53222
methodologies that are developmentally appropriate and that 53223

enhance the social, emotional, intellectual, and physical	53224
development of each child shall be permissible;	53225
(d) Admission policies and procedures, health care, first aid	53226
and emergency procedures, procedures for the care of sick	53227
children, procedures for discipline and supervision of children,	53228
nutritional standards, and procedures for screening children and	53229
authorized providers, including, but not limited to, any necessary	53230
physical examinations and immunizations;	53231
(e) Methods of encouraging parental participation and	53232
ensuring that the rights of children, parents, and authorized	53233
providers are protected and the responsibilities of parents and	53234
authorized providers are met;	53235
(f) Standards for the safe transport of children when under	53236
the care of authorized providers;	53237
(g) Procedures for issuing, renewing, denying, refusing to	53238
renew, or revoking certificates;	53239
(h) Procedures for the inspection of type B family day-care	53240
homes that require, at a minimum, that each type B family day-care	53241
home be inspected prior to certification to ensure that the home	53242
is safe and sanitary;	53243
(i) Procedures for record keeping and evaluation;	53244
(j) Procedures for receiving, recording, and responding to	53245
complaints;	53246
(k) Standards providing for the special needs of children who	53247
are handicapped or who receive treatment for health conditions	53248
while the child is receiving child day-care or publicly funded	53249
child day-care in the type B home;	53250
(l) Requirements for the amount of usable indoor floor space	53251
for each child;	53252
(m) Requirements for safe outdoor play space;	53253

(n) Qualification and training requirements for authorized providers;	53254 53255
(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;	53256 53257 53258
(p) Any other procedures and standards necessary to carry out this chapter.	53259 53260
(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:	53261 53262 53263 53264 53265 53266 53267 53268 53269 53270 53271 53272 53273 53274 53275
(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;	53276 53277 53278 53279
(2) Standards for the supervision, care, and discipline of children receiving publicly funded child day-care in their own home;	53280 53281 53282
(3) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of	53283 53284

each child; however, any educational curricula, philosophies, and 53285
methodologies that are developmentally appropriate and that 53286
enhance the social, emotional, intellectual, and physical 53287
development of each child shall be permissible; 53288

(4) Health care, first aid, and emergency procedures, 53289
procedures for the care of sick children, procedures for 53290
discipline and supervision of children, nutritional standards, and 53291
procedures for screening children and in-home aides, including, 53292
but not limited to, any necessary physical examinations and 53293
immunizations; 53294

(5) Methods of encouraging parental participation and 53295
ensuring that the rights of children, parents, and in-home aides 53296
are protected and the responsibilities of parents and in-home 53297
aides are met; 53298

(6) Standards for the safe transport of children when under 53299
the care of in-home aides; 53300

(7) Procedures for issuing, renewing, denying, refusing to 53301
renew, or revoking certificates; 53302

(8) Procedures for inspection of homes of children receiving 53303
publicly funded child day-care in their own homes; 53304

(9) Procedures for record keeping and evaluation; 53305

(10) Procedures for receiving, recording, and responding to 53306
complaints; 53307

(11) Qualifications and training requirements for in-home 53308
aides; 53309

(12) Standards providing for the special needs of children 53310
who are handicapped or who receive treatment for health conditions 53311
while the child is receiving publicly funded child day-care in the 53312
child's own home; 53313

(13) Any other procedures and standards necessary to carry 53314

out this chapter. 53315

(I) To the extent that any rules adopted for the purposes of 53316
this section require a health care professional to perform a 53317
physical examination, the rules shall include as a health care 53318
professional a physician assistant, a clinical nurse specialist, a 53319
certified nurse practitioner, or a certified nurse-midwife. 53320

(J)(1) The director of job and family services shall ~~send~~ 53321
~~copies~~ do all of the following: 53322

(a) Send to each licensee notice of proposed rules to each 53323
licensee and each county director of job and family services and 53324
shall give governing the licensure of child day-care centers and 53325
type A homes; 53326

(b) Give public notice of hearings regarding the rules to 53327
each licensee and each county director of job and family services 53328
at least thirty days prior to the date of the public hearing, in 53329
accordance with section 119.03 of the Revised Code-; 53330

(c) Prior to the effective date of a rule, the director of 53331
job and family services shall provide copies, in either paper or 53332
electronic form, a copy of the adopted rule to each licensee and 53333
each county director of job and family services. 53334

(2) The director shall do all of the following: 53335

(a) Send to each county director of job and family services a 53336
notice of proposed rules governing the certification of type B 53337
family homes and in-home aides that includes an internet web site 53338
address where the proposed rules can be viewed; 53339

(b) Give public notice of hearings regarding the proposed 53340
rules not less than thirty days in advance; 53341

(c) Provide to each county director of job and family 53342
services an electronic copy of each adopted rule prior to the 53343
rule's effective date. 53344

(3) The county director of job and family services shall send 53345
copies of proposed rules to each authorized provider and in-home 53346
aide and shall give public notice of hearings regarding the rules 53347
to each authorized provider and in-home aide at least thirty days 53348
prior to the date of the public hearing, in accordance with 53349
section 119.03 of the Revised Code. Prior to the effective date of 53350
a rule, the county director of job and family services shall 53351
provide copies of the adopted rule to each authorized provider and 53352
in-home aide. 53353

(4) Additional copies of proposed and adopted rules shall be 53354
made available by the director of job and family services to the 53355
public on request at no charge. 53356

(K) The director of job and family services shall review all 53357
rules adopted pursuant to this chapter at least once every seven 53358
years. 53359

(L) Notwithstanding any provision of the Revised Code, the 53360
director of job and family services shall not regulate in any way 53361
under this chapter or rules adopted pursuant to this chapter, 53362
instruction in religious or moral doctrines, beliefs, or values. 53363

Sec. 5104.02. (A) The director of job and family services is 53364
responsible for the licensing of child day-care centers and type A 53365
family day-care homes, and for the enforcement of this chapter and 53366
of rules promulgated pursuant to this chapter. No person, firm, 53367
organization, institution, or agency shall operate, establish, 53368
manage, conduct, or maintain a child day-care center or type A 53369
family day-care home without a license issued under section 53370
5104.03 of the Revised Code. The current license shall be posted 53371
in a conspicuous place in the center or type A home that is 53372
accessible to parents, custodians, or guardians and employees of 53373
the center or type A home at all times when the center or type A 53374
home is in operation. 53375

(B) A person, firm, institution, organization, or agency operating any of the following programs is exempt from the requirements of this chapter:	53376 53377 53378
(1) A program of child day-care that operates for two or less consecutive weeks;	53379 53380
(2) Child day-care in places of worship during religious activities during which children are cared for while at least one parent, guardian, or custodian of each child is participating in such activities and is readily available;	53381 53382 53383 53384
(3) Religious activities which do not provide child day-care;	53385
(4) Supervised training, instruction, or activities of children in specific areas, including, but not limited to: art; drama; dance; music; gymnastics, swimming, or another athletic skill or sport; computers; or an educational subject conducted on an organized or periodic basis no more than one day a week and for no more than six hours duration;	53386 53387 53388 53389 53390 53391
(5) Programs in which the director determines that at least one parent, custodian, or guardian of each child is on the premises of the facility offering child day-care and is readily accessible at all times, except that child day-care provided on the premises at which a parent, custodian, or guardian is employed more than two and one-half hours a day shall be licensed in accordance with division (A) of this section;	53392 53393 53394 53395 53396 53397 53398
(6)(a) Programs that provide child day-care funded and regulated or operated and regulated by state departments other than the department of job and family services or the state board of education when the director of job and family services has determined that the rules governing the program are equivalent to or exceed the rules promulgated pursuant to this chapter.	53399 53400 53401 53402 53403 53404
Notwithstanding any exemption from regulation under this	53405

chapter, each state department shall submit to the director of job 53406
and family services a copy of the rules that govern programs that 53407
provide child day-care and are regulated or operated and regulated 53408
by the department. Annually, each state department shall submit to 53409
the director a report for each such program it regulates or 53410
operates and regulates that includes the following information: 53411

(i) The site location of the program; 53412

(ii) The maximum number of infants, toddlers, preschool 53413
children, or school children served by the program at one time; 53414

(iii) The number of adults providing child day-care for the 53415
number of infants, toddlers, preschool children, or school 53416
children; 53417

(iv) Any changes in the rules made subsequent to the time 53418
when the rules were initially submitted to the director. 53419

The director shall maintain a record of the child day-care 53420
information submitted by other state departments and shall provide 53421
this information upon request to the general assembly or the 53422
public. 53423

(b) Child day-care programs conducted by boards of education 53424
or by chartered nonpublic schools that are conducted in school 53425
buildings and that provide child day-care to school children only 53426
shall be exempt from meeting or exceeding rules promulgated 53427
pursuant to this chapter. 53428

(7) Any preschool program or school child program, except a 53429
head start program, that is subject to licensure by the department 53430
of education under sections 3301.52 to 3301.59 of the Revised 53431
Code. 53432

(8) Any program providing child day-care that meets all of 53433
the following requirements and, on October 20, 1987, was being 53434
operated by a nonpublic school that holds a charter issued by the 53435

state board of education for kindergarten only:	53436
(a) The nonpublic school has given the notice to the state board and the director of job and family services required by Section 4 of Substitute House Bill No. 253 of the 117th general assembly;	53437 53438 53439 53440
(b) The nonpublic school continues to be chartered by the state board for kindergarten, or receives and continues to hold a charter from the state board for kindergarten through grade five;	53441 53442 53443
(c) The program is conducted in a school building;	53444
(d) The program is operated in accordance with rules promulgated by the state board under sections 3301.52 to 3301.57 of the Revised Code.	53445 53446 53447
(9) A youth development program operated outside of school hours by a community-based center to which all of the following apply:	53448 53449 53450
(a) The children enrolled in the program are under nineteen years of age and enrolled in or eligible to be enrolled in a grade of kindergarten or above.	53451 53452 53453
(b) The program provides informal child care and at least two of the following supervised activities: educational, recreational, culturally enriching, social, and personal development activities.	53454 53455 53456
(c) The state board of education has approved the program's participation in the child and adult care food program as an outside-school-hours care center pursuant to standards established under section 3313.813 of the Revised Code.	53457 53458 53459 53460
(d) The community-based center operating the program is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3).	53461 53462 53463
Sec. 5104.04. (A) The department of job and family services	53464

shall establish procedures to be followed in investigating, 53465
inspecting, and licensing child day-care centers and type A family 53466
day-care homes. 53467

(B)(1) The department shall, at least twice during every 53468
twelve-month period of operation of a center or type A home, 53469
inspect the center or type A home. The department shall inspect a 53470
part-time center or part-time type A home at least once during 53471
every twelve-month period of operation. The department shall 53472
provide a written inspection report to the licensee within a 53473
reasonable time after each inspection. The licensee shall display 53474
all written reports of inspections conducted during the current 53475
licensing period in a conspicuous place in the center or type A 53476
home. 53477

At least one inspection shall be unannounced and all 53478
inspections may be unannounced. No person, firm, organization, 53479
institution, or agency shall interfere with the inspection of a 53480
center or type A home by any state or local official engaged in 53481
performing duties required of the state or local official by 53482
Chapter 5104. of the Revised Code or rules adopted pursuant to 53483
Chapter 5104. of the Revised Code, including inspecting the center 53484
or type A home, reviewing records, or interviewing licensees, 53485
employees, children, or parents. 53486

Upon receipt of any complaint that a center or type A home is 53487
out of compliance with the requirements of Chapter 5104. of the 53488
Revised Code or rules adopted pursuant to Chapter 5104. of the 53489
Revised Code, the department shall investigate and may inspect a 53490
center or type A home. 53491

(2) If the department implements an instrument-based program 53492
monitoring information system, it may use an indicator checklist 53493
to comply with division (B)(1) of this section. 53494

(3) The department shall, at least once during every 53495

twelve-month period of operation of a center or type A home, 53496
collect information concerning the amounts charged by the center 53497
or home for providing child day-care services for use in 53498
establishing rates of reimbursement and payment pursuant to 53499
section 5104.30 of the Revised Code. 53500

(C) In the event a licensed center or type A home is 53501
determined to be out of compliance with the requirements of 53502
Chapter 5104. of the Revised Code or rules adopted pursuant to 53503
Chapter 5104. of the Revised Code, the department shall notify the 53504
licensee of the center or type A home in writing regarding the 53505
nature of the violation, what must be done to correct the 53506
violation, and by what date the correction must be made. If the 53507
correction is not made by the date established by the department, 53508
the department may commence action under Chapter 119. of the 53509
Revised Code to revoke the license. 53510

(D) The department may deny or revoke a license, or refuse to 53511
renew a license of a center or type A home, if the applicant 53512
knowingly makes a false statement on the application, does not 53513
comply with the requirements of Chapter 5104. or rules adopted 53514
pursuant to Chapter 5104. of the Revised Code, or has pleaded 53515
guilty to or been convicted of an offense described in section 53516
5104.09 of the Revised Code. 53517

(E) If the department finds, after notice and hearing 53518
pursuant to Chapter 119. of the Revised Code, that any person, 53519
firm, organization, institution, or agency licensed under section 53520
5104.03 of the Revised Code is in violation of any provision of 53521
Chapter 5104. of the Revised Code or rules adopted pursuant to 53522
Chapter 5104. of the Revised Code, the department may issue an 53523
order of revocation to the center or type A home revoking the 53524
license previously issued by the department. Upon the issuance of 53525
any order of revocation, the person whose license is revoked may 53526
appeal in accordance with section 119.12 of the Revised Code. 53527

(F) The surrender of a center or type A home license to the 53528
department or the withdrawal of an application for licensure by 53529
the owner or administrator of the center or type A home shall not 53530
prohibit the department from instituting any of the actions set 53531
forth in this section. 53532

(G) Whenever the department receives a complaint, is advised, 53533
or otherwise has any reason to believe that a center or type A 53534
home is providing child day-care without a license issued or 53535
renewed pursuant to section 5104.03 and is not exempt from 53536
licensing pursuant to section 5104.02 of the Revised Code, the 53537
department shall investigate the center or type A home and may 53538
inspect the areas children have access to or areas necessary for 53539
the care of children in the center or type A home during suspected 53540
hours of operation to determine whether the center or type A home 53541
is subject to the requirements of Chapter 5104. or rules adopted 53542
pursuant to Chapter 5104. of the Revised Code. 53543

(H) The department, upon determining that the center or type 53544
A home is operating without a license, shall notify the attorney 53545
general, the prosecuting attorney of the county in which the 53546
center or type A home is located, or the city attorney, village 53547
solicitor, or other chief legal officer of the municipal 53548
corporation in which the center or type A home is located, that 53549
the center or type A home is operating without a license. Upon 53550
receipt of the notification, the attorney general, prosecuting 53551
attorney, city attorney, village solicitor, or other chief legal 53552
officer of a municipal corporation shall file a complaint in the 53553
court of common pleas of the county in which the center or type A 53554
home is located requesting that the court grant an order enjoining 53555
the owner from operating the center or type A home. The court 53556
shall grant such injunctive relief upon a showing that the 53557
respondent named in the complaint is operating a center or type A 53558
home and is doing so without a license. 53559

(I) The department shall prepare an annual report on 53560
inspections conducted under this section. The report shall include 53561
the number of inspections conducted, the number and types of 53562
violations found, and the steps taken to address the violations. 53563
The department shall file the report with the governor, the 53564
president and minority leader of the senate, and the speaker and 53565
minority leader of the house of representatives on or before the 53566
first day of January of each year, beginning in 1999. 53567

Sec. 5104.30. (A) The department of job and family services 53568
is hereby designated as the state agency responsible for 53569
administration and coordination of federal and state funding for 53570
publicly funded child day-care in this state. Publicly funded 53571
child day-care shall be provided to the following: 53572

(1) Recipients of transitional child day-care as provided 53573
under section 5104.34 of the Revised Code; 53574

(2) Participants in the Ohio works first program established 53575
under Chapter 5107. of the Revised Code; 53576

(3) Individuals who would be participating in the Ohio works 53577
first program if not for a sanction under section 5107.16 of the 53578
Revised Code and who continue to participate in a work activity, 53579
developmental activity, or alternative work activity pursuant to 53580
an assignment under section 5107.42 of the Revised Code; 53581

(4) A family receiving publicly funded child day-care on 53582
October 1, 1997, until the family's income reaches one hundred 53583
fifty per cent of the federal poverty line; 53584

(5) Subject to available funds, other individuals determined 53585
eligible in accordance with rules adopted under section 5104.38 of 53586
the Revised Code. 53587

The department shall apply to the United States department of 53588
health and human services for authority to operate a coordinated 53589

program for publicly funded child day-care, if the director of job 53590
and family services determines that the application is necessary. 53591
For purposes of this section, the department of job and family 53592
services may enter into agreements with other state agencies that 53593
are involved in regulation or funding of child day-care. The 53594
department shall consider the special needs of migrant workers 53595
when it administers and coordinates publicly funded child day-care 53596
and shall develop appropriate procedures for accommodating the 53597
needs of migrant workers for publicly funded child day-care. 53598

(B) The department of job and family services shall 53599
distribute state and federal funds for publicly funded child 53600
day-care, including appropriations of state funds for publicly 53601
funded child day-care and appropriations of federal funds ~~for~~ 53602
~~publicly funded child day-care~~ available under ~~Title XX of the~~ 53603
~~"Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as~~ 53604
~~amended, and the child care block grant act, Title IV-A, and Title~~ 53605
XX. The department may use any state funds appropriated for 53606
publicly funded child day-care as the state share required to 53607
match any federal funds appropriated for publicly funded child 53608
day-care. 53609

(C) ~~The department may~~ In the use of federal funds available 53610
under the child care block grant act, all of the following apply: 53611

(1) The department may use the federal funds to hire staff to 53612
prepare any rules required under this chapter and to administer 53613
and coordinate federal and state funding for publicly funded child 53614
day-care. 53615

(2) Not more than five per cent of the aggregate amount of 53616
~~those~~ the federal funds received for a fiscal year may be expended 53617
for administrative costs. ~~The~~ 53618

(3) The department shall allocate and use at least four per 53619
cent of the federal funds for the following: 53620

~~(1)~~(a) Activities designed to provide comprehensive consumer education to parents and the public; 53621
53622

~~(2)~~(b) Activities that increase parental choice; 53623

~~(3)~~(c) Activities, including child day-care resource and referral services, designed to improve the quality, and increase the supply, of child day-care. 53624
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~~(D)~~(4) The department shall ensure that ~~any~~ the federal funds received by the state under the child care block grant act will be used only to supplement, and will not be used to supplant, federal, state, and local funds available on the effective date of ~~that~~ the child care block grant act for publicly funded child day-care and related programs. A county department of job and family services may purchase child day-care from funds obtained through any other means. 53627
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~~(E)~~(D) The department shall encourage the development of suitable child day-care throughout the state, especially in areas with high concentrations of recipients of public assistance and families with low incomes. The department shall encourage the development of suitable child day-care designed to accommodate the special needs of migrant workers. On request, the department, through its employees or contracts with state or community child day-care resource and referral service organizations, shall provide consultation to groups and individuals interested in developing child day-care. The department of job and family services may enter into interagency agreements with the department of education, the board of regents, the department of development, and other state agencies and entities whenever the cooperative efforts of the other state agencies and entities are necessary for the department of job and family services to fulfill its duties and responsibilities under this chapter. 53635
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The department may develop and maintain a registry of persons 53651

providing child day-care. The director may adopt rules pursuant to 53652
Chapter 119. of the Revised Code establishing procedures and 53653
requirements for the registry's administration. 53654

~~(F)~~(E)(1) The director shall adopt rules in accordance with 53655
Chapter 119. of the Revised Code establishing both of the 53656
following: 53657

(a) Reimbursement ceilings for providers of publicly funded 53658
child day-care; 53659

(b) A procedure for reimbursing and paying providers of 53660
publicly funded child day-care. 53661

(2) In establishing reimbursement ceilings under division 53662
~~(F)~~(E)(1)(a) of this section, the director shall do all of the 53663
following: 53664

(a) Use the information obtained under division (B)(3) of 53665
section 5104.04 of the Revised Code; 53666

(b) Establish an enhanced reimbursement ceiling for providers 53667
who provide child day-care for caretaker parents who work 53668
nontraditional hours; 53669

(c) For a type B family day-care home provider that has 53670
received limited certification pursuant to rules adopted under 53671
division (G)(1) of section 5104.011 of the Revised Code, establish 53672
a reimbursement ceiling that is the following: 53673

(i) If the provider is a person described in division 53674
(G)(1)(a) of section 5104.011 of the Revised Code, seventy-five 53675
per cent of the reimbursement ceiling that applies to a type B 53676
family day-care home certified by the same county department of 53677
job and family services pursuant to section 5104.11 of the Revised 53678
Code; 53679

(ii) If the provider is a person described in division 53680
(G)(1)(b) of section 5104.011 of the Revised Code, sixty per cent 53681

of the reimbursement ceiling that applies to a type B family 53682
day-care home certified by the same county department pursuant to 53683
section 5104.11 of the Revised Code. 53684

(3) In establishing reimbursement ceilings under division 53685
~~(F)~~(E)(1)(a) of this section, the director may establish different 53686
reimbursement ceilings based on any of the following: 53687

(a) Geographic location of the provider; 53688

(b) Type of care provided; 53689

(c) Age of the child served; 53690

(d) Special needs of the child served; 53691

(e) Whether the expanded hours of service are provided; 53692

(f) Whether weekend service is provided; 53693

(g) Whether the provider has exceeded the minimum 53694
requirements of state statutes and rules governing child day-care; 53695

(h) Any other factors the director considers appropriate. 53696

Sec. 5104.32. (A) Except as provided in division (C) of this 53697
section, all purchases of publicly funded child day-care shall be 53698
made under a contract entered into by a licensed child day-care 53699
center, licensed type A family day-care home, certified type B 53700
family day-care home, certified in-home aide, approved child day 53701
camp, licensed preschool program, licensed school child program, 53702
or border state child day-care provider and the county department 53703
of job and family services. A county department of job and family 53704
services may enter into a contract with a provider for publicly 53705
funded child day-care for a specified period of time or upon a 53706
continuous basis for an unspecified period of time. All contracts 53707
for publicly funded child day-care shall be contingent upon the 53708
availability of state and federal funds. The department of job and 53709
family services shall prescribe a standard form to be used for all 53710

contracts for the purchase of publicly funded child day-care, 53711
regardless of the source of public funds used to purchase the 53712
child day-care. To the extent permitted by federal law and 53713
notwithstanding any other provision of the Revised Code that 53714
regulates state or county contracts or contracts involving the 53715
expenditure of state, county, or federal funds, all contracts for 53716
publicly funded child day-care shall be entered into in accordance 53717
with the provisions of this chapter and are exempt from any other 53718
provision of the Revised Code that regulates state or county 53719
contracts or contracts involving the expenditure of state, county, 53720
or federal funds. 53721

(B) Each contract for publicly funded child day-care shall 53722
specify at least the following: 53723

(1) That the provider of publicly funded child day-care 53724
agrees to be paid for rendering services at the lowest of the rate 53725
customarily charged by the provider for children enrolled for 53726
child day-care, the reimbursement ceiling or rate of payment 53727
established pursuant to section 5104.30 of the Revised Code, or a 53728
rate the county department negotiates with the provider; 53729

(2) That, if a provider provides child day-care to an 53730
individual potentially eligible for publicly funded child day-care 53731
who is subsequently determined to be eligible, the county 53732
department agrees to pay for all child day-care provided between 53733
the date the county department receives the individual's completed 53734
application and the date the individual's eligibility is 53735
determined; 53736

(3) Whether the county department of job and family services, 53737
the provider, or a child day-care resource and referral service 53738
organization will make eligibility determinations, whether the 53739
provider or a child day-care resource and referral service 53740
organization will be required to collect information to be used by 53741
the county department to make eligibility determinations, and the 53742

time period within which the provider or child day-care resource 53743
and referral service organization is required to complete required 53744
eligibility determinations or to transmit to the county department 53745
any information collected for the purpose of making eligibility 53746
determinations; 53747

(4) That the provider, other than a border state child 53748
day-care provider or except as provided in division (B) of section 53749
3301.37 of the Revised Code, shall continue to be licensed, 53750
approved, or certified pursuant to this chapter ~~or sections~~ 53751
~~3301.52 to 3301.59 of the Revised Code~~ and shall comply with all 53752
standards and other requirements in this chapter ~~and those~~ 53753
~~sections~~ and in rules adopted pursuant to this chapter ~~or those~~ 53754
~~sections~~ for maintaining the provider's license, approval, or 53755
certification; 53756

(5) That, in the case of a border state child day-care 53757
provider, the provider shall continue to be licensed, certified, 53758
or otherwise approved by the state in which the provider is 53759
located and shall comply with all standards and other requirements 53760
established by that state for maintaining the provider's license, 53761
certificate, or other approval; 53762

(6) Whether the provider will be paid by the county 53763
department of job and family services or the state department of 53764
job and family services; 53765

(7) That the contract is subject to the availability of state 53766
and federal funds. 53767

(C) Unless specifically prohibited by federal law, the county 53768
department of job and family services shall give individuals 53769
eligible for publicly funded child day-care the option of 53770
obtaining certificates for payment that the individual may use to 53771
purchase services from any provider qualified to provide publicly 53772
funded child day-care under section 5104.31 of the Revised Code. 53773

Providers of publicly funded child day-care may present these 53774
certificates for payment for reimbursement in accordance with 53775
rules that the director of job and family services shall adopt. 53776
Only providers may receive reimbursement for certificates for 53777
payment. The value of the certificate for payment shall be based 53778
on the lowest of the rate customarily charged by the provider, the 53779
reimbursement ceiling or rate of payment established pursuant to 53780
section 5104.30 of the Revised Code, or a rate the county 53781
department negotiates with the provider. The county department may 53782
provide the certificates for payment to the individuals or may 53783
contract with child day-care providers or child day-care resource 53784
and referral service organizations that make determinations of 53785
eligibility for publicly funded child day-care pursuant to 53786
contracts entered into under section 5104.34 of the Revised Code 53787
for the providers or resource and referral service organizations 53788
to provide the certificates for payment to individuals whom they 53789
determine are eligible for publicly funded child day-care. 53790

For each six-month period a provider of publicly funded child 53791
day-care provides publicly funded child day-care to the child of 53792
an individual given certificates ~~of~~ for payment, the individual 53793
shall provide the provider certificates for days the provider 53794
would have provided publicly funded child day-care to the child 53795
had the child been present. County departments shall specify the 53796
maximum number of days providers will be provided certificates of 53797
payment for days the provider would have provided publicly funded 53798
child day-care had the child been present. The maximum number of 53799
days shall not exceed ten days in a six-month period during which 53800
publicly funded child day-care is provided to the child regardless 53801
of the number of providers that provide publicly funded child 53802
day-care to the child during that period. 53803

Sec. 5107.02. As used in this chapter: 53804

- (A) "Adult" means an individual who is not a minor child. 53805
- (B) "Assistance group" means a group of individuals treated 53806
as a unit for purposes of determining eligibility for and the 53807
amount of assistance provided under Ohio works first. 53808
- (C) "Custodian" means an individual who has legal custody, as 53809
defined in section 2151.011 of the Revised Code, of a minor child 53810
or comparable status over a minor child created by a court of 53811
competent jurisdiction in another state. 53812
- (D) "Guardian" means an individual that is granted authority 53813
by a probate court pursuant to Chapter 2111. of the Revised Code, 53814
or a court of competent jurisdiction in another state, to exercise 53815
parental rights over a minor child to the extent provided in the 53816
court's order and subject to residual parental rights of the minor 53817
child's parents. 53818
- (E) "Minor child" means either of the following: 53819
- (1) An individual who has not attained age eighteen; 53820
- (2) An individual who has not attained age nineteen and is a 53821
full-time student in a secondary school or in the equivalent level 53822
of vocational or technical training. 53823
- (F) "Minor head of household" means a minor child who is 53824
either of the following: 53825
- (1) ~~At~~ Is married, at least six months pregnant, and a member 53826
of an assistance group that does not include an adult; 53827
- (2) ~~A~~ Is married and is a parent of a child included in the 53828
same assistance group that does not include an adult. 53829
- (G) "Ohio works first" means the program established by this 53830
chapter known as temporary assistance for needy families in Title 53831
IV-A. 53832
- (H) "Payment standard" means the amount specified in rules 53833

adopted under section 5107.05 of the Revised Code that is the 53834
maximum amount of cash assistance an assistance group may receive 53835
under Ohio works first from state and federal funds. 53836

(I) "Specified relative" means the following individuals who 53837
are age eighteen or older: 53838

(1) The following individuals related by blood or adoption: 53839

(a) Grandparents, including grandparents with the prefix 53840
"great," "great-great," or "great-great-great"; 53841

(b) Siblings; 53842

(c) Aunts, uncles, nephews, and nieces, including such 53843
relatives with the prefix "great," "great-great," "grand," or 53844
"great-grand"; 53845

(d) First cousins and first cousins once removed. 53846

(2) Stepparents and stepsiblings; 53847

(3) Spouses and former spouses of individuals named in 53848
division (I)(1) or (2) of this section. 53849

(J) "Title IV-A" or "Title IV-D" means Title IV-A or Title 53850
IV-D of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 53851
301, as amended. 53852

Sec. 5107.30. (A) As used in this section: 53853

(1) "LEAP program" means the learning, earning, and parenting 53854
program. 53855

(2) "Teen" means a participant of Ohio works first who is 53856
under age ~~twenty~~ eighteen or is age eighteen and in school and is 53857
a natural or adoptive parent or is pregnant. 53858

(3) "School" means an educational program that is designed to 53859
lead to the attainment of a high school diploma or the equivalent 53860
of a high school diploma. 53861

(B) The director of job and family services may adopt rules 53862
under section 5107.05 of the Revised Code, to the extent that such 53863
rules are consistent with federal law, to do all of the following: 53864

(1) Define "good cause" and "the equivalent of a high school 53865
diploma" for the purposes of this section; 53866

(2) Conduct ~~one or more special demonstration programs a~~ 53867
program titled the "LEAP program" and establish requirements 53868
governing the program. The purpose of the LEAP program is to 53869
encourage teens to complete school. 53870

(3) Require every teen who is subject to LEAP program 53871
requirements to attend school in accordance with the requirements 53872
governing the program unless the teen shows good cause for not 53873
attending school. The department shall provide, in addition to the 53874
cash assistance payment provided under Ohio works first, an 53875
incentive payment, in an amount determined by the department, to 53876
every teen who is participating in the LEAP program and attends 53877
school in accordance with the requirements governing the program. 53878
The department shall reduce the cash assistance payment, in an 53879
amount determined by the department, under Ohio works first to 53880
every teen participating in the LEAP program who fails or refuses, 53881
without good cause, to ~~attend school in accordance with~~ meet the 53882
requirements governing the program. 53883

(4) Require every teen who is subject to LEAP program 53884
requirements to enter into a written agreement with the county 53885
department of job and family services that provides all of the 53886
following: 53887

(a) The teen, to be eligible to receive the incentive payment 53888
under division (B)(3) of this section, must ~~attend school in~~ 53889
~~accordance with~~ meet the requirements of the LEAP program. 53890

(b) The county department will provide the incentive payment 53891
to the teen if the teen ~~attends school;~~ meets the requirements of 53892

the LEAP program. 53893

(c) The county department will reduce the cash assistance 53894
payment under Ohio works first if the teen fails or refuses 53895
without good cause to attend school in accordance with the 53896
requirements governing the LEAP program. 53897

~~(5) Evaluate the demonstration programs established under 53898
this section. In conducting the evaluations, the department of job 53899
and family services shall select control groups of teens who are 53900
otherwise subject to the LEAP program requirements. 53901~~

(C) A ~~teen~~ minor head of household who is participating in 53902
the LEAP program shall be considered to be participating in a work 53903
activity for the purpose of sections 5107.40 to 5107.69 of the 53904
Revised Code. However, the ~~teen~~ minor head of household is not 53905
subject to the requirements or sanctions of those sections, ~~unless 53906
the teen is over age eighteen and meets the LEAP program 53907
requirements by participating regularly in work activities, 53908
developmental activities, or alternative work activities under 53909
those sections. 53910~~

(D) Subject to the availability of funds, county departments 53911
of job and family services shall provide for LEAP participants to 53912
receive support services the county department determines to be 53913
necessary for LEAP participation. Support services may include 53914
publicly funded child day-care under Chapter 5104. of the Revised 53915
Code, transportation, and other services. 53916

Sec. 5107.37. ~~An~~ (A) Except as provided in division (B) of 53917
this section, an individual who resides in a county home, city 53918
infirmary, jail, or other public institution is not eligible to 53919
participate in Ohio works first. 53920

(B) Division (A) of this section does not apply to a minor 53921
child residing with the minor child's mother who participates in a 53922

prison nursery program established under section 5120.65 of the 53923
Revised Code. 53924

Sec. 5107.40. As used in sections 5107.40 to 5107.69 of the 53925
Revised Code: 53926

(A) "Alternative work activity" means an activity designed to 53927
promote self sufficiency and personal responsibility established 53928
by a county department of job and family services under section 53929
5107.64 of the Revised Code. 53930

(B) "Developmental activity" means an activity designed to 53931
promote self sufficiency and personal responsibility established 53932
by a county department of job and family services under section 53933
5107.62 of the Revised Code. 53934

(C) "High school equivalence diploma" means a diploma 53935
attesting to achievement of the equivalent of a high school 53936
education as measured by scores obtained on the tests of general 53937
educational development published by the American council on 53938
education. "High school equivalence diploma" includes a 53939
certificate of high school equivalence issued prior to January 1, 53940
1994, attesting to the achievement of the equivalent of a high 53941
school education as measured by scores obtained on tests of 53942
general educational development. 53943

(D) "Work activity" means the following: 53944

(1) Unsubsidized employment activities established under 53945
section 5107.60 of the Revised Code; 53946

(2) The subsidized employment program established under 53947
section 5107.52 of the Revised Code; 53948

(3) The work experience program established under section 53949
5107.54 of the Revised Code; 53950

(4) On-the-job training activities established under section 53951
5107.60 of the Revised Code; 53952

(5) The job search and readiness program established under section 5107.50 of the Revised Code;	53953 53954
(6) Community service activities established under section 5107.60 of the Revised Code;	53955 53956
(7) Vocational educational training activities established under section 5107.60 of the Revised Code;	53957 53958
(8) Jobs skills training activities established under section 5107.60 of the Revised Code that are directly related to employment;	53959 53960 53961
(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;	53962 53963 53964 53965
(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;	53966 53967 53968 53969 53970 53971
(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;	53972 53973 53974 53975
(12) The education program established under section 5107.58 of the Revised Code that are operated pursuant to a federal waiver granted by the United States secretary of health and human services pursuant to a request made under former section 5101.09 of the Revised Code;	53976 53977 53978 53979 53980
(13) Except as limited <u>To the extent provided</u> by division (C) of section 5107.30 of the Revised Code, the LEAP program	53981 53982

established under that section. 53983

Sec. 5107.60. In accordance with Title IV-A, federal 53984
regulations, state law, the Title IV-A state plan prepared under 53985
section 5101.80 of the Revised Code, and amendments to the plan, 53986
county departments of job and family services shall establish and 53987
administer the following work activities, in addition to the work 53988
activities established under sections 5107.50, 5107.52, 5107.54, 53989
and 5107.58 of the Revised Code, for minor heads of households and 53990
adults participating in Ohio works first: 53991

(A) Unsubsidized employment activities, including activities 53992
a county department determines are legitimate entrepreneurial 53993
activities; 53994

(B) On-the-job training activities, including training to 53995
become an employee of a child day-care center or type A family 53996
day-care home, authorized provider of a certified type B family 53997
day-care home, or in-home aide; 53998

(C) Community service activities including a program under 53999
which a participant of Ohio works first who is the parent, 54000
guardian, custodian, or specified relative responsible for the 54001
care of a minor child enrolled in grade twelve or lower is 54002
involved in the minor child's education on a regular basis; 54003

(D) Vocational educational training activities; 54004

(E) Jobs skills training activities that are directly related 54005
to employment; 54006

(F) Education activities that are directly related to 54007
employment for participants who have not earned a high school 54008
diploma or high school equivalence diploma; 54009

(G) Education activities for participants who have not 54010
completed secondary school or received a high school equivalence 54011
diploma under which the participants attend a secondary school or 54012

a course of study leading to a high school equivalence diploma,
including LEAP participation by a minor head of household;

(H) Child-care service activities aiding another participant
assigned to a community service activity or other work activity. A
county department may provide for a participant assigned to this
work activity to receive training necessary to provide child-care
services.

Sec. 5108.01. As used in this chapter:

(A) ~~"Assistance group" means a group of individuals treated
as a unit for purposes of determining eligibility for the
prevention, retention, and contingency program~~ "County family
services planning committee" means the county family services
planning committee established under section 329.06 of the Revised
Code or the board created by consolidation under division (C) of
section 6301.06 of the Revised Code.

(B) "Prevention, retention, and contingency program" means
the program established by this chapter and funded in part with
federal funds provided under Title IV-A.

(C) "Title IV-A" means Title IV-A of the "Social Security
Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

Sec. 5108.03. Under the prevention, retention, and
contingency program, ~~a~~ each county department of job and family
services shall ~~provide~~ do both of the following in accordance with
the statement of policies the county department develops under
section 5108.04 of the Revised Code:

(A) Provide benefits and services that individuals need to
overcome immediate barriers to achieving or maintaining self
sufficiency and personal responsibility;

(B) Perform related administrative duties. ~~A county~~

~~department shall provide the benefits and services in accordance 54042
with either the model design for the program that the department 54043
of job and family services develops under section 5108.05 of the 54044
Revised Code or the county department's own policies for the 54045
program developed under section 5108.06 of the Revised Code. 54046~~

Sec. ~~5108.06~~ 5108.04. Each county department of job and 54047
family services shall ~~either adopt the model design for a written~~ 54048
statement of policies governing the prevention, retention, and 54049
~~contingency program the department of job and family services~~ 54050
~~develops under section 5108.05 of the Revised Code or develop its~~ 54051
~~own policies for the program~~ county. ~~To develop its own policies,~~ 54052
~~a county department shall adopt a written statement of the~~ 54053
~~policies governing the program. The policies may be a modification~~ 54054
~~of the model design, different from the model design, or a~~ 54055
~~combination.~~ The statement of policies shall be adopted not later 54056
than October 1, 2003, and shall be updated at least every two 54057
years thereafter. A county department may amend its statement of 54058
policies to modify, terminate, and establish new policies. The 54059
county director of job and family services shall sign and date the 54060
statement of policies and any amendment to it. Neither the 54061
statement of policies nor any amendment to it may have an 54062
effective date that is earlier than the date of the county 54063
director's signature. 54064

A Each county department of job and family services shall 54065
~~inform~~ provide the department of job and family services ~~of~~ 54066
~~whether it has adopted the model design or developed its own~~ 54067
~~policies for the prevention, retention, and contingency program.~~ 54068
~~If a county department develops its own policies, it shall provide~~ 54069
~~the department~~ a written copy of the statement of policies and any 54070
amendments it adopts to the statement not later than ten calendar 54071
days after the statement or amendment's effective date. 54072

~~Sec. 5108.07~~ 5108.05. ~~The model design for the prevention, retention, and contingency program that the department of job and family services develops under section 5108.05 of the Revised Code and policies for the program that a county department of job and family services may develop under section 5108.06 of the Revised Code shall establish~~ In adopting a statement of policies under section 5108.04 of the Revised Code for the county's prevention, retention, and contingency program, each county department of job and family services shall do all of the following:

(A) Establish or specify eligibility requirements for assistance groups that apply for the program under section 5108.10 of the Revised Code, benefits all of the following:

(1) Benefits and services to be provided under the program to assistance groups, administrative that are allowable uses of federal Title IV-A funds under 42 U.S.C. 601 and 604(a), except that they may not be "assistance" as defined in 45 C.F.R. 260.31(a) but rather benefits and services that 45 C.F.R. 260.31(b) excludes from the definition of assistance;

(2) Restrictions on the amount, duration, and frequency of the benefits and services;

(3) Eligibility requirements for the benefits and services;

(4) Fair and equitable procedures for both of the following:

(a) The certification of eligibility for the benefits and services that do not have a financial need eligibility requirement;

(b) The determination and verification of eligibility for the benefits and services that have a financial need eligibility requirement.

(5) Objective criteria for the delivery of the benefits and services;

(6) Administrative requirements, and other;	54103
(7) Other matters the department, in the case of the model design, or a county department, in the case of county policies, determine <u>determines</u> are necessary.	54104 54105 54106
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.	54107 54108 54109 54110 54111 54112 54113 54114 54115 54116 54117 54118 54119 54120 54121
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.	54122 54123 54124 54125 54126 54127
The model design and a county department's policies must be consistent with <u>(B) Provide for the statement of policies to be consistent with all of the following:</u>	54128 54129 54130
<u>(1) The plan of cooperation the board of county commissioners develops under section 307.983 of the Revised Code;</u>	54131 54132
<u>(2) The review and analysis of the county family services</u>	54133

committee conducted in accordance with division (B)(2) of section 54134
329.06 of the Revised Code; 54135

(3) Title IV-A, federal regulations, state law, the Title 54136
IV-A state plan submitted to the United States secretary of health 54137
and human services under section 5101.80 of the Revised Code, and 54138
amendments to the plan. All benefits and services to be provided 54139
under the model design or a county department's policies must be 54140
allowable uses of federal Title IV A funds as specified in 42 54141
U.S.C.A. 604(a), except that they may not be "assistance" as 54142
defined in 45 C.F.R. 260.31(a). The benefits and services shall be 54143
benefits and services that 45 C.F.R. 260.31(b) excludes from the 54144
definition of assistance. 54145

(C) Either provide the public and local government entities 54146
at least thirty days to submit comments on, or have the county 54147
family services planning committee review, the statement of 54148
policies, including the design of the county's prevention, 54149
retention, and contingency program, before the county director 54150
signs and dates the statement of policies. 54151

Sec. 5108.06. In adopting a statement of policies under 54152
section 5108.04 of the Revised Code for the county's prevention, 54153
retention, and contingency program, a county department of job and 54154
family services may specify both of the following: 54155

(A) Benefits and services to be provided under the program 54156
that prevent and reduce the incidence of out-of-wedlock 54157
pregnancies or encourage the formation and maintenance of 54158
two-parent families as permitted by 45 C.F.R. 260.20(c) and (d); 54159

(B) How the county department will certify individuals' 54160
eligibility for such benefits and services. 54161

Sec. 5108.07. (A) Each statement of policies adopted under 54162
section 5108.04 of the Revised Code shall include the board of 54163

county commissioners' certification that the county department of 54164
job and family services complied with this chapter in adopting the 54165
statement of policies. 54166

(B) The board of county commissioners shall revise its 54167
certification under division (A) of this section if an amendment 54168
to the statement of policies that the board considers to be 54169
significant is adopted under section 5108.04 of the Revised Code. 54170

Sec. 5108.09. When a state hearing under division (B) of 54171
section 5101.35 of the Revised Code or an administrative appeal 54172
under division (C) of that section is held regarding the 54173
prevention, retention, and contingency program, the hearing 54174
officer, director of job and family services, or director's 54175
designee shall base the decision in the hearing or appeal on the 54176
following: 54177

~~(A) If the county department of job and family services~~ 54178
~~involved in the hearing or appeal adopted the department of job~~ 54179
~~and family services' model design for the program developed under~~ 54180
~~section 5108.05 of the Revised Code, the model design:~~ 54181

~~(B) If the county department developed its own policies for~~ 54182
~~the program, the county department's department of job and family~~ 54183
~~services' written statement of policies adopted under section~~ 54184
~~5108.06 5108.04 of the Revised Code and any amendments the county~~ 54185
~~department adopted to the statement if the county department~~ 54186
~~provides a copy of the statement of policies and all amendments to~~ 54187
~~the hearing officer, director, or director's designee at the~~ 54188
~~hearing or appeal.~~ 54189

Sec. 5108.10. ~~An assistance group seeking to participate in~~ 54190
~~the prevention, retention, and contingency program shall apply to~~ 54191
~~a county department of job and family services using Eligibility~~ 54192
~~for a benefit or service under a county's prevention, retention,~~ 54193

and contingency program shall be certified in accordance with the 54194
statement of policies adopted under section 5108.04 of the Revised 54195
Code if the benefit or service does not have a financial need 54196
eligibility requirement. 54197

Eligibility for a benefit or service shall be determined in 54198
accordance with the statement of policies and based on an 54199
application containing information the county department of job 54200
and family services requires- 54201

~~When if the benefit or service has a financial need~~ 54202
~~eligibility requirement. When~~ a county department receives an 54203
application for ~~participation in the prevention, retention, and~~ 54204
~~contingency program~~ such benefits and services, it shall ~~promptly~~ 54205
~~make an investigation and record of the circumstances of the~~ 54206
~~applicant in order to ascertain~~ follow verification procedures 54207
established by the statement of policies to verify the facts 54208
surrounding the application and to obtain such other information 54209
as may be required. On completion of the ~~investigation~~ 54210
verification procedure, the county department shall determine 54211
whether the applicant is eligible ~~to participate,~~ for the benefits 54212
or services ~~the applicant should receive,~~ and the approximate date 54213
when ~~participation is~~ the benefits or services are to begin. 54214

Sec. 5108.11. (A) To the extent permitted by section 307.982 54215
of the Revised Code, a board of county commissioners may enter 54216
into a written contract with a private or government entity for 54217
the entity to do either or both of the following for the county's 54218
prevention, retention, and contingency program: 54219

(1) Certify eligibility for benefits and services that do not 54220
have a financial need eligibility requirement; 54221

(2) Accept applications and determine and verify eligibility 54222
for benefits and services that have a financial need eligibility 54223
requirement. 54224

(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: 54225
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54228

(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; 54229
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54231
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(2) Ensure that the private or government entity maintains all records that are necessary for audits; 54233
54234

(3) Monitor the private or government entity for compliance with Title IV-A, this chapter of the Revised Code, and the statement of policies; 54235
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54237

(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. 54238
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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. 54241
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Sec. 5111.0112. The director of job and family services shall examine instituting a copayment program under medicaid. As part of the examination, the director shall determine which groups of medicaid recipients may be subjected to a copayment requirement under federal statutes and regulations and which of those groups are appropriate for a copayment program designed to reduce inappropriate and excessive use of medical goods and services. If, 54248
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on completion of the examination, the director determines that it 54255
is feasible to institute such a copayment program, the director 54256
may seek approval from the United States secretary of health and 54257
human services to institute the copayment program. If necessary, 54258
the director may seek approval by applying for a waiver of federal 54259
statutes and regulations. If such approval is obtained, the 54260
director shall adopt rules in accordance with Chapter 119. of the 54261
Revised Code governing the copayment program. 54262

Sec. 5111.0113. Children who are in the temporary or 54263
permanent custody of a certified public or private nonprofit 54264
agency or institution or in adoptions subsidized under division 54265
(B) of section 5153.163 of the Revised Code are eligible for 54266
medical assistance through the medicaid program established under 54267
section 5111.01 of the Revised Code. 54268

Sec. 5111.02. (A) Under the medical assistance program: 54269

(1) Except as otherwise permitted by federal statute or 54270
regulation and at the department's discretion, reimbursement by 54271
the department of job and family services to a medical provider 54272
for any medical service rendered under the program shall not 54273
exceed the authorized reimbursement level for the same service 54274
under the medicare program established under Title XVIII of the 54275
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 54276
amended. 54277

(2) Reimbursement for freestanding medical laboratory charges 54278
shall not exceed the customary and usual fee for laboratory 54279
profiles. 54280

(3) The department may deduct from payments for services 54281
rendered by a medicaid provider under the medical assistance 54282
program any amounts the provider owes the state as the result of 54283
incorrect medical assistance payments the department has made to 54284

the provider. 54285

(4) The department may conduct final fiscal audits in 54286
accordance with the applicable requirements set forth in federal 54287
laws and regulations and determine any amounts the provider may 54288
owe the state. When conducting final fiscal audits, the department 54289
shall consider generally accepted auditing standards, which 54290
include the use of statistical sampling. 54291

(5) The number of days of inpatient hospital care for which 54292
reimbursement is made on behalf of a recipient of medical 54293
assistance to a hospital that is not paid under a 54294
diagnostic-related-group prospective payment system shall not 54295
exceed thirty days during a period beginning on the day of the 54296
recipient's admission to the hospital and ending sixty days after 54297
the termination of that hospital stay, except that the department 54298
may make exceptions to this limitation. The limitation does not 54299
apply to children participating in the program for medically 54300
handicapped children established under section 3701.023 of the 54301
Revised Code. 54302

(B) The director of job and family services may adopt, amend, 54303
or rescind rules under Chapter 119. of the Revised Code 54304
establishing the amount, duration, and scope of medical services 54305
to be included in the medical assistance program. Such rules shall 54306
establish the conditions under which services are covered and 54307
reimbursed, the method of reimbursement applicable to each covered 54308
service, and the amount of reimbursement or, in lieu of such 54309
amounts, methods by which such amounts are to be determined for 54310
each covered service. Any rules that pertain to nursing facilities 54311
or intermediate care facilities for the mentally retarded shall be 54312
consistent with sections 5111.20 to 5111.33 of the Revised Code. 54313

~~(C) No health insuring corporation that has a contract to 54314
provide health care services to recipients of medical assistance 54315
shall restrict the availability to its enrollees of any 54316~~

~~prescription drugs included in the Ohio medicaid drug formulary as~~ 54317
~~established under rules adopted by the director.~~ 54318

~~(D)~~ The division of any reimbursement between a collaborating 54319
physician or podiatrist and a clinical nurse specialist, certified 54320
nurse-midwife, or certified nurse practitioner for services 54321
performed by the nurse shall be determined and agreed on by the 54322
nurse and collaborating physician or podiatrist. In no case shall 54323
reimbursement exceed the payment that the physician or podiatrist 54324
would have received had the physician or podiatrist provided the 54325
entire service. 54326

Sec. 5111.021. Under the medical assistance program, any 54327
amount determined to be owed the state by a final fiscal audit 54328
conducted pursuant to division (A)(4) of section 5111.02 of the 54329
Revised Code, upon the issuance of an adjudication order pursuant 54330
to Chapter 119. of the Revised Code that contains a finding that 54331
there is a preponderance of the evidence that the provider will 54332
liquidate assets or file bankruptcy in order to prevent payment of 54333
the amount determined to be owed the state, becomes a lien upon 54334
the real and personal property of the provider. Upon failure of 54335
the provider to pay the amount to the state, the director of job 54336
and family services shall file notice of the lien, for which there 54337
shall be no charge, in the office of the county recorder of the 54338
county in which it is ascertained that the provider owns real or 54339
personal property. The director shall notify the provider by mail 54340
of the lien, but absence of proof that the notice was sent does 54341
not affect the validity of the lien. The lien is not valid as 54342
against the claim of any mortgagee, pledgee, purchaser, judgment 54343
creditor, or other lienholder of record at the time the notice is 54344
filed. 54345

If the provider acquires real or personal property after 54346
notice of the lien is filed, the lien shall not be valid as 54347

against the claim of any mortgagee, pledgee, subsequent bona fide 54348
purchaser for value, judgment creditor, or other lienholder of 54349
record to such after-acquired property unless the notice of lien 54350
is refiled after the property is acquired by the provider and 54351
before the competing lien attaches to the after-acquired property 54352
or before the conveyance to the subsequent bona fide purchaser for 54353
value. 54354

When the amount has been paid, the provider may record with 54355
the recorder notice of the payment. For recording such notice of 54356
payment, the recorder shall charge and receive from the provider a 54357
base fee of one dollar for services and a housing trust fund fee 54358
of one dollar pursuant to section 317.36 of the Revised Code. 54359

In the event of a distribution of a provider's assets 54360
pursuant to an order of any court under the law of this state 54361
including any receivership, assignment for benefit of creditors, 54362
adjudicated insolvency, or similar proceedings, amounts then or 54363
thereafter due the state under this chapter have the same priority 54364
as provided by law for the payment of taxes due the state and 54365
shall be paid out of the receivership trust fund or other such 54366
trust fund in the same manner as provided for claims for unpaid 54367
taxes due the state. 54368

If the attorney general finds after investigation that any 54369
amount due the state under this chapter is uncollectable, in whole 54370
or in part, the attorney general shall recommend to the director 54371
the cancellation of all or part of the claim. The director may 54372
thereupon effect the cancellation. 54373

Sec. 5111.022. (A) As used in this section: 54374

(1) "Community mental health facility" means a community 54375
mental health facility that has a quality assurance program 54376
accredited by the joint commission on accreditation of healthcare 54377
organizations or is certified by the department of mental health 54378

or department of job and family services. 54379

(2) "Mental health professional" means a person qualified to 54380
work with mentally ill persons under the standards established by 54381
the director of mental health pursuant to section 5119.611 of the 54382
Revised Code. 54383

~~(B) The state medicaid plan for providing medical assistance~~ 54384
~~under Title XIX of the "Social Security Act," 49 Stat. 620, 42~~ 54385
~~U.S.C.A. 301, as amended,~~ shall include provision of the following 54386
mental health services when provided by community mental health 54387
~~facilities described in division (B) of this section:~~ 54388

(1) Outpatient mental health services, including, but not 54389
limited to, preventive, diagnostic, therapeutic, rehabilitative, 54390
and palliative interventions rendered to individuals in an 54391
individual or group setting by a mental health professional in 54392
accordance with a plan of treatment appropriately established, 54393
monitored, and reviewed; 54394

(2) Partial-hospitalization mental health services of three 54395
to fourteen hours per service day, rendered by persons directly 54396
supervised by a mental health professional; 54397

(3) Unscheduled, emergency mental health services of a kind 54398
ordinarily provided to persons in crisis when rendered by persons 54399
supervised by a mental health professional; 54400

(4) Subject to receipt of federal approval, assertive 54401
community treatment and intensive home-based mental health 54402
services. 54403

~~(B) Services shall be included in the state plan only when~~ 54404
~~provided by community mental health facilities that have quality~~ 54405
~~assurance programs accredited by the joint commission on~~ 54406
~~accreditation of healthcare organizations or certified by the~~ 54407
~~department of mental health or department of job and family~~ 54408
~~services.~~ 54409

(C) The comprehensive annual plan shall certify the 54410
availability of sufficient unencumbered community mental health 54411
state subsidy and local funds to match ~~Title XIX federal medicaid~~ 54412
reimbursement funds earned by ~~the community mental health~~ 54413
facilities. ~~Reimbursement for eligible services shall be based on~~ 54414
~~the prospective cost of providing the services as developed in~~ 54415
~~standards adopted as part of the comprehensive annual plan.~~ 54416

(D) ~~As used in this section, "mental health professional"~~ 54417
~~means a person qualified to work with mentally ill persons under~~ 54418
~~the standards established by the director of mental health~~ 54419
~~pursuant to section 5119.611 of the Revised Code.~~ 54420

(E) ~~With respect to services established by division (A) of~~ 54421
~~this section, the The department of job and family services shall~~ 54422
~~enter into a separate contract with the department of mental~~ 54423
~~health under section 5111.91 of the Revised Code with regard to~~ 54424
~~the component of the medicaid program provided for by this~~ 54425
~~section. The terms of the contract between the department of job~~ 54426
~~and family services and the department of mental health shall~~ 54427
~~specify both of the following:~~ 54428

(1) ~~That the department of mental health and boards of~~ 54429
~~alcohol, drug addiction, and mental health services shall provide~~ 54430
~~state and local matching funds for Title XIX of the "Social~~ 54431
~~Security Act," for reimbursement of services established by~~ 54432
~~division (A) of this section;~~ 54433

(2) ~~How the community mental health facilities described in~~ 54434
~~division (B) of this section will be paid for providing the~~ 54435
~~services established by division (A) of this section.~~ 54436

(E) Not later than May 1, 2004, the department of job and 54437
family services shall request federal approval to provide 54438
assertive community treatment and intensive home-based mental 54439
health services under medicaid pursuant to this section. 54440

(F) On receipt of federal approval sought under division (E) 54441
of this section, the director of job and family services shall 54442
adopt rules in accordance with Chapter 119. of the Revised Code 54443
establishing statewide access and acuity standards for partial 54444
hospitalization mental health services and assertive community 54445
treatment and intensive home-based mental health services provided 54446
under medicaid pursuant to this section. The director shall 54447
consult with the department of mental health in adopting the 54448
rules. 54449

Sec. 5111.025. (A) In rules adopted under section 5111.02 of 54450
the Revised Code, the director of job and family services shall 54451
modify the manner or establish a new manner in which the following 54452
are paid under medicaid: 54453

(1) Community mental health facilities for providing mental 54454
health services included in the state medicaid plan pursuant to 54455
section 5111.022 of the Revised Code; 54456

(2) Providers of alcohol and drug addiction services for 54457
providing alcohol and drug addiction services included in the 54458
medicaid program pursuant to rules adopted under section 5111.02 54459
of the Revised Code. 54460

(B) In modifying the manner, or establishing a new manner, 54461
for medicaid to pay for the services specified in division (A) of 54462
this section, the director shall include a provision for obtaining 54463
federal financial participation for the costs that each board of 54464
alcohol, drug addiction, and mental health services incurs in its 54465
administration of those services. Except as provided in section 54466
5111.92 of the Revised Code, the department of job and family 54467
services shall pay the federal financial participation obtained 54468
for such administrative costs to the board that incurs the 54469
administrative costs. 54470

(C) The director's authority to modify the manner, or to establish a new manner, for medicaid to pay for the services specified in division (A) of this section is not limited by any rules adopted under section 5111.02 or 5119.61 of the Revised Code that are in effect on the effective date of this section and govern the way medicaid pays for those services. This is the case regardless of what state agency adopted the rules.

Sec. 5111.03. (A) No provider of services or goods contracting with the department of job and family services pursuant to the medicaid program shall, by deception, obtain or attempt to obtain payments under this chapter to which the provider is not entitled pursuant to the provider agreement, or the rules of the federal government or the department of job and family services relating to the program. No provider shall willfully receive payments to which the provider is not entitled, or willfully receive payments in a greater amount than that to which the provider is entitled; nor shall any provider falsify any report or document required by state or federal law, rule, or provider agreement relating to medicaid payments. As used in this section, a provider engages in "deception" when the provider, acting with actual knowledge of the representation or information involved, acting in deliberate ignorance of the truth or falsity of the representation or information involved, or acting in reckless disregard of the truth or falsity of the representation or information involved, deceives another or causes another to be deceived by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act, or omission that creates, confirms, or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact. No proof of specific intent to defraud is required to show, for purposes of this section, that a provider

has engaged in deception. 54503

(B) Any provider who violates division (A) of this section 54504
shall be liable, in addition to any other penalties provided by 54505
law, for all of the following civil penalties: 54506

(1) Payment of interest on the amount of the excess payments 54507
at the maximum interest rate allowable for real estate mortgages 54508
under section 1343.01 of the Revised Code on the date the payment 54509
was made to the provider for the period from the date upon which 54510
payment was made, to the date upon which repayment is made to the 54511
state; 54512

(2) Payment of an amount equal to three times the amount of 54513
any excess payments; 54514

(3) Payment of a sum of not less than five thousand dollars 54515
and not more than ten thousand dollars for each deceptive claim or 54516
falsification; 54517

(4) All reasonable expenses which the court determines have 54518
been necessarily incurred by the state in the enforcement of this 54519
section. 54520

(C) ~~In~~ As used in this division, "intermediate care facility 54521
for the mentally retarded" and "nursing facility" have the same 54522
meanings given in section 5111.20 of the Revised Code. 54523

In addition to the civil penalties provided in division (B) 54524
of this section, the director of job and family services, upon the 54525
conviction of, or the entry of a judgment in either a criminal or 54526
civil action against, a medicaid provider or its owner, officer, 54527
authorized agent, associate, manager, or employee in an action 54528
brought pursuant to section 109.85 of the Revised Code, shall 54529
terminate the provider agreement between the department and the 54530
provider and stop reimbursement to the provider for services 54531
rendered for a period of up to five years from the date of 54532
conviction or entry of judgment. As used in this chapter, "owner" 54533

means any person having at least five per cent ownership in the 54534
medicaid provider. No such provider, owner, officer, authorized 54535
agent, associate, manager, or employee shall own or provide 54536
services to any other medicaid provider or risk contractor or 54537
arrange for, render, or order services for medicaid recipients 54538
during the period of termination as provided in division (C) of 54539
this section, nor, during the period of termination as provided in 54540
division (C) of this section, shall such provider, owner, officer, 54541
authorized agent, associate, manager, or employee receive 54542
reimbursement in the form of direct payments from the department 54543
or indirect payments of medicaid funds in the form of salary, 54544
shared fees, contracts, kickbacks, or rebates from or through any 54545
participating provider or risk contractor. The provider agreement 54546
shall not be terminated or reimbursement terminated if the 54547
provider or owner can demonstrate that the provider or owner did 54548
not directly or indirectly sanction the action of its authorized 54549
agent, associate, manager, or employee that resulted in the 54550
conviction or entry of a judgment in a criminal or civil action 54551
brought pursuant to section 109.85 of the Revised Code. Nothing in 54552
this division prohibits any owner, officer, authorized agent, 54553
associate, manager, or employee of a medicaid provider from 54554
entering into a medicaid provider agreement if the person can 54555
demonstrate that the person had no knowledge of an action of the 54556
medicaid provider the person was formerly associated with that 54557
resulted in the conviction or entry of a judgment in a criminal or 54558
civil action brought pursuant to section 109.85 of the Revised 54559
Code. 54560

~~Providers subject to sections 5111.20 to 5111.32 of the~~ 54561
~~Revised Code~~ Nursing facility or intermediate care facility for 54562
the mentally retarded providers whose agreements are terminated 54563
pursuant to this section may continue to receive reimbursement for 54564
up to thirty days after the effective date of the termination if 54565
the provider makes reasonable efforts to transfer recipients to 54566

another facility or to alternate care and if federal funds are 54567
provided for such reimbursement. 54568

(D) Any provider of services or goods contracting with the 54569
department of job and family services pursuant to Title XIX of the 54570
"Social Security Act," who, without intent, obtains payments under 54571
this chapter in excess of the amount to which the provider is 54572
entitled, thereby becomes liable for payment of interest on the 54573
amount of the excess payments at the maximum real estate mortgage 54574
rate on the date the payment was made to the provider for the 54575
period from the date upon which payment was made to the date upon 54576
which repayment is made to the state. 54577

(E) The attorney general on behalf of the state may commence 54578
proceedings to enforce this section in any court of competent 54579
jurisdiction; and the attorney general may settle or compromise 54580
any case brought under this section with the approval of the 54581
department of job and family services. Notwithstanding any other 54582
provision of law providing a shorter period of limitations, the 54583
attorney general may commence a proceeding to enforce this section 54584
at any time within six years after the conduct in violation of 54585
this section terminates. 54586

(F) The authority, under state and federal law, of the 54587
department of job and family services or a county department of 54588
job and family services to recover excess payments made to a 54589
provider is not limited by the availability of remedies under 54590
sections 5111.11 and 5111.12 of the Revised Code for recovering 54591
benefits paid on behalf of recipients of medical assistance. 54592

The penalties under this chapter apply to any overpayment, 54593
billing, or falsification occurring on and after April 24, 1978. 54594
All moneys collected by the state pursuant to this section shall 54595
be deposited in the state treasury to the credit of the general 54596
revenue fund. 54597

Sec. 5111.06. (A)(1) As used in this section:	54598
(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.	54599 54600 54601 54602 54603
(b) "Party" has the same meaning as in division (G) of section 119.01 of the Revised Code.	54604 54605
(c) "Adjudication" has the same meaning as in division (D) of section 119.01 of the Revised Code.	54606 54607
(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.	54608 54609 54610
(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:	54611 54612 54613 54614
(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;	54615 54616 54617
(2) Take any action based upon a final fiscal audit of a provider.	54618 54619
(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.	54620 54621 54622 54623
(D) The department is not required to comply with division (B)(1) of this section whenever any of the following occur:	54624 54625
(1) The terms of a provider agreement require the provider to	54626

have a license, permit, or certificate issued by an official, 54627
board, commission, department, division, bureau, or other agency 54628
of state government other than the department of job and family 54629
services, and the license, permit, or certificate has been denied 54630
or revoked. 54631

(2) The provider agreement is denied, terminated, or not 54632
renewed pursuant to division (C) or (E) of section 5111.03 of the 54633
Revised Code; 54634

(3) The provider agreement is denied, terminated, or not 54635
renewed due to the provider's termination, suspension, or 54636
exclusion from the medicare program established under Title XVIII 54637
of the "Social Security Act," and the termination, suspension, or 54638
exclusion is binding on the provider's participation in the 54639
medicaid program; 54640

(4) The provider agreement is denied, terminated, or not 54641
renewed due to the provider's pleading guilty to or being 54642
convicted of a criminal activity materially related to either the 54643
medicare or medicaid program; 54644

(5) The provider agreement is denied, terminated, or 54645
suspended as a result of action by the United States department of 54646
health and human services and that action is binding on the 54647
provider's participation in the medicaid program. 54648

(E) The department may withhold payments for services 54649
rendered by a medicaid provider under the medical assistance 54650
program during the pendency of proceedings initiated under 54651
division (B)(1) of this section. If the proceedings are initiated 54652
under division (B)(2) of this section, the department may withhold 54653
payments only to the extent that they equal amounts determined in 54654
a final fiscal audit as being due the state. This division does 54655
not apply if the department fails to comply with section 119.07 of 54656
the Revised Code, requests a continuance of the hearing, or does 54657

not issue a decision within thirty days after the hearing is 54658
completed. This division does not apply to nursing facilities and 54659
intermediate care facilities for the mentally retarded ~~subject to~~ 54660
~~sections as defined in section~~ 5111.20 to 5111.32 of the Revised 54661
Code. 54662

Sec. ~~5111.08~~ 5111.071. Commencing in December, 1986, and 54663
every second December thereafter, the director of job and family 54664
services shall establish a dispensing fee, effective the following 54665
January, for licensed pharmacists who are providers under this 54666
chapter. The dispensing fee shall take into consideration the 54667
results of the survey conducted under section 5111.07 of the 54668
Revised Code. 54669

Sec. ~~5111.16~~ 5111.08. In accordance with subsection (g) of 54670
section 1927 of the "Social Security Act," 49 Stat. 320 (1935), 42 54671
U.S.C.A. 1396r-8(g), as amended, the department of job and family 54672
services shall establish an outpatient drug use review program to 54673
assure that prescriptions obtained by recipients of medical 54674
assistance under this chapter are appropriate, medically 54675
necessary, and unlikely to cause adverse medical results. 54676

Sec. 5111.082. The director of job and family services, in 54677
rules adopted under section 5111.02 of the Revised Code, may 54678
establish and implement a supplemental drug rebate program under 54679
which drug manufacturers may be required to provide the department 54680
of job and family services a supplemental rebate as a condition of 54681
having the drug manufacturers' drug products covered by the 54682
medicaid program without prior approval. If necessary, the 54683
director may apply to the United States secretary of health and 54684
human services for a waiver of federal statutes and regulations to 54685
establish the supplemental drug rebate program. 54686

If the director establishes a supplemental drug rebate 54687

program, the director shall consult with drug manufacturers 54688
regarding the establishment and implementation of the program. 54689

If the director establishes a supplemental drug rebate 54690
program, the director shall exempt from the program and from prior 54691
authorization or any other restriction all of a drug 54692
manufacturer's drug products that have been approved by the United 54693
States food and drug administration and for which there is no 54694
generic equivalent for the treatment of either of the following: 54695

(A) Mental illness, as defined in section 5122.01 of the 54696
Revised Code, including schizophrenia, major depressive disorder, 54697
and bipolar disorder; 54698

(B) HIV or AIDS, both as defined in section 3701.24 of the 54699
Revised Code. 54700

Sec. 5111.111. As used in this section, "home and 54701
community-based services" means services provided pursuant to a 54702
waiver under section 1915 of the "Social Security Act," 49 Stat. 54703
620 (1935), 42 U.S.C.A. 1396n, as amended. 54704

The department of job and family services may place a lien 54705
against the property of a medical assistance recipient or 54706
recipient's spouse, other than a recipient or spouse of a 54707
recipient of home and community-based services, that the 54708
department may recover as part of the program instituted under 54709
section 5111.11 of the Revised Code. When medical assistance is 54710
paid on behalf of any person in circumstances under which federal 54711
law and regulations and this section permit the imposition of a 54712
lien, the director of job and family services or a person 54713
designated by the director may sign a certificate to the effect. 54714
The county department of job and family services shall file for 54715
recording and indexing the certificate, or a certified copy, in 54716
the real estate mortgage records in the office of the county 54717
recorder in every county in which real property of the recipient 54718

or spouse is situated. From the time of filing the certificate in 54719
the office of the county recorder, the lien attaches to all real 54720
property of the recipient or spouse described therein for all 54721
amounts of aid which are paid or which thereafter are paid, and 54722
shall remain a lien until satisfied. 54723

Upon filing the certificate in the office of the recorder, 54724
all persons are charged with notice of the lien and the rights of 54725
the department of job and family services thereunder. 54726

The county recorder shall keep a record of every certificate 54727
filed showing its date, the time of filing, the name and residence 54728
of the recipient or spouse, and any release, waivers, or 54729
satisfaction of the lien. 54730

The priority of the lien shall be established in accordance 54731
with state and federal law. 54732

The department may waive the priority of its lien to provide 54733
for the costs of the last illness as determined by the department, 54734
administration, attorney fees, administrator fees, a sum for the 54735
payment of the costs of burial, which shall be computed by 54736
deducting from five hundred dollars whatever amount is available 54737
for the same purpose from all other sources, and a similar sum for 54738
the spouse of the decedent. 54739

Sec. 5111.151. (A) This section applies to eligibility 54740
determinations for all cases involving medical assistance provided 54741
pursuant to this chapter, qualified medicare beneficiaries, 54742
specified low-income medicare beneficiaries, qualifying 54743
individuals-1, qualifying individuals-2, and medical assistance 54744
for covered families and children. 54745

(B) As used in this section: 54746

(1) "Trust" means any arrangement in which a grantor 54747
transfers real or personal property to a trust with the intention 54748

that it be held, managed, or administered by at least one trustee 54749
for the benefit of the grantor or beneficiaries. "Trust" includes 54750
any legal instrument or device similar to a trust. 54751

(2) "Legal instrument or device similar to a trust" includes, 54752
but is not limited to, escrow accounts, investment accounts, 54753
partnerships, contracts, and other similar arrangements that are 54754
not called trusts under state law but are similar to a trust and 54755
to which all of the following apply: 54756

(a) The property in the trust is held, managed, retained, or 54757
administered by a trustee. 54758

(b) The trustee has an equitable, legal, or fiduciary duty to 54759
hold, manage, retain, or administer the property for the benefit 54760
of the beneficiary. 54761

(c) The trustee holds identifiable property for the 54762
beneficiary. 54763

(3) "Grantor" is a person who creates a trust, including all 54764
of the following: 54765

(a) An individual; 54766

(b) An individual's spouse; 54767

(c) A person, including a court or administrative body, with 54768
legal authority to act in place of or on behalf of an individual 54769
or an individual's spouse; 54770

(d) A person, including a court or administrative body, that 54771
acts at the direction or on request of an individual or the 54772
individual's spouse. 54773

(4) "Beneficiary" is a person or persons, including a 54774
grantor, who benefits in some way from a trust. 54775

(5) "Trustee" is a person who manages a trust's principal and 54776
income for the benefit of the beneficiaries. 54777

<u>(6) "Person" has the same meaning as in section 1.59 of the Revised Code and includes an individual, corporation, business trust, estate, trust, partnership, and association.</u>	54778
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<u>(7) "Applicant" is an individual who applies for medical assistance benefits or the individual's spouse.</u>	54781
	54782
<u>(8) "Recipient" is an individual who receives medical assistance benefits or the individual's spouse.</u>	54783
	54784
<u>(9) "Revocable trust" is a trust that can be revoked by the grantor or the beneficiary, including all of the following, even if the terms of the trust state that it is irrevocable:</u>	54785
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<u>(a) A trust that provides that the trust can be terminated only by a court;</u>	54788
	54789
<u>(b) A trust that terminates on the happening of an event, but only if the event occurs at the direction or control of the grantor, beneficiary, or trustee.</u>	54790
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	54792
<u>(10) "Irrevocable trust" is a trust that cannot be revoked by the grantor or terminated by a court and that terminates only on the occurrence of an event outside of the control or direction of the beneficiary or grantor.</u>	54793
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<u>(11) "Payment" is any disbursement from the principal or income of the trust, including actual cash, noncash or property disbursements, or the right to use and occupy real property.</u>	54797
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<u>(12) "Payments to or for the benefit of the applicant or recipient" is a payment to any person resulting in a direct or indirect benefit to the applicant or recipient.</u>	54800
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<u>(13) "Testamentary trust" is a trust that is established by a will and does not take effect until after the death of the person who created the trust.</u>	54803
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	54805
<u>(C) If an applicant or recipient is a beneficiary of a trust, the county department of job and family services shall determine</u>	54806
	54807

what type of trust it is and shall treat the trust in accordance 54808
with the appropriate provisions of this section and rules adopted 54809
by the department of job and family services governing trusts. The 54810
county department of job and family services may determine that 54811
the trust or portion of the trust is one of the following: 54812

(1) A countable resource; 54813

(2) Countable income; 54814

(3) A countable resource and countable income; 54815

(4) Not a countable resource or countable income. 54816

(D)(1) A trust or legal instrument or device similar to a 54817
trust shall be considered a self-settled trust if all of the 54818
following apply: 54819

(a) The trust was established on or after August 11, 1993. 54820

(b) The trust was not established by a will. 54821

(c) The trust was established by an applicant or recipient, 54822
spouse of an applicant or recipient, or a person, including a 54823
court or administrative body, with legal authority to act in place 54824
of or on behalf of an applicant, recipient, or spouse, or acting 54825
at the direction or on request of an applicant, recipient, or 54826
spouse. 54827

(2) A trust that meets the requirements of division (D)(1) of 54828
this section and is a revocable trust shall be treated by the 54829
county department of job and family services as follows: 54830

(a) The corpus of the trust shall be considered a resource 54831
available to the applicant or recipient. 54832

(b) Payments from the trust to or for the benefit of the 54833
applicant or recipient shall be considered unearned income of the 54834
applicant or recipient. 54835

(c) Any other payments from the trust shall be considered an 54836

improper transfer of resources and shall be subject to rules 54837
adopted by the department of job and family services governing 54838
improper transfers of resources. 54839

(3) A trust that meets the requirements of division (D)(1) of 54840
this section and is an irrevocable trust shall be treated by the 54841
county department of job and family services as follows: 54842

(a) If there are any circumstances under which payment from 54843
the trust could be made to or for the benefit of the applicant or 54844
recipient, including a payment that can be made only in the 54845
future, the portion from which payments could be made shall be 54846
considered a resource available to the applicant or recipient. The 54847
county department of job and family services shall not take into 54848
account when payments can be made. 54849

(b) Any payment that is actually made to or for the benefit 54850
of the applicant or recipient from either the corpus or income 54851
shall be considered unearned income. 54852

(c) If a payment is made to someone other than to the 54853
applicant or recipient and the payment is not for the benefit of 54854
the applicant or recipient, the payment shall be considered an 54855
improper transfer of resources and shall be subject to rules 54856
adopted by the department of job and family services governing 54857
improper transfers of resources. 54858

(d) The date of the transfer shall be the later of the date 54859
of establishment of the trust or the date of the occurrence of the 54860
event. 54861

(e) When determining the value of the transferred resource 54862
under this provision, the value of the trust shall be its value on 54863
the date payment to the applicant or recipient was foreclosed. 54864

(f) Any income earned or other resources added subsequent to 54865
the foreclosure date shall be added to the total value of the 54866
trust. 54867

(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. 54868
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(h) Any addition of resources after the foreclosure date shall be considered a separate transfer. 54872
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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. 54874
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(5) The availability of a self-settled trust shall be considered without regard to any of the following: 54880
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(a) The purpose for which the trust is established; 54882

(b) Whether the trustees have exercised or may exercise discretion under the trust; 54883
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(c) Any restrictions on when or whether distributions may be made from the trust; 54885
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(d) Any restrictions on the use of distributions from the trust. 54887
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(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: 54889
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(a) If a self-settled trust is a revocable trust and a portion of the trust is distributed to someone other than the applicant or recipient for the benefit of someone other than the 54895
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applicant or recipient, the distribution shall be considered an 54898
improper transfer of resources. The look-back period shall be 54899
sixty months from the baseline date. The transfer shall be 54900
considered to have taken place on the date on which the payment to 54901
someone other than the applicant or recipient was made. 54902

(b) If a self-settled trust is an irrevocable trust and a 54903
portion of the trust is not distributable to the applicant or 54904
recipient, the trust shall be treated as an improper transfer of 54905
resources. The look-back period shall be sixty months from the 54906
baseline date. The transfer is considered to have been made as of 54907
the later of the date the trust was established or the date on 54908
which payment to the applicant or recipient was foreclosed. The 54909
value of these assets shall not be reduced by any payments from 54910
the trust that may be made from these unavailable assets at a 54911
later date. 54912

(c) If a self-settled trust is an irrevocable trust and a 54913
portion or all of the trust may be disbursed to or for the benefit 54914
of the applicant or recipient, any payment that is made to another 54915
person other than the applicant or recipient shall be considered 54916
an improper transfer of resources. The look-back period is 54917
thirty-six months from the baseline date. The transfer shall be 54918
considered to have been made as of the date of payment to the 54919
other person. 54920

(E) The principal or income from any of the following shall 54921
be exempt from being counted as a resource by a county department 54922
of job and family services: 54923

(1)(a) A special needs trust that meets all of the following 54924
requirements: 54925

(i) The trust contains assets of an applicant or recipient 54926
under sixty-five years of age and may contain the assets of other 54927
individuals. 54928

(ii) The applicant or recipient is disabled as defined in 54929
rules adopted by the department of job and family services. 54930

(iii) The trust is established for the benefit of the 54931
applicant or recipient by a parent, grandparent, legal guardian, 54932
or a court. 54933

(iv) The trust requires that on the death of the applicant or 54934
recipient the state will receive all amounts remaining in the 54935
trust up to an amount equal to the total amount of medical 54936
assistance paid on behalf of the applicant or recipient. 54937

(b) If a special needs trust meets the requirements of 54938
division (E)(1)(a) of this section and has been established for a 54939
disabled applicant or recipient under sixty-five years of age, the 54940
exemption for the trust granted pursuant to division (E) of this 54941
section shall continue after the disabled applicant or recipient 54942
becomes sixty-five years of age if the applicant or recipient 54943
continues to be disabled as defined in rules adopted by the 54944
department of job and family services. Except for income earned by 54945
the trust, the grantor shall not add to or otherwise augment the 54946
trust after the applicant or recipient attains sixty-five years of 54947
age. An addition or augmentation of the trust by the applicant or 54948
recipient with the applicant's own assets after the applicant or 54949
recipient attains sixty-five years of age shall be treated as an 54950
improper transfer of resources. 54951

(c) Cash distributions to the applicant or recipient shall be 54952
counted as unearned income. All other distributions from the trust 54953
shall be treated as provided in rules adopted by the department of 54954
job and family services governing in-kind income. 54955

(d) Transfers of assets to a special needs trust shall not be 54956
treated as an improper transfer of resources. Assets held prior to 54957
the transfer to the trust shall be considered as countable assets 54958
or countable income or countable assets and income. 54959

<u>(2)(a) A qualifying income trust that meets all of the</u>	54960
<u>following requirements:</u>	54961
<u>(i) The trust is composed only of pension, social security,</u>	54962
<u>and other income to the applicant or recipient, including</u>	54963
<u>accumulated interest in the trust.</u>	54964
<u>(ii) The income is received by the individual and the right</u>	54965
<u>to receive the income is not assigned or transferred to the trust.</u>	54966
<u>(iii) The trust requires that on the death of the applicant</u>	54967
<u>or recipient the state will receive all amounts remaining in the</u>	54968
<u>trust up to an amount equal to the total amount of medical</u>	54969
<u>assistance paid on behalf of the applicant or recipient.</u>	54970
<u>(b) No resources shall be used to establish or augment the</u>	54971
<u>trust.</u>	54972
<u>(c) If an applicant or recipient has irrevocably transferred</u>	54973
<u>or assigned the applicant's or recipient's right to receive income</u>	54974
<u>to the trust, the trust shall not be considered a qualifying</u>	54975
<u>income trust by the county department of job and family services.</u>	54976
<u>(d) Income placed in a qualifying income trust shall not be</u>	54977
<u>counted in determining an applicant's or recipient's eligibility</u>	54978
<u>for medical assistance. The recipient of the funds may place any</u>	54979
<u>income directly into a qualifying income trust without those funds</u>	54980
<u>adversely affecting the applicant's or recipient's eligibility for</u>	54981
<u>medical assistance. Income generated by the trust that remains in</u>	54982
<u>the trust shall not be considered as income to the applicant or</u>	54983
<u>recipient.</u>	54984
<u>(e) All income placed in a qualifying income trust shall be</u>	54985
<u>combined with any countable income not placed in the trust to</u>	54986
<u>arrive at a base income figure to be used for spend down</u>	54987
<u>calculations.</u>	54988
<u>(f) The base income figure shall be used for post-eligibility</u>	54989

deductions, including personal needs allowance, monthly income allowance, family allowance, and medical expenses not subject to third party payment. Any income remaining shall be used toward payment of patient liability. Payments made from a qualifying income trust shall not be combined with the base income figure for post-eligibility calculations.

(g) The base income figure shall be used when determining the spend down budget for the applicant or recipient. Any income remaining after allowable deductions are permitted as provided under rules adopted by the department of job and family services shall be considered the applicant's or recipient's spend down liability.

(3)(a) A pooled trust that meets all of the following requirements:

(i) The trust contains the assets of the applicant or recipient of any age who is disabled as defined in rules adopted by the department of job and family services.

(ii) The trust is established and managed by a nonprofit association.

(iii) A separate account is maintained for each beneficiary of the trust but, for purposes of investment and management of funds, the trust pools the funds in these accounts.

(iv) Accounts in the trust are established by the applicant or recipient, the applicant's or recipient's parent, grandparent, or legal guardian, or a court solely for the benefit of individuals who are disabled.

(v) The trust requires that, to the extent that any amounts remaining in the beneficiary's account on the death of the beneficiary are not retained by the trust, the trust pay to the state the amounts remaining in the trust up to an amount equal to the total amount of medical assistance paid on behalf of the

beneficiary. 55021

(b) 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. 55022
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(c) Transfers of assets to a pooled trust shall not be treated as an improper transfer of resources. Assets held prior to the transfer to the trust shall be considered as countable assets, countable income, or countable assets and income. 55026
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(4) A supplemental services trust that meets the requirements of section 1339.51 of the Revised Code and to which all of the following apply: 55030
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(a) A person may establish a supplemental services trust pursuant to section 1339.51 of the Revised Code only for another person who is eligible to receive services through one of the following agencies: 55033
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(i) The department of mental retardation and developmental disabilities; 55037
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(ii) A county board of mental retardation and developmental disabilities; 55039
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(iii) The department of mental health; 55041

(iv) A board of alcohol, drug addiction, and mental health services. 55042
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(b) A county department of job and family services shall not determine eligibility for another agency's program. An applicant or recipient shall do one of the following: 55044
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(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; 55047
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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. 55051
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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. 55055
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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. 55060
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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. 55063
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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. 55069
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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 apply: 55075
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(a) The trust is created by a person other than the applicant or recipient. 55079
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(b) The trust names the applicant or recipient as a beneficiary. 55081
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(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. 55083
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(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. 55086
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(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: 55092
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(a) A provision that prohibits the trustee from making payments that would supplant or replace medical assistance or other public assistance; 55095
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(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; 55098
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(c) A provision that attempts to prevent the trust or its corpus or principal from being counted as an available resource. 55102
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(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: 55104
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(a) If a trust contains a clear statement requiring the trustee to preserve a portion of the trust for another beneficiary or remainderman, that portion of the trust shall not be counted as an available resource. Terms of a trust that grant discretion to 55107
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preserve a portion of the trust shall not qualify as a clear 55111
statement requiring the trustee to preserve a portion of the 55112
trust. 55113

(b) If a trust contains a clear statement requiring the 55114
trustee to use a portion of the trust for a purpose other than 55115
medical care, care, comfort, maintenance, welfare, or general well 55116
being of the applicant or recipient, that portion of the trust 55117
shall not be counted as an available resource. Terms of a trust 55118
that grant discretion to limit the use of a portion of the trust 55119
shall not qualify as a clear statement requiring the trustee to 55120
use a portion of the trust for a particular purpose. 55121

(c) If a trust contains a clear statement limiting the 55122
trustee to making fixed periodic payments, the trust shall not be 55123
counted as an available resource and payments shall be treated in 55124
accordance with rules adopted by the department of job and family 55125
services governing income. Terms of a trust that grant discretion 55126
to limit payments shall not qualify as a clear statement requiring 55127
the trustee to make fixed periodic payments. 55128

(d) If a trust contains a clear statement that requires the 55129
trustee to terminate the trust if it is counted as an available 55130
resource, the trust shall not be counted as an available resource. 55131
Terms of a trust that grant discretion to terminate the trust do 55132
not qualify as a clear statement requiring the trustee to 55133
terminate the trust. 55134

(e) If a person obtains a judgment from a court of competent 55135
jurisdiction that expressly prevents the trustee from using part 55136
or all of the trust for the medical care, care, comfort, 55137
maintenance, welfare, or general well being of the applicant or 55138
recipient, the trust or that portion of the trust subject to the 55139
court order shall not be counted as a resource. 55140

(f) If a trust is specifically exempt from being counted as 55141

an available resource by a provision of the Revised Code, rules, or federal law, the trust shall not be counted as a resource. 55142
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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. 55144
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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. 55149
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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. 55156
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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. 55160
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Sec. 5111.16. (A) As part of the medicaid program, the 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 55169
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services for waivers of federal medicaid requirements that would 55173
otherwise be violated in the implementation of the system. 55174

The department shall implement the care management system in 55175
some or all counties and shall designate the medicaid recipients 55176
who are required or permitted to participate in the system. In the 55177
case of individuals who receive medicaid on the basis of being 55178
aged, blind, or disabled, as specified in division (A)(2) of 55179
section 5111.01 of the Revised Code, all of the following apply: 55180

(1) Not later than July 1, 2004, the department shall 55181
designate a portion of the individuals for participation in the 55182
care management system. 55183

(2) Individuals shall not be designated for participation 55184
unless they reside in a county in which individuals who receive 55185
medicaid on another basis have been designated for participation. 55186

(3) If, pursuant to division (B)(2) of this section, the 55187
department requires or permits the individuals to obtain health 55188
care services through managed care organizations, the department 55189
shall select the managed care organizations to be used by the 55190
individuals through a request for proposals process. The 55191
department shall issue its initial request for proposals not later 55192
than December 31, 2003. 55193

(4) Individuals shall not be required to obtain health care 55194
services through managed care organizations unless they are at 55195
least twenty-one years of age. 55196

(B) Under the care management system, the department may do 55197
both of the following: 55198

(1) Require or permit participants in the system to obtain 55199
health care services from providers designated by the department; 55200

(2) Subject to division (A)(4) of this section, require or 55201
permit participants in the system to obtain health care services 55202

through managed care organizations under contract with the 55203
department pursuant to section 5111.17 of the Revised Code. 55204

(C) The director of job and family services may adopt rules 55205
in accordance with Chapter 119. of the Revised Code to implement 55206
this section. 55207

Sec. 5111.161. (A) As used in this section, "chronically ill 55208
child" means an individual who is not more than twenty-one years 55209
of age and meets the conditions specified in division (A)(2) of 55210
section 5111.01 of the Revised Code to be eligible for medicaid on 55211
the basis of being blind or disabled. 55212

(B) The department of job and family services shall develop a 55213
pilot program under which chronically ill children are included 55214
among the medicaid recipients who are required to participate in 55215
the care management system established under section 5111.16 of 55216
the Revised Code. The pilot program shall be implemented not later 55217
than October 1, 2003. The department shall operate the program 55218
until October 1, 2005, except that the department shall cease 55219
operation of the program before that date if either of the 55220
following is the case: 55221

(1) The department determines that requiring chronically ill 55222
children to participate in the care management system is not a 55223
cost-effective means of providing medicaid services; 55224

(2) The combined state and federal cost of operating the 55225
program reaches three million dollars. 55226

(C) The department shall ensure that the pilot program is 55227
operated in Hamilton county, Muskingum county, and at least one 55228
other county selected by the department. The department may extend 55229
its operation of the program into the areas surrounding the 55230
counties in which the program is operated. 55231

(D) The purpose of the pilot program shall be to determine 55232

whether occurrences of acute illnesses and hospitalizations among 55233
chronically ill children can be prevented or reduced by 55234
establishing a medical home for the children where care is 55235
administered proactively and in a manner that is accessible, 55236
continuous, family-centered, coordinated, and compassionate. In 55237
establishing a medical home for a chronically ill child, all of 55238
the following apply: 55239

(1) A physician shall serve as the care coordinator for the 55240
child. The care coordinator may be engaged in practice as a 55241
pediatrician certified in pediatrics by a medical specialty board 55242
of the American medical association or American osteopathic 55243
association, a pediatric subspecialist, or a provider for the 55244
bureau of children with medical handicaps within the department of 55245
health. If the physician is in a group practice, any member of the 55246
group practice may serve as the child's care coordinator. The 55247
duties of the care coordinator may be performed by a person acting 55248
under the supervision of the care coordinator. 55249

(2) The child may receive care from any health care 55250
practitioner appropriate to the child's needs, but the care 55251
coordinator shall direct and oversee the child's overall care. 55252

(3) The care coordinator shall establish a relationship of 55253
mutual responsibility with the child's parents or other persons 55254
who are responsible for the child. Under this relationship, the 55255
care coordinator shall commit to developing a long-term disease 55256
prevention strategy and providing disease management and education 55257
services, while the child's parents or other persons who are 55258
responsible for the child shall commit to participate fully in 55259
implementing the child's care management plan. 55260

(4) The medicaid program shall provide reimbursement for the 55261
reasonable and necessary costs of the services associated with 55262
care coordination, including, but not limited to, case management, 55263
care plan oversight, preventive care, health and behavioral care 55264

assessment and intervention, and any service modifier that 55265
reflects the provision of prolonged services or additional care. 55266

(E) The department shall conduct an evaluation of the pilot 55267
program's effectiveness. As part of the evaluation, the department 55268
shall maintain statistics on physician expenditures, hospital 55269
expenditures, preventable hospitalizations, and other matters the 55270
department considers necessary to conduct the evaluation. 55271

(F) The department shall adopt rules in accordance with 55272
Chapter 119. of the Revised Code as necessary to implement this 55273
section. The rules shall specify standards and procedures to be 55274
used in designating the chronically ill children who are required 55275
to participate in the pilot program. 55276

Sec. 5111.17. ~~(A) On receipt of a waiver from the United~~ 55277
~~States department of health and human services of any federal~~ 55278
~~requirement that would otherwise be violated, the~~ The department 55279
of job and family services may establish in some or all counties a 55280
managed care system under which designated recipients of medical 55281
assistance are required to obtain health care services from 55282
providers designated by the department. 55283

~~(B) The department may enter into contracts with managed care~~ 55284
~~organizations to authorize, including health insuring~~ 55285
corporations, under which the organizations are authorized to 55286
provide, or arrange for the provision of, health care services to 55287
medical assistance recipients ~~participating in a~~ who are required 55288
or permitted to obtain health care services through managed care 55289
organizations as part of the care management system established 55290
under ~~this~~ section 5111.16 of the Revised Code. 55291

~~(C) For the purpose of determining the amount the department~~ 55292
~~pays hospitals under section 5112.08 of the Revised Code and the~~ 55293
~~amount of disproportionate share hospital payments paid by the~~ 55294
~~medicare program established under Title XVIII of the "Social~~ 55295

~~Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, 55296
each managed care organization under contract with the department 55297
to provide hospital services to participating medical assistance 55298
recipients shall keep detailed records for each hospital with 55299
which it contracts about the cost to the hospital of providing the 55300
care, payments made by the organization to the hospital for the 55301
care, utilization of hospital services by medical assistance 55302
recipients participating in managed care, and other utilization 55303
data required by the department. 55304~~

~~(D)~~(B) The director of job and family services may adopt 55305
rules in accordance with Chapter 119. of the Revised Code to 55306
implement this section. 55307

Sec. 5111.171. (A) The department of job and family services 55308
may provide financial incentive awards to managed care 55309
organizations ~~that~~ under contract with the department ~~under~~ 55310
pursuant to section 5111.17 of the Revised Code ~~to provide health~~ 55311
~~care services to participating medical assistance recipients and~~ 55312
that meet or exceed performance standards specified in provider 55313
agreements or rules adopted by the department. The department may 55314
specify in a contract with a managed care organization the amounts 55315
of financial incentive awards, methodology for distributing 55316
awards, types of awards, and standards for administration by the 55317
department. 55318

(B) There is hereby created in the state treasury the health 55319
care compliance fund. The fund shall consist of all fines imposed 55320
on and collected from managed care organizations for failure to 55321
~~nmeet~~ meet performance standards or other requirements specified 55322
in provider agreements or rules adopted by the department. All 55323
investment earnings of the fund shall be credited to the fund. 55324
Moneys credited to the fund shall be used solely for the following 55325
purposes: 55326

(1) To reimburse managed care organizations that have paid 55327
fines for failures to meet performance standards or other 55328
requirements and that have come into compliance by meeting 55329
requirements as specified by the department; 55330

(2) To provide financial incentive awards established 55331
pursuant to division (A) of this section and specified in 55332
contracts between managed care organizations and the department. 55333

Sec. 5111.172. When contracting under section 5111.17 of the 55334
Revised Code with a managed care organization that is a health 55335
insuring corporation, the department of job and family services 55336
may require the health insuring corporation to provide coverage of 55337
prescription drugs for medicaid recipients enrolled in the health 55338
insuring corporation. In providing the required coverage, the 55339
health insuring corporation may, subject to the department's 55340
approval, use strategies for the management of drug utilization. 55341

Sec. 5111.173. The department of job and family services 55342
shall appoint a temporary manager for a managed care organization 55343
under contract with the department pursuant to section 5111.17 of 55344
the Revised Code if the department determines that the managed 55345
care organization has repeatedly failed to meet substantive 55346
requirements specified in section 1903(m) of the "Social Security 55347
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396b(m), as amended; section 55348
1932 of the Social Security Act, 42 U.S.C. 1396u-2, as amended; or 55349
42 C.F.R. 438 Part I. The appointment of a temporary manager does 55350
not preclude the department from imposing other sanctions 55351
available to the department against the managed care organization. 55352

The managed care organization shall pay all costs of having 55353
the temporary manager perform the temporary manager's duties, 55354
including all costs the temporary manager incurs in performing 55355
those duties. If the temporary manager incurs costs or liabilities 55356

on behalf of the managed care organization, the managed care organization shall pay those costs and be responsible for those liabilities. 55357
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The appointment of a temporary manager is not subject to Chapter 119. of the Revised Code, but the managed care organization may request a reconsideration of the appointment. Reconsiderations shall be requested and conducted in accordance with rules the director of job and family services shall adopt in accordance with Chapter 119. of the Revised Code. 55360
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The appointment of a temporary manager does not cause the managed care organization to lose the right to appeal, in accordance with Chapter 119. of the Revised Code, any proposed termination or any decision not to renew the managed care organization's medicaid provider agreement or the right to initiate the sale of the managed care organization or its assets. 55366
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In addition to the rules required to be adopted under this section, the director may adopt any other rules necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. 55372
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Sec. 5111.174. The department of job and family services may disenroll some or all medicaid recipients enrolled in a managed care organization under contract with the department pursuant to section 5111.17 of the Revised Code if the department proposes to terminate or not to renew the contract and determines that the recipients' access to medically necessary services is jeopardized by the proposal to terminate or not to renew the contract. The disenrollment is not subject to Chapter 119. of the Revised Code, but the managed care organization may request a reconsideration of the disenrollment. Reconsiderations shall be requested and conducted in accordance with rules the director of job and family services shall adopt in accordance with Chapter 119. of the 55376
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Revised Code. The request for, or conduct of, a reconsideration 55388
regarding a proposed disenrollment shall not delay the 55389
disenrollment. 55390

In addition to the rules required to be adopted under this 55391
section, the director may adopt any other rules necessary to 55392
implement this section. The rules shall be adopted in accordance 55393
with Chapter 119. of the Revised Code. 55394

Sec. 5111.175. For the purpose of determining the amount the 55395
department of job and family services pays hospitals under section 55396
5112.08 of the Revised Code and the amount of disproportionate 55397
share hospital payments paid by the medicare program established 55398
under Title XVIII of the "Social Security Act," 79 Stat. 286 55399
(1965), 42 U.S.C. 1396n, as amended, a managed care organization 55400
under contract with the department pursuant to section 5111.17 of 55401
the Revised Code authorizing the organization to provide, or 55402
arrange for the provision of, hospital services to medicaid 55403
recipients shall keep detailed records for each hospital with 55404
which it contracts about the cost to the hospital of providing the 55405
services, payments made by the organization to the hospital for 55406
the services, utilization of hospital services by medicaid 55407
recipients enrolled in the organization, and other utilization 55408
data required by the department. 55409

Sec. 5111.20. As used in sections 5111.20 to ~~5111.32~~ 5111.34 55410
of the Revised Code: 55411

(A) "Allowable costs" are those costs determined by the 55412
department of job and family services to be reasonable and do not 55413
include fines paid under sections 5111.35 to 5111.61 and section 55414
5111.99 of the Revised Code. 55415

(B) "Capital costs" means costs of ownership and nonextensive 55416
renovation. 55417

(1) "Cost of ownership" means the actual expense incurred for	55418
all of the following:	55419
(a) Depreciation and interest on any capital assets that cost	55420
five hundred dollars or more per item, including the following:	55421
(i) Buildings;	55422
(ii) Building improvements that are not approved as	55423
nonextensive renovations under section 5111.25 or 5111.251 of the	55424
Revised Code;	55425
(iii) Equipment;	55426
(iv) Extensive renovations;	55427
(v) Transportation equipment.	55428
(b) Amortization and interest on land improvements and	55429
leasehold improvements;	55430
(c) Amortization of financing costs;	55431
(d) Except as provided in division (I) of this section, lease	55432
and rent of land, building, and equipment.	55433
The costs of capital assets of less than five hundred dollars	55434
per item may be considered costs of ownership in accordance with a	55435
provider's practice.	55436
(2) "Costs of nonextensive renovation" means the actual	55437
expense incurred for depreciation or amortization and interest on	55438
renovations that are not extensive renovations.	55439
(C) "Capital lease" and "operating lease" shall be construed	55440
in accordance with generally accepted accounting principles.	55441
(D) "Case-mix score" means the measure determined under	55442
section 5111.231 of the Revised Code of the relative direct-care	55443
resources needed to provide care and habilitation to a resident of	55444
a nursing facility or intermediate care facility for the mentally	55445
retarded.	55446

(E) "Date of licensure," for a facility originally licensed as a nursing home under Chapter 3721. of the Revised Code, means the date specific beds were originally licensed as nursing home beds under that chapter, regardless of whether they were subsequently licensed as residential facility beds under section 5123.19 of the Revised Code. For a facility originally licensed as a residential facility under section 5123.19 of the Revised Code, "date of licensure" means the date specific beds were originally licensed as residential facility beds under that section.

(1) If nursing home beds licensed under Chapter 3721. of the Revised Code or residential facility beds licensed under section 5123.19 of the Revised Code were not required by law to be licensed when they were originally used to provide nursing home or residential facility services, "date of licensure" means the date the beds first were used to provide nursing home or residential facility services, regardless of the date the present provider obtained licensure.

(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;	55478 55479
(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 (G)(2) of this section, other persons holding degrees qualifying them to provide therapy;	55480 55481 55482 55483 55484 55485 55486 55487
(c) Costs of purchased nursing services;	55488
(d) Costs of quality assurance;	55489
(e) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the director of job and family services in accordance with Chapter 119. of the Revised Code, for personnel listed in divisions (G)(1)(a), (b), and (d) of this section;	55490 55491 55492 55493 55494 55495
(f) Costs of consulting and management fees related to direct care;	55496 55497
(g) Allocated direct care home office costs.	55498
(2) In addition to the costs specified in division (G)(1) of this section, for intermediate care facilities for the mentally retarded only, direct care costs include both of the following:	55499 55500 55501
(a) Costs for physical therapists and physical therapy assistants, occupational therapists and occupational therapy assistants, speech therapists, and audiologists;	55502 55503 55504
(b) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in	55505 55506 55507

rules adopted by the director of job and family services in 55508
accordance with Chapter 119. of the Revised Code, for personnel 55509
listed in division (G)(2)(a) of this section. 55510

(3) Costs of other direct-care resources that are specified 55511
as direct care costs in rules adopted by the director of job and 55512
family services in accordance with Chapter 119. of the Revised 55513
Code. 55514

(H) "Fiscal year" means the fiscal year of this state, as 55515
specified in section 9.34 of the Revised Code. 55516

(I) "Indirect care costs" means all reasonable costs other 55517
than direct care costs, other protected costs, or capital costs. 55518
"Indirect care costs" includes but is not limited to costs of 55519
habilitation supplies, pharmacy consultants, medical and 55520
habilitation records, program supplies, incontinence supplies, 55521
food, enterals, dietary supplies and personnel, laundry, 55522
housekeeping, security, administration, liability insurance, 55523
bookkeeping, purchasing department, human resources, 55524
communications, travel, dues, license fees, subscriptions, home 55525
office costs not otherwise allocated, legal services, accounting 55526
services, minor equipment, maintenance and repairs, help-wanted 55527
advertising, informational advertising, consumer satisfaction 55528
survey fees paid under section 173.55 of the Revised Code, 55529
start-up costs, organizational expenses, other interest, property 55530
insurance, employee training and staff development, employee 55531
benefits, payroll taxes, and workers' compensation premiums or 55532
costs for self-insurance claims and related costs as specified in 55533
rules adopted by the director of job and family services in 55534
accordance with Chapter 119. of the Revised Code, for personnel 55535
listed in this division. Notwithstanding division (B)(1) of this 55536
section, "indirect care costs" also means the cost of equipment, 55537
including vehicles, acquired by operating lease executed before 55538
December 1, 1992, if the costs are reported as administrative and 55539

general costs on the facility's cost report for the cost reporting 55540
period ending December 31, 1992. 55541

(J) "Inpatient days" means all days during which a resident, 55542
regardless of payment source, occupies a bed in a nursing facility 55543
or intermediate care facility for the mentally retarded that is 55544
included in the facility's certified capacity under Title XIX of 55545
the "Social Security Act," 49 Stat. 610 (1935), 42 U.S.C.A. 301, 55546
as amended. Therapeutic or hospital leave days for which payment 55547
is made under section 5111.33 of the Revised Code are considered 55548
inpatient days proportionate to the percentage of the facility's 55549
per resident per day rate paid for those days. 55550

(K) "Intermediate care facility for the mentally retarded" 55551
means an intermediate care facility for the mentally retarded 55552
certified as in compliance with applicable standards for the 55553
medical assistance program by the director of health in accordance 55554
with Title XIX of the "Social Security Act." 55555

(L) "Maintenance and repair expenses" means, except as 55556
provided in division ~~(X)~~(Y)(2) of this section, expenditures that 55557
are necessary and proper to maintain an asset in a normally 55558
efficient working condition and that do not extend the useful life 55559
of the asset two years or more. "Maintenance and repair expenses" 55560
includes but is not limited to the cost of ordinary repairs such 55561
as painting and wallpapering. 55562

(M) "Nursing facility" means a facility, or a distinct part 55563
of a facility, that is certified as a nursing facility by the 55564
director of health in accordance with Title XIX of the "Social 55565
Security Act," and is not an intermediate care facility for the 55566
mentally retarded. "Nursing facility" includes a facility, or a 55567
distinct part of a facility, that is certified as a nursing 55568
facility by the director of health in accordance with Title XIX of 55569
the "Social Security Act," and is certified as a skilled nursing 55570
facility by the director in accordance with Title XVIII of the 55571

"Social Security Act." 55572

(N) "Operator" means the person or government entity 55573
responsible for the daily operating and management decisions for a 55574
nursing facility or intermediate care facility for the mentally 55575
retarded. 55576

(O) "Other protected costs" means costs for medical supplies; 55577
real estate, franchise, and property taxes; natural gas, fuel oil, 55578
water, electricity, sewage, and refuse and hazardous medical waste 55579
collection; allocated other protected home office costs; and any 55580
additional costs defined as other protected costs in rules adopted 55581
by the director of job and family services in accordance with 55582
Chapter 119. of the Revised Code. 55583

~~(O)~~(P) "Owner" means any person or government entity that has 55584
at least five per cent ownership or interest, either directly, 55585
indirectly, or in any combination, in any of the following 55586
regarding a nursing facility or intermediate care facility for the 55587
mentally retarded: 55588

(a) The land on which the facility is located; 55589

(b) The structure in which the facility is located; 55590

(c) Any mortgage, contract for deed, or other obligation 55591
secured in whole or in part by the land or structure on or in 55592
which the facility is located; 55593

(d) Any lease or sublease of the land or structure on or in 55594
which the facility is located. 55595

(2) "Owner" does not mean a holder of a debenture or bond 55596
related to the nursing facility or intermediate care facility for 55597
the mentally retarded and purchased at public issue or a regulated 55598
lender that has made a loan related to the facility unless the 55599
holder or lender operates the facility directly or through a 55600
subsidiary. 55601

~~(P)~~(Q) "Patient" includes "resident." 55602

~~(Q)~~(R) Except as provided in divisions ~~(Q)~~(R)(1) and (2) of 55603
this section, "per diem" means a nursing facility's or 55604
intermediate care facility for the mentally retarded's actual, 55605
allowable costs in a given cost center in a cost reporting period, 55606
divided by the facility's inpatient days for that cost reporting 55607
period. 55608

(1) When calculating indirect care costs for the purpose of 55609
establishing rates under section 5111.24 or 5111.241 of the 55610
Revised Code, "per diem" means a facility's actual, allowable 55611
indirect care costs in a cost reporting period divided by the 55612
greater of the facility's inpatient days for that period or the 55613
number of inpatient days the facility would have had during that 55614
period if its occupancy rate had been eighty-five per cent. 55615

(2) When calculating capital costs for the purpose of 55616
establishing rates under section 5111.25 or 5111.251 of the 55617
Revised Code, "per diem" means a facility's actual, allowable 55618
capital costs in a cost reporting period divided by the greater of 55619
the facility's inpatient days for that period or the number of 55620
inpatient days the facility would have had during that period if 55621
its occupancy rate had been ninety-five per cent. 55622

~~(R)~~(S) "Provider" means a person or government entity that 55623
operates a nursing facility or intermediate care facility for the 55624
mentally retarded under a provider agreement. 55625

~~(S)~~(T) "Provider agreement" means a contract between the 55626
department of job and family services and a nursing facility or 55627
intermediate care facility for the mentally retarded for the 55628
provision of nursing facility services or intermediate care 55629
facility services for the mentally retarded under the medical 55630
assistance program. 55631

~~(T)~~(U) "Purchased nursing services" means services that are 55632

provided in a nursing facility by registered nurses, licensed 55633
practical nurses, or nurse aides who are not employees of the 55634
facility. 55635

~~(U)~~(V) "Reasonable" means that a cost is an actual cost that 55636
is appropriate and helpful to develop and maintain the operation 55637
of patient care facilities and activities, including normal 55638
standby costs, and that does not exceed what a prudent buyer pays 55639
for a given item or services. Reasonable costs may vary from 55640
provider to provider and from time to time for the same provider. 55641

~~(V)~~(W) "Related party" means an individual or organization 55642
that, to a significant extent, has common ownership with, is 55643
associated or affiliated with, has control of, or is controlled 55644
by, the provider. 55645

(1) An individual who is a relative of an owner is a related 55646
party. 55647

(2) Common ownership exists when an individual or individuals 55648
possess significant ownership or equity in both the provider and 55649
the other organization. Significant ownership or equity exists 55650
when an individual or individuals possess five per cent ownership 55651
or equity in both the provider and a supplier. Significant 55652
ownership or equity is presumed to exist when an individual or 55653
individuals possess ten per cent ownership or equity in both the 55654
provider and another organization from which the provider 55655
purchases or leases real property. 55656

(3) Control exists when an individual or organization has the 55657
power, directly or indirectly, to significantly influence or 55658
direct the actions or policies of an organization. 55659

(4) An individual or organization that supplies goods or 55660
services to a provider shall not be considered a related party if 55661
all of the following conditions are met: 55662

(a) The supplier is a separate bona fide organization. 55663

(b) A substantial part of the supplier's business activity of 55664
the type carried on with the provider is transacted with others 55665
than the provider and there is an open, competitive market for the 55666
types of goods or services the supplier furnishes. 55667

(c) The types of goods or services are commonly obtained by 55668
other nursing facilities or intermediate care facilities for the 55669
mentally retarded from outside organizations and are not a basic 55670
element of patient care ordinarily furnished directly to patients 55671
by the facilities. 55672

(d) The charge to the provider is in line with the charge for 55673
the goods or services in the open market and no more than the 55674
charge made under comparable circumstances to others by the 55675
supplier. 55676

~~(W)~~(X) "Relative of owner" means an individual who is related 55677
to an owner of a nursing facility or intermediate care facility 55678
for the mentally retarded by one of the following relationships: 55679

- (1) Spouse; 55680
- (2) Natural parent, child, or sibling; 55681
- (3) Adopted parent, child, or sibling; 55682
- (4) Step-parent, step-child, step-brother, or step-sister; 55683
- (5) Father-in-law, mother-in-law, son-in-law, 55684
daughter-in-law, brother-in-law, or sister-in-law; 55685
- (6) Grandparent or grandchild; 55686
- (7) Foster caregiver, foster child, foster brother, or foster 55687
sister. 55688

~~(X)~~(Y) "Renovation" and "extensive renovation" mean: 55689

- (1) Any betterment, improvement, or restoration of a nursing 55690
facility or intermediate care facility for the mentally retarded 55691
started before July 1, 1993, that meets the definition of a 55692

renovation or extensive renovation established in rules adopted by 55693
the director of job and family services in effect on December 22, 55694
1992. 55695

(2) In the case of betterments, improvements, and 55696
restorations of nursing facilities and intermediate care 55697
facilities for the mentally retarded started on or after July 1, 55698
1993: 55699

(a) "Renovation" means the betterment, improvement, or 55700
restoration of a nursing facility or intermediate care facility 55701
for the mentally retarded beyond its current functional capacity 55702
through a structural change that costs at least five hundred 55703
dollars per bed. A renovation may include betterment, improvement, 55704
restoration, or replacement of assets that are affixed to the 55705
building and have a useful life of at least five years. A 55706
renovation may include costs that otherwise would be considered 55707
maintenance and repair expenses if they are an integral part of 55708
the structural change that makes up the renovation project. 55709
"Renovation" does not mean construction of additional space for 55710
beds that will be added to a facility's licensed or certified 55711
capacity. 55712

(b) "Extensive renovation" means a renovation that costs more 55713
than sixty-five per cent and no more than eighty-five per cent of 55714
the cost of constructing a new bed and that extends the useful 55715
life of the assets for at least ten years. 55716

For the purposes of division ~~(X)~~(Y)(2) of this section, the 55717
cost of constructing a new bed shall be considered to be forty 55718
thousand dollars, adjusted for the estimated rate of inflation 55719
from January 1, 1993, to the end of the calendar year during which 55720
the renovation is completed, using the consumer price index for 55721
shelter costs for all urban consumers for the north central 55722
region, as published by the United States bureau of labor 55723
statistics. 55724

The department of job and family services may treat a 55725
renovation that costs more than eighty-five per cent of the cost 55726
of constructing new beds as an extensive renovation if the 55727
department determines that the renovation is more prudent than 55728
construction of new beds. 55729

Sec. 5111.206. (A) As used in this section, "nursing 55730
facility" has the same meaning as in section 5111.20 of the 55731
Revised Code. 55732

(B) To the extent funds are available, the director of job 55733
and family services may establish the Ohio access success project 55734
to help medicaid recipients make the transition from residing in a 55735
nursing facility to residing in a community setting. The program 55736
may be established as a separate non-medicaid program or 55737
integrated into a new or existing Medicaid home and 55738
community-based services program established under a waiver 55739
approved by the federal centers for medicare and medicaid 55740
services. The department may limit the number of program 55741
participants. 55742

To be eligible for benefits under the project, a medicaid 55743
recipient must satisfy all of the following requirements: 55744

(1) Be a recipient of medicaid-funded nursing facility care, 55745
at the time of applying for the benefits; 55746

(2) Have resided continuously in a nursing facility since 55747
January 1, 2002; 55748

(3) Need the level of care provided by nursing facilities; 55749

(4) For participation in a non-medicaid program, receive 55750
services to remain in the community with a projected cost not 55751
exceeding eighty per cent of the average monthly medicaid cost of 55752
a medicaid recipient in a nursing facility; 55753

(5) For participation in a program established under a home 55754

and community-based services waiver, meet waiver enrollment 55755
criteria. 55756

(C) If the director establishes the Ohio access success 55757
project, the benefits provided under the project may include 55758
payment of all of the following: 55759

(1) The first month's rent in a community setting; 55760

(2) Rental deposits; 55761

(3) Utility deposits; 55762

(4) Moving expenses; 55763

(5) Other expenses not covered by the medicaid program that 55764
facilitate a medicaid recipient's move from a nursing facility to 55765
a community setting. 55766

(D) If the project is established as a non-medicaid program, 55767
no participant may receive more than two thousand dollars worth of 55768
benefits under the project. 55769

(E) The director may submit a request to the United States 55770
secretary of health and human services pursuant to section 1915 of 55771
the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, 55772
as amended, to create a medicaid home and community-based services 55773
waiver programs to serve individuals who meet the criteria for 55774
participation in the Ohio access success project. The director may 55775
adopt rules under Chapter 119. of the Revised Code for the 55776
administration and operation of the program. 55777

Sec. 5111.21. (A) Subject to sections 5111.01, 5111.011, 55778
5111.012, ~~and~~ 5111.02, and 5111.6810 of the Revised Code, the 55779
department of job and family services shall pay, as provided in 55780
sections 5111.20 to 5111.32 of the Revised Code, the reasonable 55781
costs of services provided to an eligible medicaid recipient by an 55782
eligible nursing facility or intermediate care facility for the 55783
mentally retarded. 55784

In order to be eligible for medical assistance payments, an operator of a nursing facility or intermediate care facility for the mentally retarded shall do all of the following:

(1) Enter into a provider agreement with the department as provided in section 5111.22, 5111.671, or 5111.672 of the Revised Code;

(2) Apply for and maintain a valid license to operate if so required by law;

(3) Comply with all applicable state and federal laws and rules.

(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.~~

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:

(A) The department agrees to:

~~(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. 55815

~~(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 rule or proposed rule in revised form under division (D) of section 111.15 or division (B) of section 119.03 of the Revised Code, the department shall provide the facility with one copy of such rule. In the case of a rescission or proposed rescission of a rule, the department may provide the rule number and title instead of the rules rescinded or proposed to be rescinded.~~ 55816
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(B) The ~~provider~~ operator agrees to: 55825

(1) Maintain eligibility as provided in section 5111.21 of the Revised Code; 55826
55827

(2) Keep records relating to a cost reporting period for the greater of seven years after the cost report is filed or, if the department issues an audit report in accordance with division (B) of section 5111.27 of the Revised Code, six years after all appeal rights relating to the audit report are exhausted; 55828
55829
55830
55831
55832

(3) File reports as required by the department; 55833

(4) Open all records relating to the costs of its services for inspection and audit by the department; 55834
55835

(5) Open its premises for inspection by the department, the department of health, and any other state or local authority having authority to inspect; 55836
55837
55838

(6) Supply to the department such information as it requires concerning the facility's services to patients who are or are eligible to be medicaid recipients; 55839
55840
55841

(7) Comply with section 5111.31 of the Revised Code. 55842

The provider agreement may contain other provisions that are consistent with law and considered necessary by the department. 55843
55844

A provider agreement shall be effective for no longer than 55845
twelve months, except that if federal statute or regulations 55846
authorize a longer term, it may be effective for a longer term so 55847
authorized. A provider agreement may be renewed only if the 55848
facility is certified by the department of health for 55849
participation in the medicaid program. 55850

The department of job and family services, in accordance with 55851
rules adopted by the director pursuant to Chapter 119. of the 55852
Revised Code, may elect not to enter into, not to renew, or to 55853
terminate a provider agreement when the department determines that 55854
such an agreement would not be in the best interests of the 55855
recipients or of the state. 55856

Sec. 5111.222. An operator of a nursing facility or 55857
intermediate care facility for the mentally retarded may enter 55858
into provider agreements for more than one nursing facility or 55859
intermediate care facility for the mentally retarded. 55860

Sec. 5111.25. (A) The department of job and family services 55861
shall pay each eligible nursing facility a per resident per day 55862
rate for its reasonable capital costs established prospectively 55863
each fiscal year for each facility. Except as otherwise provided 55864
in sections 5111.20 to 5111.32 of the Revised Code, the rate shall 55865
be based on the facility's capital costs for the calendar year 55866
preceding the fiscal year in which the rate will be paid. The rate 55867
shall equal the sum of divisions (A)(1) to (3) of this section: 55868

(1) The lesser of the following: 55869

(a) Eighty-eight and sixty-five one-hundredths per cent of 55870
the facility's desk-reviewed, actual, allowable, per diem cost of 55871
ownership and eighty-five per cent of the facility's actual, 55872
allowable, per diem cost of nonextensive renovation determined 55873
under division (F) of this section; 55874

(b) Eighty-eight and sixty-five one-hundredths per cent of	55875
the following limitation:	55876
(i) For the fiscal year beginning July 1, 1993, sixteen	55877
dollars per resident day;	55878
(ii) For the fiscal year beginning July 1, 1994, sixteen	55879
dollars per resident day, adjusted to reflect the rate of	55880
inflation for the twelve-month period beginning July 1, 1992, and	55881
ending June 30, 1993, using the consumer price index for shelter	55882
costs for all urban consumers for the north central region,	55883
published by the United States bureau of labor statistics;	55884
(iii) For subsequent fiscal years, the limitation in effect	55885
during the previous fiscal year, adjusted to reflect the rate of	55886
inflation for the twelve-month period beginning on the first day	55887
of July for the calendar year preceding the calendar year that	55888
precedes the fiscal year and ending on the following thirtieth day	55889
of June, using the consumer price index for shelter costs for all	55890
urban consumers for the north central region, published by the	55891
United States bureau of labor statistics.	55892
(2) Any efficiency incentive determined under division (D) of	55893
this section;	55894
(3) Any amounts for return on equity determined under	55895
division (H) of this section.	55896
Buildings shall be depreciated using the straight line method	55897
over forty years or over a different period approved by the	55898
department. Components and equipment shall be depreciated using	55899
the straight-line method over a period designated in rules adopted	55900
by the director of job and family services in accordance with	55901
Chapter 119. of the Revised Code, consistent with the guidelines	55902
of the American hospital association, or over a different period	55903
approved by the department. Any rules adopted under this division	55904
that specify useful lives of buildings, components, or equipment	55905

apply only to assets acquired on or after July 1, 1993. 55906
Depreciation for costs paid or reimbursed by any government agency 55907
shall not be included in cost of ownership or renovation unless 55908
that part of the payment under sections 5111.20 to 5111.32 of the 55909
Revised Code is used to reimburse the government agency. 55910

(B) The capital cost basis of nursing facility assets shall 55911
be determined in the following manner: 55912

(1) For purposes of calculating the rate to be paid for the 55913
fiscal year beginning July 1, 1993, for facilities with dates of 55914
licensure on or before June 30, 1993, the capital cost basis shall 55915
be equal to the following: 55916

(a) For facilities that have not had a change of ownership 55917
during the period beginning January 1, 1993, and ending June 30, 55918
1993, the desk-reviewed, actual, allowable capital cost basis that 55919
is listed on the facility's cost report for the cost reporting 55920
period ending December 31, 1992, plus the actual, allowable 55921
capital cost basis of any assets constructed or acquired after 55922
December 31, 1992, but before July 1, 1993, if the aggregate 55923
capital costs of those assets would increase the facility's rate 55924
for capital costs by twenty or more cents per resident per day. 55925

(b) For facilities that have a date of licensure or had a 55926
change of ownership during the period beginning January 1, 1993, 55927
and ending June 30, 1993, the actual, allowable capital cost basis 55928
of the person or government entity that owns the facility on June 55929
30, 1993. 55930

Capital cost basis shall be calculated as provided in 55931
division (B)(1) of this section subject to approval by the United 55932
States health care financing administration of any necessary 55933
amendment to the state plan for providing medical assistance. 55934

The department shall include the actual, allowable capital 55935
cost basis of assets constructed or acquired during the period 55936

beginning January 1, 1993, and ending June 30, 1993, in the 55937
calculation for the facility's rate effective July 1, 1993, if the 55938
aggregate capital costs of the assets would increase the 55939
facility's rate by twenty or more cents per resident per day and 55940
the facility provides the department with sufficient documentation 55941
of the costs before June 1, 1993. If the facility provides the 55942
documentation after that date, the department shall adjust the 55943
facility's rate to reflect the costs of the assets one month after 55944
the first day of the month after the department receives the 55945
documentation. 55946

(2) Except as provided in division (B)(4) of this section, 55947
for purposes of calculating the rates to be paid for fiscal years 55948
beginning after June 30, 1994, for facilities with dates of 55949
licensure on or before June 30, 1993, the capital cost basis of 55950
each asset shall be equal to the desk-reviewed, actual, allowable, 55951
capital cost basis that is listed on the facility's cost report 55952
for the calendar year preceding the fiscal year during which the 55953
rate will be paid. 55954

(3) For facilities with dates of licensure after June 30, 55955
1993, the capital cost basis shall be determined in accordance 55956
with the principles of the medicare program established under 55957
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 55958
U.S.C.A. 301, as amended, except as otherwise provided in sections 55959
5111.20 to 5111.32 of the Revised Code. 55960

(4) Except as provided in division (B)(5) of this section, if 55961
a provider transfers an interest in a facility to another provider 55962
after June 30, 1993, there shall be no increase in the capital 55963
cost basis of the asset if the providers are related parties. If 55964
the providers are not related parties or if they are related 55965
parties and division (B)(5) of this section requires the 55966
adjustment of the capital cost basis under this division, the 55967
basis of the asset shall be adjusted by the lesser of the 55968

following: 55969

(a) One-half of the change in construction costs during the 55970
time that the transferor held the asset, as calculated by the 55971
department of job and family services using the "Dodge building 55972
cost indexes, northeastern and north central states," published by 55973
Marshall and Swift; 55974

(b) One-half of the change in the consumer price index for 55975
all items for all urban consumers, as published by the United 55976
States bureau of labor statistics, during the time that the 55977
transferor held the asset. 55978

(5) If a provider transfers an interest in a facility to 55979
another provider who is a related party, the capital cost basis of 55980
the asset shall be adjusted as specified in division (B)(4) of 55981
this section for a transfer to a provider that is not a related 55982
party if all of the following conditions are met: 55983

(a) The related party is a relative of owner; 55984

(b) Except as provided in division (B)(5)(c)(ii) of this 55985
section, the provider making the transfer retains no ownership 55986
interest in the facility; 55987

(c) The department of job and family services determines that 55988
the transfer is an arm's length transaction pursuant to rules the 55989
department shall adopt in accordance with Chapter 119. of the 55990
Revised Code no later than December 31, 2000. The rules shall 55991
provide that a transfer is an arm's length transaction if all of 55992
the following apply: 55993

(i) Once the transfer goes into effect, the provider that 55994
made the transfer has no direct or indirect interest in the 55995
provider that acquires the facility or the facility itself, 55996
including interest as an owner, officer, director, employee, 55997
independent contractor, or consultant, but excluding interest as a 55998
creditor. 55999

(ii) The provider that made the transfer does not reacquire 56000
an interest in the facility except through the exercise of a 56001
creditor's rights in the event of a default. If the provider 56002
reacquires an interest in the facility in this manner, the 56003
department shall treat the facility as if the transfer never 56004
occurred when the department calculates its reimbursement rates 56005
for capital costs. 56006

(iii) The transfer satisfies any other criteria specified in 56007
the rules. 56008

(d) Except in the case of hardship caused by a catastrophic 56009
event, as determined by the department, or in the case of a 56010
provider making the transfer who is at least sixty-five years of 56011
age, not less than twenty years have elapsed since, for the same 56012
facility, the capital cost basis was adjusted most recently under 56013
division (B)(5) of this section or actual, allowable cost of 56014
ownership was determined most recently under division (C)(9) of 56015
this section. 56016

(C) As used in this division, "lease expense" means lease 56017
payments in the case of an operating lease and depreciation 56018
expense and interest expense in the case of a capital lease. As 56019
used in this division, "new lease" means a lease, to a different 56020
lessee, of a nursing facility that previously was operated under a 56021
lease. 56022

(1) Subject to the limitation specified in division (A)(1) of 56023
this section, for a lease of a facility that was effective on May 56024
27, 1992, the entire lease expense is an actual, allowable cost of 56025
ownership during the term of the existing lease. The entire lease 56026
expense also is an actual, allowable cost of ownership if a lease 56027
in existence on May 27, 1992, is renewed under either of the 56028
following circumstances: 56029

(a) The renewal is pursuant to a renewal option that was in 56030

existence on May 27, 1992; 56031

(b) The renewal is for the same lease payment amount and 56032
between the same parties as the lease in existence on May 27, 56033
1992. 56034

(2) Subject to the limitation specified in division (A)(1) of 56035
this section, for a lease of a facility that was in existence but 56036
not operated under a lease on May 27, 1992, actual, allowable cost 56037
of ownership shall include the lesser of the annual lease expense 56038
or the annual depreciation expense and imputed interest expense 56039
that would be calculated at the inception of the lease using the 56040
lessor's entire historical capital asset cost basis, adjusted by 56041
the lesser of the following amounts: 56042

(a) One-half of the change in construction costs during the 56043
time the lessor held each asset until the beginning of the lease, 56044
as calculated by the department using the "Dodge building cost 56045
indexes, northeastern and north central states," published by 56046
Marshall and Swift; 56047

(b) One-half of the change in the consumer price index for 56048
all items for all urban consumers, as published by the United 56049
States bureau of labor statistics, during the time the lessor held 56050
each asset until the beginning of the lease. 56051

(3) Subject to the limitation specified in division (A)(1) of 56052
this section, for a lease of a facility with a date of licensure 56053
on or after May 27, 1992, that is initially operated under a 56054
lease, actual, allowable cost of ownership shall include the 56055
annual lease expense if there was a substantial commitment of 56056
money for construction of the facility after December 22, 1992, 56057
and before July 1, 1993. If there was not a substantial commitment 56058
of money after December 22, 1992, and before July 1, 1993, actual, 56059
allowable cost of ownership shall include the lesser of the annual 56060
lease expense or the sum of the following: 56061

(a) The annual depreciation expense that would be calculated 56062
at the inception of the lease using the lessor's entire historical 56063
capital asset cost basis; 56064

(b) The greater of the lessor's actual annual amortization of 56065
financing costs and interest expense at the inception of the lease 56066
or the imputed interest expense calculated at the inception of the 56067
lease using seventy per cent of the lessor's historical capital 56068
asset cost basis. 56069

(4) Subject to the limitation specified in division (A)(1) of 56070
this section, for a lease of a facility with a date of licensure 56071
on or after May 27, 1992, that was not initially operated under a 56072
lease and has been in existence for ten years, actual, allowable 56073
cost of ownership shall include the lesser of the annual lease 56074
expense or the annual depreciation expense and imputed interest 56075
expense that would be calculated at the inception of the lease 56076
using the entire historical capital asset cost basis of the 56077
lessor, adjusted by the lesser of the following: 56078

(a) One-half of the change in construction costs during the 56079
time the lessor held each asset until the beginning of the lease, 56080
as calculated by the department using the "Dodge building cost 56081
indexes, northeastern and north central states," published by 56082
Marshall and Swift; 56083

(b) One-half of the change in the consumer price index for 56084
all items for all urban consumers, as published by the United 56085
States bureau of labor statistics, during the time the lessor held 56086
each asset until the beginning of the lease. 56087

(5) Subject to the limitation specified in division (A)(1) of 56088
this section, for a new lease of a facility that was operated 56089
under a lease on May 27, 1992, actual, allowable cost of ownership 56090
shall include the lesser of the annual new lease expense or the 56091
annual old lease payment. If the old lease was in effect for ten 56092

years or longer, the old lease payment from the beginning of the 56093
old lease shall be adjusted by the lesser of the following: 56094

(a) One-half of the change in construction costs from the 56095
beginning of the old lease to the beginning of the new lease, as 56096
calculated by the department using the "Dodge building cost 56097
indexes, northeastern and north central states," published by 56098
Marshall and Swift; 56099

(b) One-half of the change in the consumer price index for 56100
all items for all urban consumers, as published by the United 56101
States bureau of labor statistics, from the beginning of the old 56102
lease to the beginning of the new lease. 56103

(6) Subject to the limitation specified in division (A)(1) of 56104
this section, for a new lease of a facility that was not in 56105
existence or that was in existence but not operated under a lease 56106
on May 27, 1992, actual, allowable cost of ownership shall include 56107
the lesser of annual new lease expense or the annual amount 56108
calculated for the old lease under division (C)(2), (3), (4), or 56109
(6) of this section, as applicable. If the old lease was in effect 56110
for ten years or longer, the lessor's historical capital asset 56111
cost basis shall be adjusted by the lesser of the following for 56112
purposes of calculating the annual amount under division (C)(2), 56113
(3), (4), or (6) of this section: 56114

(a) One-half of the change in construction costs from the 56115
beginning of the old lease to the beginning of the new lease, as 56116
calculated by the department using the "Dodge building cost 56117
indexes, northeastern and north central states," published by 56118
Marshall and Swift; 56119

(b) One-half of the change in the consumer price index for 56120
all items for all urban consumers, as published by the United 56121
States bureau of labor statistics, from the beginning of the old 56122
lease to the beginning of the new lease. 56123

In the case of a lease under division (C)(3) of this section 56124
of a facility for which a substantial commitment of money was made 56125
after December 22, 1992, and before July 1, 1993, the old lease 56126
payment shall be adjusted for the purpose of determining the 56127
annual amount. 56128

(7) For any revision of a lease described in division (C)(1), 56129
(2), (3), (4), (5), or (6) of this section, or for any subsequent 56130
lease of a facility operated under such a lease, other than 56131
execution of a new lease, the portion of actual, allowable cost of 56132
ownership attributable to the lease shall be the same as before 56133
the revision or subsequent lease. 56134

(8) Except as provided in division (C)(9) of this section, if 56135
a provider leases an interest in a facility to another provider 56136
who is a related party, the related party's actual, allowable cost 56137
of ownership shall include the lesser of the annual lease expense 56138
or the reasonable cost to the lessor. 56139

(9) If a provider leases an interest in a facility to another 56140
provider who is a related party, regardless of the date of the 56141
lease, the related party's actual, allowable cost of ownership 56142
shall include the annual lease expense, subject to the limitations 56143
specified in divisions (C)(1) to (7) of this section, if all of 56144
the following conditions are met: 56145

(a) The related party is a relative of owner; 56146

(b) If the lessor retains an ownership interest, it is, 56147
except as provided in division (C)(9)(c)(ii) of this section, in 56148
only the real property and any improvements on the real property; 56149

(c) The department of job and family services determines that 56150
the lease is an arm's length transaction pursuant to rules the 56151
department shall adopt in accordance with Chapter 119. of the 56152
Revised Code no later than December 31, 2000. The rules shall 56153
provide that a lease is an arm's length transaction if all of the 56154

following apply: 56155

(i) Once the lease goes into effect, the lessor has no direct 56156
or indirect interest in the lessee or, except as provided in 56157
division (C)(9)(b) of this section, the facility itself, including 56158
interest as an owner, officer, director, employee, independent 56159
contractor, or consultant, but excluding interest as a lessor. 56160

(ii) The lessor does not reacquire an interest in the 56161
facility except through the exercise of a lessor's rights in the 56162
event of a default. If the lessor reacquires an interest in the 56163
facility in this manner, the department shall treat the facility 56164
as if the lease never occurred when the department calculates its 56165
reimbursement rates for capital costs. 56166

(iii) The lease satisfies any other criteria specified in the 56167
rules. 56168

(d) Except in the case of hardship caused by a catastrophic 56169
event, as determined by the department, or in the case of a lessor 56170
who is at least sixty-five years of age, not less than twenty 56171
years have elapsed since, for the same facility, the capital cost 56172
basis was adjusted most recently under division (B)(5) of this 56173
section or actual, allowable cost of ownership was determined most 56174
recently under division (C)(9) of this section. 56175

(10) This division does not apply to leases of specific items 56176
of equipment. 56177

(D)(1) Subject to division (D)(2) of this section, the 56178
department shall pay each nursing facility an efficiency incentive 56179
that is equal to fifty per cent of the difference between the 56180
following: 56181

(a) Eighty-eight and sixty-five one-hundredths per cent of 56182
the facility's desk-reviewed, actual, allowable, per diem cost of 56183
ownership; 56184

(b) The applicable amount specified in division (E) of this section.	56185 56186
(2) The efficiency incentive paid to a nursing facility shall not exceed the greater of the following:	56187 56188
(a) The efficiency incentive the facility was paid during the fiscal year ending June 30, 1994;	56189 56190
(b) Three dollars per resident per day, adjusted annually for rates paid beginning July 1, 1994, for the inflation rate for the twelve-month period beginning on the first day of July of the calendar year preceding the calendar year that precedes the fiscal year for which the efficiency incentive is determined and ending on the thirtieth day of the following June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.	56191 56192 56193 56194 56195 56196 56197 56198 56199
(3) For purposes of calculating the efficiency incentive, depreciation for costs that are paid or reimbursed by any government agency shall be considered as costs of ownership, and renovation costs that are paid under division (F) of this section shall not be considered costs of ownership.	56200 56201 56202 56203 56204
(E) The following amounts shall be used to calculate efficiency incentives for nursing facilities under this section:	56205 56206
(1) For facilities with dates of licensure prior to January 1, 1958, four dollars and twenty-four cents per patient day;	56207 56208
(2) For facilities with dates of licensure after December 31, 1957, but prior to January 1, 1968:	56209 56210
(a) Five dollars and twenty-four cents per patient day if the cost of construction was three thousand five hundred dollars or more per bed;	56211 56212 56213
(b) Four dollars and twenty-four cents per patient day if the	56214

cost of construction was less than three thousand five hundred	56215
dollars per bed.	56216
(3) For facilities with dates of licensure after December 31,	56217
1967, but prior to January 1, 1976:	56218
(a) Six dollars and twenty-four cents per patient day if the	56219
cost of construction was five thousand one hundred fifty dollars	56220
or more per bed;	56221
(b) Five dollars and twenty-four cents per patient day if the	56222
cost of construction was less than five thousand one hundred fifty	56223
dollars per bed, but exceeded three thousand five hundred dollars	56224
per bed;	56225
(c) Four dollars and twenty-four cents per patient day if the	56226
cost of construction was three thousand five hundred dollars or	56227
less per bed.	56228
(4) For facilities with dates of licensure after December 31,	56229
1975, but prior to January 1, 1979:	56230
(a) Seven dollars and twenty-four cents per patient day if	56231
the cost of construction was six thousand eight hundred dollars or	56232
more per bed;	56233
(b) Six dollars and twenty-four cents per patient day if the	56234
cost of construction was less than six thousand eight hundred	56235
dollars per bed but exceeded five thousand one hundred fifty	56236
dollars per bed;	56237
(c) Five dollars and twenty-four cents per patient day if the	56238
cost of construction was five thousand one hundred fifty dollars	56239
or less per bed, but exceeded three thousand five hundred dollars	56240
per bed;	56241
(d) Four dollars and twenty-four cents per patient day if the	56242
cost of construction was three thousand five hundred dollars or	56243
less per bed.	56244

(5) For facilities with dates of licensure after December 31, 1978, but prior to January 1, 1981:	56245
	56246
(a) Seven dollars and seventy-four cents per patient day if the cost of construction was seven thousand six hundred twenty-five dollars or more per bed;	56247
	56248
	56249
(b) Seven dollars and twenty-four cents per patient day if the cost of construction was less than seven thousand six hundred twenty-five dollars per bed but exceeded six thousand eight hundred dollars per bed;	56250
	56251
	56252
	56253
(c) Six dollars and twenty-four cents per patient day if the cost of construction was six thousand eight hundred dollars or less per bed but exceeded five thousand one hundred fifty dollars per bed;	56254
	56255
	56256
	56257
(d) Five dollars and twenty-four cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less but exceeded three thousand five hundred dollars per bed;	56258
	56259
	56260
(e) Four dollars and twenty-four cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.	56261
	56262
	56263
(6) For facilities with dates of licensure in 1981 or any year thereafter prior to December 22, 1992, the following amount:	56264
	56265
(a) For facilities with construction costs less than seven thousand six hundred twenty-five dollars per bed, the applicable amounts for the construction costs specified in divisions (E)(5)(b) to (e) of this section;	56266
	56267
	56268
	56269
(b) For facilities with construction costs of seven thousand six hundred twenty-five dollars or more per bed, six dollars per patient day, provided that for 1981 and annually thereafter prior to December 22, 1992, <u>the</u> department shall do both of the following to the six-dollar amount:	56270
	56271
	56272
	56273
	56274

(i) Adjust the amount for fluctuations in construction costs 56275
calculated by the department using the "Dodge building cost 56276
indexes, northeastern and north central states," published by 56277
Marshall and Swift, using 1980 as the base year; 56278

(ii) Increase the amount, as adjusted for inflation under 56279
division (E)(6)(b)(i) of this section, by one dollar and 56280
seventy-four cents. 56281

(7) For facilities with dates of licensure on or after 56282
January 1, 1992, seven dollars and ninety-seven cents, adjusted 56283
for fluctuations in construction costs between 1991 and 1993 as 56284
calculated by the department using the "Dodge building cost 56285
indexes, northeastern and north central states," published by 56286
Marshall and Swift, and then increased by one dollar and 56287
seventy-four cents. 56288

For the fiscal year that begins July 1, 1994, each of the 56289
amounts listed in divisions (E)(1) to (7) of this section shall be 56290
increased by twenty-five cents. For the fiscal year that begins 56291
July 1, 1995, each of those amounts shall be increased by an 56292
additional twenty-five cents. For subsequent fiscal years, each of 56293
those amounts, as increased for the prior fiscal year, shall be 56294
adjusted to reflect the rate of inflation for the twelve-month 56295
period beginning on the first day of July of the calendar year 56296
preceding the calendar year that precedes the fiscal year and 56297
ending on the following thirtieth day of June, using the consumer 56298
price index for shelter costs for all urban consumers for the 56299
north central region, as published by the United States bureau of 56300
labor statistics. 56301

If the amount established for a nursing facility under this 56302
division is less than the amount that applied to the facility 56303
under division (B) of former section 5111.25 of the Revised Code, 56304
as the former section existed immediately prior to December 22, 56305

1992, the amount used to calculate the efficiency incentive for 56306
the facility under division (D)(2) of this section shall be the 56307
amount that was calculated under division (B) of the former 56308
section. 56309

(F) Beginning July 1, 1993, regardless of the facility's date 56310
of licensure or the date of the nonextensive renovations, the rate 56311
for the costs of nonextensive renovations for nursing facilities 56312
shall be eighty-five per cent of the desk-reviewed, actual, 56313
allowable, per diem, nonextensive renovation costs. This division 56314
applies to nonextensive renovations regardless of whether they are 56315
made by an owner or a lessee. If the tenancy of a lessee that has 56316
made nonextensive renovations ends before the depreciation expense 56317
for the renovation costs has been fully reported, the former 56318
lessee shall not report the undepreciated balance as an expense. 56319

(1) For a nonextensive renovation made after July 1, 1993, to 56320
qualify for payment under this division, both of the following 56321
conditions must be met: 56322

(a) At least five years have elapsed since the date of 56323
licensure of the portion of the facility that is proposed to be 56324
renovated, except that this condition does not apply if the 56325
renovation is necessary to meet the requirements of federal, 56326
state, or local statutes, ordinances, rules, or policies. 56327

(b) The provider has obtained prior approval from the 56328
department of job and family services, and if required the 56329
director of health has granted a certificate of need for the 56330
renovation under section 3702.52 of the Revised Code. The provider 56331
shall submit a plan that describes in detail the changes in 56332
capital assets to be accomplished by means of the renovation and 56333
the timetable for completing the project. The time for completion 56334
of the project shall be no more than eighteen months after the 56335
renovation begins. The department of job and family services shall 56336
adopt rules in accordance with Chapter 119. of the Revised Code 56337

that specify criteria and procedures for prior approval of 56338
renovation projects. No provider shall separate a project with the 56339
intent to evade the characterization of the project as a 56340
renovation or as an extensive renovation. No provider shall 56341
increase the scope of a project after it is approved by the 56342
department of job and family services unless the increase in scope 56343
is approved by the department. 56344

(2) The payment provided for in this division is the only 56345
payment that shall be made for the costs of a nonextensive 56346
renovation. Nonextensive renovation costs shall not be included in 56347
costs of ownership, and a nonextensive renovation shall not affect 56348
the date of licensure for purposes of calculating the efficiency 56349
incentive under divisions (D) and (E) of this section. 56350

~~(G) The owner of a nursing facility operating under a 56351
provider agreement shall provide written notice to the department 56352
of job and family services at least forty five days prior to 56353
entering into any contract of sale for the facility or voluntarily 56354
terminating participation in the medical assistance program. After 56355
the date on which a transaction of sale of a nursing facility is 56356
closed, the owner shall refund to the department the amount of 56357
excess depreciation paid to the facility by the department for 56358
each year the owner has operated the facility under a provider 56359
agreement and prorated according to the number of medicaid patient 56360
days for which the facility has received payment. If a nursing 56361
facility is sold after five or fewer years of operation under a 56362
provider agreement, the refund to the department shall be equal to 56363
the excess depreciation paid to the facility. If a nursing 56364
facility is sold after more than five years but less than ten 56365
years of operation under a provider agreement, the refund to the 56366
department shall equal the excess depreciation paid to the 56367
facility multiplied by twenty per cent, multiplied by the 56368
difference between ten and the number of years that the facility 56369~~

was operated under a provider agreement. If a nursing facility is 56370
sold after ten or more years of operation under a provider 56371
agreement, the owner shall not refund any excess depreciation to 56372
the department. The owner of a nursing facility that is sold or 56373
that ~~voluntarily terminates~~ undergoes a voluntary withdrawal of 56374
participation in the medical assistance program, as defined in 56375
section 5111.65 of the Revised Code, also shall refund any other 56376
amount that the department properly finds to be due after ~~the a~~ 56377
final fiscal audit ~~conducted under this division~~ the department 56378
shall conduct. For the purposes of this division, "depreciation 56379
paid to the facility" means the amount paid to the nursing 56380
facility for cost of ownership pursuant to this section less any 56381
amount paid for interest costs, amortization of financing costs, 56382
and lease expenses. For the purposes of this division, "excess 56383
depreciation" is the nursing facility's depreciated basis, which 56384
is the owner's cost less accumulated depreciation, subtracted from 56385
the purchase price net of selling costs but not exceeding the 56386
amount of depreciation paid to the facility. 56387

~~A cost report shall be filed with the department within 56388
ninety days after the date on which the transaction of sale is 56389
closed or participation is voluntarily terminated. The report 56390
shall show the accumulated depreciation, the sales price, and 56391
other information required by the department. The department shall 56392
provide for a bank, trust company, or savings and loan association 56393
to hold in escrow the amount of the last two monthly payments to a 56394
nursing facility made pursuant to division (A)(1) of section 56395
5111.22 of the Revised Code before a sale or termination of 56396
participation or, if the owner fails, within the time required by 56397
this division, to notify the department before entering into a 56398
contract of sale for the facility, the amount of the first two 56399
monthly payments made to the facility after the department learns 56400
of the contract, regardless of whether a new owner is in 56401
possession of the facility. If the amount the owner will be 56402~~

~~required to refund under this section is likely to be less than 56403
the amount of the two monthly payments otherwise put into escrow 56404
under this division, the department shall take one of the 56405
following actions instead of withholding the amount of the two 56406
monthly payments: 56407~~

~~(1) In the case of an owner that owns other facilities that 56408
participate in the medical assistance program, obtain a promissory 56409
note in an amount sufficient to cover the amount likely to be 56410
refunded; 56411~~

~~(2) In the case of all other owners, withhold the amount of 56412
the last monthly payment to the nursing facility or, if the owner 56413
fails, within the time required by this division, to notify the 56414
department before entering into a contract of sale for the 56415
facility, the amount of the first monthly payment made to the 56416
facility after the department learns of the contract, regardless 56417
of whether a new owner is in possession of the facility. 56418~~

~~The department shall, within ninety days following the filing 56419
of the cost report, audit the cost report and issue an audit 56420
report to the owner. The department also may audit any other cost 56421
report that the facility has filed during the previous three 56422
years. In the audit report, the department shall state its 56423
findings and the amount of any money owed to the department by the 56424
nursing facility. The findings shall be subject to adjudication 56425
conducted in accordance with Chapter 119. of the Revised Code. No 56426
later than fifteen days after the owner agrees to a settlement, 56427
any funds held in escrow less any amounts due to the department 56428
shall be released to the owner and amounts due to the department 56429
shall be paid to the department. If the amounts in escrow are less 56430
than the amounts due to the department, the balance shall be paid 56431
to the department within fifteen days after the owner agrees to a 56432
settlement. If the department does not issue its audit report 56433
within the ninety day period, the department shall release any 56434~~

~~money held in escrow to the owner. For the purposes of this~~ 56435
~~section, a transfer of corporate stock, the merger of one~~ 56436
~~corporation into another, or a consolidation does not constitute a~~ 56437
~~sale.~~ 56438

~~If a nursing facility is not sold or its participation is not~~ 56439
~~terminated after notice is provided to the department under this~~ 56440
~~division, the department shall order any payments held in escrow~~ 56441
~~released to the facility upon receiving written notice from the~~ 56442
~~owner that there will be no sale or termination. After written~~ 56443
~~notice is received from a nursing facility that a sale or~~ 56444
~~termination will not take place, the facility shall provide notice~~ 56445
~~to the department at least forty five days prior to entering into~~ 56446
~~any contract of sale or terminating participation at any future~~ 56447
~~time.~~ 56448

(H) The department shall pay each eligible proprietary 56449
nursing facility a return on the facility's net equity computed at 56450
the rate of one and one-half times the average interest rate on 56451
special issues of public debt obligations issued to the federal 56452
hospital insurance trust fund for the cost reporting period, 56453
except that no facility's return on net equity shall exceed fifty 56454
cents per patient day. 56455

When calculating the rate for return on net equity, the 56456
department shall use the greater of the facility's inpatient days 56457
during the applicable cost reporting period or the number of 56458
inpatient days the facility would have had during that period if 56459
its occupancy rate had been ninety-five per cent. 56460

(I) If a nursing facility would receive a lower rate for 56461
capital costs for assets in the facility's possession on July 1, 56462
1993, under this section than it would receive under former 56463
section 5111.25 of the Revised Code, as the former section existed 56464
immediately prior to December 22, 1992, the facility shall receive 56465
for those assets the rate it would have received under the former 56466

section for each fiscal year beginning on or after July 1, 1993, 56467
until the rate it would receive under this section exceeds the 56468
rate it would have received under the former section. Any facility 56469
that receives a rate calculated under the former section 5111.25 56470
of the Revised Code for assets in the facility's possession on 56471
July 1, 1993, also shall receive a rate calculated under this 56472
section for costs of any assets it constructs or acquires after 56473
July 1, 1993. 56474

Sec. 5111.251. (A) The department of job and family services 56475
shall pay each eligible intermediate care facility for the 56476
mentally retarded for its reasonable capital costs, a per resident 56477
per day rate established prospectively each fiscal year for each 56478
intermediate care facility for the mentally retarded. Except as 56479
otherwise provided in sections 5111.20 to 5111.32 of the Revised 56480
Code, the rate shall be based on the facility's capital costs for 56481
the calendar year preceding the fiscal year in which the rate will 56482
be paid. The rate shall equal the sum of the following: 56483

(1) The facility's desk-reviewed, actual, allowable, per diem 56484
cost of ownership for the preceding cost reporting period, limited 56485
as provided in divisions (C) and (F) of this section; 56486

(2) Any efficiency incentive determined under division (B) of 56487
this section; 56488

(3) Any amounts for renovations determined under division (D) 56489
of this section; 56490

(4) Any amounts for return on equity determined under 56491
division (I) of this section. 56492

Buildings shall be depreciated using the straight line method 56493
over forty years or over a different period approved by the 56494
department. Components and equipment shall be depreciated using 56495
the straight line method over a period designated by the director 56496

of job and family services in rules adopted in accordance with 56497
Chapter 119. of the Revised Code, consistent with the guidelines 56498
of the American hospital association, or over a different period 56499
approved by the department of job and family services. Any rules 56500
adopted under this division that specify useful lives of 56501
buildings, components, or equipment apply only to assets acquired 56502
on or after July 1, 1993. Depreciation for costs paid or 56503
reimbursed by any government agency shall not be included in costs 56504
of ownership or renovation unless that part of the payment under 56505
sections 5111.20 to 5111.32 of the Revised Code is used to 56506
reimburse the government agency. 56507

(B) The department of job and family services shall pay to 56508
each intermediate care facility for the mentally retarded an 56509
efficiency incentive equal to fifty per cent of the difference 56510
between any desk-reviewed, actual, allowable cost of ownership and 56511
the applicable limit on cost of ownership payments under division 56512
(C) of this section. For purposes of computing the efficiency 56513
incentive, depreciation for costs paid or reimbursed by any 56514
government agency shall be considered as a cost of ownership, and 56515
the applicable limit under division (C) of this section shall 56516
apply both to facilities with more than eight beds and facilities 56517
with eight or fewer beds. The efficiency incentive paid to a 56518
facility with eight or fewer beds shall not exceed three dollars 56519
per patient day, adjusted annually for the inflation rate for the 56520
twelve-month period beginning on the first day of July of the 56521
calendar year preceding the calendar year that precedes the fiscal 56522
year for which the efficiency incentive is determined and ending 56523
on the thirtieth day of the following June, using the consumer 56524
price index for shelter costs for all urban consumers for the 56525
north central region, as published by the United States bureau of 56526
labor statistics. 56527

(C) Cost of ownership payments to intermediate care 56528

facilities for the mentally retarded with more than eight beds	56529
shall not exceed the following limits:	56530
(1) For facilities with dates of licensure prior to January	56531
1, 1958, not exceeding two dollars and fifty cents per patient	56532
day;	56533
(2) For facilities with dates of licensure after December 31,	56534
1957, but prior to January 1, 1968, not exceeding:	56535
(a) Three dollars and fifty cents per patient day if the cost	56536
of construction was three thousand five hundred dollars or more	56537
per bed;	56538
(b) Two dollars and fifty cents per patient day if the cost	56539
of construction was less than three thousand five hundred dollars	56540
per bed.	56541
(3) For facilities with dates of licensure after December 31,	56542
1967, but prior to January 1, 1976, not exceeding:	56543
(a) Four dollars and fifty cents per patient day if the cost	56544
of construction was five thousand one hundred fifty dollars or	56545
more per bed;	56546
(b) Three dollars and fifty cents per patient day if the cost	56547
of construction was less than five thousand one hundred fifty	56548
dollars per bed, but exceeds three thousand five hundred dollars	56549
per bed;	56550
(c) Two dollars and fifty cents per patient day if the cost	56551
of construction was three thousand five hundred dollars or less	56552
per bed.	56553
(4) For facilities with dates of licensure after December 31,	56554
1975, but prior to January 1, 1979, not exceeding:	56555
(a) Five dollars and fifty cents per patient day if the cost	56556
of construction was six thousand eight hundred dollars or more per	56557
bed;	56558

(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; 56559
56560
56561
56562

(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; 56563
56564
56565
56566

(d) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed. 56567
56568
56569

(5) For facilities with dates of licensure after December 31, 1978, but prior to January 1, 1980, not exceeding: 56570
56571

(a) Six dollars per patient day if the cost of construction was seven thousand six hundred twenty-five dollars or more per bed; 56572
56573
56574

(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; 56575
56576
56577
56578

(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; 56579
56580
56581

(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; 56582
56583
56584

(e) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed. 56585
56586
56587

(6) For facilities with dates of licensure after December 31, 56588

1979, but prior to January 1, 1981, not exceeding:	56589
(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;	56590 56591 56592
(b) Six dollars per patient day if the beds were originally licensed as nursing home beds by the department of health.	56593 56594
(7) For facilities with dates of licensure after December 31, 1980, but prior to January 1, 1982, not exceeding:	56595 56596
(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;	56597 56598 56599
(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.	56600 56601 56602
(8) For facilities with dates of licensure after December 31, 1981, but prior to January 1, 1983, not exceeding:	56603 56604
(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;	56605 56606 56607
(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.	56608 56609 56610
(9) For facilities with dates of licensure after December 31, 1982, but prior to January 1, 1984, not exceeding:	56611 56612
(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;	56613 56614 56615
(b) Seven dollars and nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	56616 56617 56618

(10) For facilities with dates of licensure after December 31, 1983, but prior to January 1, 1985, not exceeding:	56619
(a) Twelve dollars and twenty-four cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56620
(a) Twelve dollars and twenty-four cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56621
(a) Twelve dollars and twenty-four cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56622
(a) Twelve dollars and twenty-four cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56623
(a) Twelve dollars and twenty-four cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56624
(b) Seven dollars and twenty-three cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	56625
(b) Seven dollars and twenty-three cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	56626
(b) Seven dollars and twenty-three cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	56627
(11) For facilities with dates of licensure after December 31, 1984, but prior to January 1, 1986, not exceeding:	56628
(a) Twelve dollars and fifty-three cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56629
(a) Twelve dollars and fifty-three cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56630
(a) Twelve dollars and fifty-three cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56631
(a) Twelve dollars and fifty-three cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56632
(a) Twelve dollars and fifty-three cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56633
(b) Seven dollars and forty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	56634
(b) Seven dollars and forty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	56635
(b) Seven dollars and forty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	56636
(12) For facilities with dates of licensure after December 31, 1985, but prior to January 1, 1987, not exceeding:	56637
(a) Twelve dollars and seventy cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56638
(a) Twelve dollars and seventy cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56639
(a) Twelve dollars and seventy cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56640
(a) Twelve dollars and seventy cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	56641
(b) Seven dollars and fifty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	56642
(b) Seven dollars and fifty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	56643
(b) Seven dollars and fifty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	56644
(13) For facilities with dates of licensure after December 31, 1986, but prior to January 1, 1988, not exceeding:	56645
(a) Twelve dollars and ninety-nine cents per patient day if the beds were originally licensed as residential facility beds by	56646
(a) Twelve dollars and ninety-nine cents per patient day if the beds were originally licensed as residential facility beds by	56647
(a) Twelve dollars and ninety-nine cents per patient day if the beds were originally licensed as residential facility beds by	56648

the department of mental retardation and developmental	56649
disabilities;	56650
(b) Seven dollars and sixty-seven cents per patient day if	56651
the beds were originally licensed as nursing home beds by the	56652
department of health.	56653
(14) For facilities with dates of licensure after December	56654
31, 1987, but prior to January 1, 1989, not exceeding thirteen	56655
dollars and twenty-six cents per patient day;	56656
(15) For facilities with dates of licensure after December	56657
31, 1988, but prior to January 1, 1990, not exceeding thirteen	56658
dollars and forty-six cents per patient day;	56659
(16) For facilities with dates of licensure after December	56660
31, 1989, but prior to January 1, 1991, not exceeding thirteen	56661
dollars and sixty cents per patient day;	56662
(17) For facilities with dates of licensure after December	56663
31, 1990, but prior to January 1, 1992, not exceeding thirteen	56664
dollars and forty-nine cents per patient day;	56665
(18) For facilities with dates of licensure after December	56666
31, 1991, but prior to January 1, 1993, not exceeding thirteen	56667
dollars and sixty-seven cents per patient day;	56668
(19) For facilities with dates of licensure after December	56669
31, 1992, not exceeding fourteen dollars and twenty-eight cents	56670
per patient day.	56671
(D) Beginning January 1, 1981, regardless of the original	56672
date of licensure, the department of job and family services shall	56673
pay a rate for the per diem capitalized costs of renovations to	56674
intermediate care facilities for the mentally retarded made after	56675
January 1, 1981, not exceeding six dollars per patient day using	56676
1980 as the base year and adjusting the amount annually until June	56677
30, 1993, for fluctuations in construction costs calculated by the	56678

department using the "Dodge building cost indexes, northeastern 56679
and north central states," published by Marshall and Swift. The 56680
payment provided for in this division is the only payment that 56681
shall be made for the capitalized costs of a nonextensive 56682
renovation of an intermediate care facility for the mentally 56683
retarded. Nonextensive renovation costs shall not be included in 56684
cost of ownership, and a nonextensive renovation shall not affect 56685
the date of licensure for purposes of division (C) of this 56686
section. This division applies to nonextensive renovations 56687
regardless of whether they are made by an owner or a lessee. If 56688
the tenancy of a lessee that has made renovations ends before the 56689
depreciation expense for the renovation costs has been fully 56690
reported, the former lessee shall not report the undepreciated 56691
balance as an expense. 56692

For a nonextensive renovation to qualify for payment under 56693
this division, both of the following conditions must be met: 56694

(1) At least five years have elapsed since the date of 56695
licensure or date of an extensive renovation of the portion of the 56696
facility that is proposed to be renovated, except that this 56697
condition does not apply if the renovation is necessary to meet 56698
the requirements of federal, state, or local statutes, ordinances, 56699
rules, or policies. 56700

(2) The provider has obtained prior approval from the 56701
department of job and family services. The provider shall submit a 56702
plan that describes in detail the changes in capital assets to be 56703
accomplished by means of the renovation and the timetable for 56704
completing the project. The time for completion of the project 56705
shall be no more than eighteen months after the renovation begins. 56706
The director of job and family services shall adopt rules in 56707
accordance with Chapter 119. of the Revised Code that specify 56708
criteria and procedures for prior approval of renovation projects. 56709
No provider shall separate a project with the intent to evade the 56710

characterization of the project as a renovation or as an extensive 56711
renovation. No provider shall increase the scope of a project 56712
after it is approved by the department of job and family services 56713
unless the increase in scope is approved by the department. 56714

(E) The amounts specified in divisions (C) and (D) of this 56715
section shall be adjusted beginning July 1, 1993, for the 56716
estimated inflation for the twelve-month period beginning on the 56717
first day of July of the calendar year preceding the calendar year 56718
that precedes the fiscal year for which rate will be paid and 56719
ending on the thirtieth day of the following June, using the 56720
consumer price index for shelter costs for all urban consumers for 56721
the north central region, as published by the United States bureau 56722
of labor statistics. 56723

(F)(1) For facilities of eight or fewer beds that have dates 56724
of licensure or have been granted project authorization by the 56725
department of mental retardation and developmental disabilities 56726
before July 1, 1993, and for facilities of eight or fewer beds 56727
that have dates of licensure or have been granted project 56728
authorization after that date if the facilities demonstrate that 56729
they made substantial commitments of funds on or before that date, 56730
cost of ownership shall not exceed eighteen dollars and thirty 56731
cents per resident per day. The eighteen-dollar and thirty-cent 56732
amount shall be increased by the change in the "Dodge building 56733
cost indexes, northeastern and north central states," published by 56734
Marshall and Swift, during the period beginning June 30, 1990, and 56735
ending July 1, 1993, and by the change in the consumer price index 56736
for shelter costs for all urban consumers for the north central 56737
region, as published by the United States bureau of labor 56738
statistics, annually thereafter. 56739

(2) For facilities with eight or fewer beds that have dates 56740
of licensure or have been granted project authorization by the 56741
department of mental retardation and developmental disabilities on 56742

or after July 1, 1993, for which substantial commitments of funds 56743
were not made before that date, cost of ownership payments shall 56744
not exceed the applicable amount calculated under division (F)(1) 56745
of this section, if the department of job and family services 56746
gives prior approval for construction of the facility or, 56747
regardless of whether the department gives prior approval, if the 56748
facility obtains a residential facility license under section 56749
5123.19 of the Revised Code pursuant to section 5123.1910 of the 56750
Revised Code. If the department does not give prior approval, cost 56751
of ownership payments shall not exceed the amount specified in 56752
division (C) of this section unless the facility obtains a 56753
residential facility license under section 5123.19 of the Revised 56754
Code pursuant to section 5123.1910 of the Revised Code. 56755

(3) Notwithstanding divisions (D) and (F)(1) and (2) of this 56756
section, the total payment for cost of ownership, cost of 56757
ownership efficiency incentive, and capitalized costs of 56758
renovations for an intermediate care facility for the mentally 56759
retarded with eight or fewer beds shall not exceed the sum of the 56760
limitations specified in divisions (C) and (D) of this section. 56761

(G) Notwithstanding any provision of this section or section 56762
5111.24 of the Revised Code, the director of job and family 56763
services may adopt rules in accordance with Chapter 119. of the 56764
Revised Code that provide for a calculation of a combined maximum 56765
payment limit for indirect care costs and cost of ownership for 56766
intermediate care facilities for the mentally retarded with eight 56767
or fewer beds. 56768

~~(H) After June 30, 1980, the owner of an intermediate care 56769
facility for the mentally retarded operating under a provider 56770
agreement shall provide written notice to the department of job 56771
and family services at least forty five days prior to entering 56772
into any contract of sale for the facility or voluntarily 56773
terminating participation in the medical assistance program. After 56774~~

the date on which a transaction of sale of an intermediate care facility for the mentally retarded is closed, the owner shall refund to the department the amount of excess depreciation paid to the facility by the department for each year the owner has operated the facility under a provider agreement and prorated according to the number of medicaid patient days for which the facility has received payment. If an intermediate care facility for the mentally retarded is sold after five or fewer years of operation under a provider agreement, the refund to the department shall be equal to the excess depreciation paid to the facility. If an intermediate care facility for the mentally retarded is sold after more than five years but less than ten years of operation under a provider agreement, the refund to the department shall equal the excess depreciation paid to the facility multiplied by twenty per cent, multiplied by the number of years less than ten that a facility was operated under a provider agreement. If an intermediate care facility for the mentally retarded is sold after ten or more years of operation under a provider agreement, the owner shall not refund any excess depreciation to the department. For the purposes of this division, "depreciation paid to the facility" means the amount paid to the intermediate care facility for the mentally retarded for cost of ownership pursuant to this section less any amount paid for interest costs. For the purposes of this division, "excess depreciation" is the intermediate care facility for the mentally retarded's depreciated basis, which is the owner's cost less accumulated depreciation, subtracted from the purchase price but not exceeding the amount of depreciation paid to the facility.

~~A cost report shall be filed with the department within ninety days after the date on which the transaction of sale is closed or participation is voluntarily terminated for an intermediate care facility for the mentally retarded subject to this division. The report shall show the accumulated depreciation,~~

~~the sales price, and other information required by the department. 56808~~
~~The department shall provide for a bank, trust company, or savings 56809~~
~~and loan association to hold in escrow the amount of the last two 56810~~
~~monthly payments to an intermediate care facility for the mentally 56811~~
~~retarded made pursuant to division (A)(1) of section 5111.22 of 56812~~
~~the Revised Code before a sale or voluntary termination of 56813~~
~~participation or, if the owner fails, within the time required by 56814~~
~~this division, to notify the department before entering into a 56815~~
~~contract of sale for the facility, the amount of the first two 56816~~
~~monthly payments made to the facility after the department learns 56817~~
~~of the contract, regardless of whether a new owner is in 56818~~
~~possession of the facility. If the amount the owner will be 56819~~
~~required to refund under this section is likely to be less than 56820~~
~~the amount of the two monthly payments otherwise put into escrow 56821~~
~~under this division, the department shall take one of the 56822~~
~~following actions instead of withholding the amount of the two 56823~~
~~monthly payments:~~ 56824

~~(1) In the case of an owner that owns other facilities that 56825~~
~~participate in the medical assistance program, obtain a promissory 56826~~
~~note in an amount sufficient to cover the amount likely to be 56827~~
~~refunded;~~ 56828

~~(2) In the case of all other owners, withhold the amount of 56829~~
~~the last monthly payment to the intermediate care facility for the 56830~~
~~mentally retarded or, if the owner fails, within the time required 56831~~
~~by this division, to notify the department before entering into a 56832~~
~~contract of sale for the facility, the amount of the first monthly 56833~~
~~payment made to the facility after the department learns of the 56834~~
~~contract, regardless of whether a new owner is in possession of 56835~~
~~the facility.~~ 56836

~~The department shall, within ninety days following the filing 56837~~
~~of the cost report, audit the report and issue an audit report to 56838~~
~~the owner. The department also may audit any other cost reports 56839~~

~~for the facility that have been filed during the previous three 56840
years. In the audit report, the department shall state its 56841
findings and the amount of any money owed to the department by the 56842
intermediate care facility for the mentally retarded. The findings 56843
shall be subject to an adjudication conducted in accordance with 56844
Chapter 119. of the Revised Code. No later than fifteen days after 56845
the owner agrees to a settlement, any funds held in escrow less 56846
any amounts due to the department shall be released to the owner 56847
and amounts due to the department shall be paid to the department. 56848
If the amounts in escrow are less than the amounts due to the 56849
department, the balance shall be paid to the department within 56850
fifteen days after the owner agrees to a settlement. If the 56851
department does not issue its audit report within the ninety day 56852
period, the department shall release any money held in escrow to 56853
the owner. For the purposes of this section, a transfer of 56854
corporate stock, the merger of one corporation into another, or a 56855
consolidation does not constitute a sale. 56856~~

~~If an intermediate care facility for the mentally retarded is 56857
not sold or its participation is not terminated after notice is 56858
provided to the department under this division, the department 56859
shall order any payments held in escrow released to the facility 56860
upon receiving written notice from the owner that there will be no 56861
sale or termination of participation. After written notice is 56862
received from an intermediate care facility for the mentally 56863
retarded that a sale or termination of participation will not take 56864
place, the facility shall provide notice to the department at 56865
least forty five days prior to entering into any contract of sale 56866
or terminating participation at any future time. 56867~~

(I) The department of job and family services shall pay each 56868
eligible proprietary intermediate care facility for the mentally 56869
retarded a return on the facility's net equity computed at the 56870
rate of one and one-half times the average of interest rates on 56871

special issues of public debt obligations issued to the federal 56872
hospital insurance trust fund for the cost reporting period. No 56873
facility's return on net equity paid under this division shall 56874
exceed one dollar per patient day. 56875

In calculating the rate for return on net equity, the 56876
department shall use the greater of the facility's inpatient days 56877
during the applicable cost reporting period or the number of 56878
inpatient days the facility would have had during that period if 56879
its occupancy rate had been ninety-five per cent. 56880

(J)(1) Except as provided in division (J)(2) of this section, 56881
if a provider leases or transfers an interest in a facility to 56882
another provider who is a related party, the related party's 56883
allowable cost of ownership shall include the lesser of the 56884
following: 56885

(a) The annual lease expense or actual cost of ownership, 56886
whichever is applicable; 56887

(b) The reasonable cost to the lessor or provider making the 56888
transfer. 56889

(2) If a provider leases or transfers an interest in a 56890
facility to another provider who is a related party, regardless of 56891
the date of the lease or transfer, the related party's allowable 56892
cost of ownership shall include the annual lease expense or actual 56893
cost of ownership, whichever is applicable, subject to the 56894
limitations specified in divisions (B) to (I) of this section, if 56895
all of the following conditions are met: 56896

(a) The related party is a relative of owner; 56897

(b) In the case of a lease, if the lessor retains any 56898
ownership interest, it is, except as provided in division 56899
(J)(2)(d)(ii) of this section, in only the real property and any 56900
improvements on the real property; 56901

(c) In the case of a transfer, the provider making the 56902
transfer retains, except as provided in division (J)(2)(d)(iv) of 56903
this section, no ownership interest in the facility; 56904

(d) The department of job and family services determines that 56905
the lease or transfer is an arm's length transaction pursuant to 56906
rules the department shall adopt in accordance with Chapter 119. 56907
of the Revised Code no later than December 31, 2000. The rules 56908
shall provide that a lease or transfer is an arm's length 56909
transaction if all of the following, as applicable, apply: 56910

(i) In the case of a lease, once the lease goes into effect, 56911
the lessor has no direct or indirect interest in the lessee or, 56912
except as provided in division (J)(2)(b) of this section, the 56913
facility itself, including interest as an owner, officer, 56914
director, employee, independent contractor, or consultant, but 56915
excluding interest as a lessor. 56916

(ii) In the case of a lease, the lessor does not reacquire an 56917
interest in the facility except through the exercise of a lessor's 56918
rights in the event of a default. If the lessor reacquires an 56919
interest in the facility in this manner, the department shall 56920
treat the facility as if the lease never occurred when the 56921
department calculates its reimbursement rates for capital costs. 56922

(iii) In the case of a transfer, once the transfer goes into 56923
effect, the provider that made the transfer has no direct or 56924
indirect interest in the provider that acquires the facility or 56925
the facility itself, including interest as an owner, officer, 56926
director, employee, independent contractor, or consultant, but 56927
excluding interest as a creditor. 56928

(iv) In the case of a transfer, the provider that made the 56929
transfer does not reacquire an interest in the facility except 56930
through the exercise of a creditor's rights in the event of a 56931
default. If the provider reacquires an interest in the facility in 56932

this manner, the department shall treat the facility as if the 56933
transfer never occurred when the department calculates its 56934
reimbursement rates for capital costs. 56935

(v) The lease or transfer satisfies any other criteria 56936
specified in the rules. 56937

(e) Except in the case of hardship caused by a catastrophic 56938
event, as determined by the department, or in the case of a lessor 56939
or provider making the transfer who is at least sixty-five years 56940
of age, not less than twenty years have elapsed since, for the 56941
same facility, allowable cost of ownership was determined most 56942
recently under this division. 56943

Sec. 5111.28. (A) If a provider properly amends its cost 56944
report under section 5111.27 of the Revised Code and the amended 56945
report shows that the provider received a lower rate under the 56946
original cost report than it was entitled to receive, the 56947
department shall adjust the provider's rate prospectively to 56948
reflect the corrected information. The department shall pay the 56949
adjusted rate beginning two months after the first day of the 56950
month after the provider files the amended cost report. If the 56951
department finds, from an exception review of resident assessment 56952
information conducted after the effective date of the rate for 56953
direct care costs that is based on the assessment information, 56954
that inaccurate assessment information resulted in the provider 56955
receiving a lower rate than it was entitled to receive, the 56956
department prospectively shall adjust the provider's rate 56957
accordingly and shall make payments using the adjusted rate for 56958
the remainder of the calendar quarter for which the assessment 56959
information is used to determine the rate, beginning one month 56960
after the first day of the month after the exception review is 56961
completed. 56962

(B) If the provider properly amends its cost report under 56963

section 5111.27 of the Revised Code, the department makes a 56964
finding based on an audit under that section, or the department 56965
makes a finding based on an exception review of resident 56966
assessment information conducted under that section after the 56967
effective date of the rate for direct care costs that is based on 56968
the assessment information, any of which results in a 56969
determination that the provider has received a higher rate than it 56970
was entitled to receive, the department shall recalculate the 56971
provider's rate using the revised information. The department 56972
shall apply the recalculated rate to the periods when the provider 56973
received the incorrect rate to determine the amount of the 56974
overpayment. The provider shall refund the amount of the 56975
overpayment. 56976

In addition to requiring a refund under this division, the 56977
department may charge the provider interest at the applicable rate 56978
specified in this division from the time the overpayment was made. 56979

(1) If the overpayment resulted from costs reported for 56980
calendar year 1993, the interest shall be no greater than one and 56981
one-half times the average bank prime rate. 56982

(2) If the overpayment resulted from costs reported for 56983
subsequent calendar years: 56984

(a) The interest shall be no greater than two times the 56985
average bank prime rate if the overpayment was equal to or less 56986
than one per cent of the total medicaid payments to the provider 56987
for the fiscal year for which the incorrect information was used 56988
to establish a rate. 56989

(b) The interest shall be no greater than two and one-half 56990
times the current average bank prime rate if the overpayment was 56991
greater than one per cent of the total medicaid payments to the 56992
provider for the fiscal year for which the incorrect information 56993
was used to establish a rate. 56994

(C) The department also may impose the following penalties: 56995

(1) If a provider does not furnish invoices or other 56996
documentation that the department requests during an audit within 56997
sixty days after the request, no more than the greater of one 56998
thousand dollars per audit or twenty-five per cent of the 56999
cumulative amount by which the costs for which documentation was 57000
not furnished increased the total medicaid payments to the 57001
provider during the fiscal year for which the costs were used to 57002
establish a rate; 57003

(2) If an ~~owner~~ exiting operator fails to provide a properly 57004
completed notice of ~~sale of the facility or closure,~~ voluntary 57005
termination, voluntary withdrawal of participation ~~in the medical~~ 57006
~~assistance program, or change of operator,~~ as required by section 57007
~~5111.25~~ 5111.66 or ~~5111.251~~ 5111.67 of the Revised Code, no more 57008
than the current average bank prime rate plus four per cent of ~~the~~ 57009
~~last~~ an amount equal to two times the average amount of monthly 57010
payments to the exiting operator under the medicaid program for 57011
the twelve-month period immediately preceding the month that 57012
includes the last day the exiting operator's provider agreement is 57013
in effect or, in the case of a voluntary withdrawal of 57014
participation, the effective date of the voluntary withdrawal of 57015
participation. 57016

(D) If the provider continues to participate in the ~~medical~~ 57017
~~assistance~~ medicaid program, the department shall deduct any 57018
amount that the provider is required to refund under this section, 57019
and the amount of any interest charged or penalty imposed under 57020
this section, from the next available payment from the department 57021
to the provider. The department and the provider may enter into an 57022
agreement under which the amount, together with interest, is 57023
deducted in installments from payments from the department to the 57024
provider. If the provider does not continue to participate in the 57025
medicaid program, the department shall collect any amount that the 57026

provider owes to the department under this section from the 57027
withholding, security, or both that the department makes or 57028
requires under section 5111.681 of the Revised Code. 57029

(E) The department shall transmit refunds and penalties to 57030
the treasurer of state for deposit in the general revenue fund. 57031

(F) For the purpose of this section, the department shall 57032
determine the average bank prime rate using statistical release 57033
H.15, "selected interest rates," a weekly publication of the 57034
federal reserve board, or any successor publication. If 57035
statistical release H.15, or its successor, ceases to contain the 57036
bank prime rate information or ceases to be published, the 57037
department shall request a written statement of the average bank 57038
prime rate from the federal reserve bank of Cleveland or the 57039
federal reserve board. 57040

Sec. 5111.29. (A) The director of job and family services 57041
shall adopt rules in accordance with Chapter 119. of the Revised 57042
Code that establish a process under which a nursing facility or 57043
intermediate care facility for the mentally retarded, or a group 57044
or association of facilities, may seek reconsideration of rates 57045
established under sections 5111.23 to 5111.28 of the Revised Code, 57046
including a rate for direct care costs recalculated before the 57047
effective date of the rate as a result of an exception review of 57048
resident assessment information conducted under section 5111.27 of 57049
the Revised Code. 57050

(1) Except as provided in divisions (A)(2) to (4) of this 57051
section, the only issue that a facility, group, or association may 57052
raise in the rate reconsideration shall be whether the rate was 57053
calculated in accordance with sections 5111.23 to 5111.28 of the 57054
Revised Code and the rules adopted under those sections. The rules 57055
shall permit a facility, group, or association to submit written 57056
arguments or other materials that support its position. The rules 57057

shall specify time frames within which the facility, group, or 57058
association and the department must act. If the department 57059
determines, as a result of the rate reconsideration, that the rate 57060
established for one or more facilities is less than the rate to 57061
which it is entitled, the department shall increase the rate. If 57062
the department has paid the incorrect rate for a period of time, 57063
the department shall pay the facility the difference between the 57064
amount it was paid for that period and the amount it should have 57065
been paid. 57066

(2) The rules shall provide that during a fiscal year, the 57067
department, by means of the rate reconsideration process, may 57068
increase a facility's rate as calculated under sections 5111.23 to 57069
5111.28 of the Revised Code if the facility demonstrates that its 57070
actual, allowable costs have increased because of extreme 57071
circumstances. A facility may qualify for a rate increase only if 57072
its per diem, actual, allowable costs have increased to a level 57073
that exceeds its total rate, including any efficiency incentive 57074
and return on equity payment. The rules shall specify the 57075
circumstances that would justify a rate increase under division 57076
(A)(2) of this section. In the case of nursing facilities, the 57077
rules shall provide that the extreme circumstances include 57078
increased security costs for an inner-city nursing facility and an 57079
increase in workers' compensation experience rating of greater 57080
than five per cent for a facility that has an appropriate claims 57081
management program but do not include a change of ownership that 57082
results from bankruptcy, foreclosure, or findings of violations of 57083
certification requirements by the department of health. In the 57084
case of intermediate care facilities for the mentally retarded, 57085
the rules shall provide that the extreme circumstances include, 57086
but are not limited to, renovations approved under division (D) of 57087
section 5111.251 of the Revised Code, an increase in workers' 57088
compensation experience rating of greater than five per cent for a 57089
facility that has an appropriate claims management program, 57090

increased security costs for an inner-city facility, and a change 57091
of ownership that results from bankruptcy, foreclosure, or 57092
findings of violations of certification requirements by the 57093
department of health. An increase under division (A)(2) of this 57094
section is subject to any rate limitations or maximum rates 57095
established by sections 5111.23 to 5111.28 of the Revised Code for 57096
specific cost centers. Any rate increase granted under division 57097
(A)(2) of this section shall take effect on the first day of the 57098
first month after the department receives the request. 57099

(3) The rules shall provide that the department, through the 57100
rate reconsideration process, may increase a facility's rate as 57101
calculated under sections 5111.23 to 5111.28 of the Revised Code 57102
if the department, in its sole discretion, determines that the 57103
rate as calculated under those sections works an extreme hardship 57104
on the facility. 57105

(4) The rules shall provide that when beds certified for the 57106
medical assistance program are added to an existing facility, 57107
replaced at the same site, or subject to a change of ownership or 57108
lease, the department, through the rate reconsideration process, 57109
shall increase the facility's rate for capital costs 57110
proportionately, as limited by any applicable limitation under 57111
section 5111.25 or 5111.251 of the Revised Code, to account for 57112
the costs of the beds that are added, replaced, or subject to a 57113
change of ownership or lease. The department shall make this 57114
increase one month after the first day of the month after the 57115
department receives sufficient documentation of the costs. Any 57116
rate increase granted under division (A)(4) of this section after 57117
June 30, 1993, shall remain in effect until the effective date of 57118
a rate calculated under section 5111.25 or 5111.251 of the Revised 57119
Code that includes costs incurred for a full calendar year for the 57120
bed addition, bed replacement, or change of ownership or lease. 57121
The facility shall report double accumulated depreciation in an 57122

amount equal to the depreciation included in the rate adjustment 57123
on its cost report for the first year of operation. During the 57124
term of any loan used to finance a project for which a rate 57125
adjustment is granted under division (A)(4) of this section, if 57126
the facility is operated by the same provider, the facility shall 57127
subtract from the interest costs it reports on its cost report an 57128
amount equal to the difference between the following: 57129

(a) The actual, allowable interest costs for the loan during 57130
the calendar year for which the costs are being reported; 57131

(b) The actual, allowable interest costs attributable to the 57132
loan that were used to calculate the rates paid to the facility 57133
during the same calendar year. 57134

(5) The department's decision at the conclusion of the 57135
reconsideration process shall not be subject to any administrative 57136
proceedings under Chapter 119. or any other provision of the 57137
Revised Code. 57138

(B) ~~Any~~ All of the following are subject to an adjudication 57139
conducted in accordance with Chapter 119. of the Revised Code: 57140

(1) Any audit disallowance that the department makes as the 57141
result of an audit under section 5111.27 of the Revised Code, ~~any;~~ 57142

(2) Any adverse finding that results from an exception review 57143
of resident assessment information conducted under ~~that~~ section 57144
5111.27 of the Revised Code after the effective date of the 57145
facility's rate that is based on the assessment information, ~~and~~ 57146
~~any;~~ 57147

(3) Any penalty the department imposes under division (C) of 57148
section 5111.28 of the Revised Code ~~shall be subject to an~~ 57149
~~adjudication conducted in accordance with Chapter 119. or section~~ 57150
5111.684 of the Revised Code. 57151

Sec. 5111.30. The department of job and family services shall 57152

terminate the provider agreement with an operator of a nursing 57153
facility or intermediate care facility for the mentally retarded 57154
that does not comply with the requirements of section 3721.071 of 57155
the Revised Code for the installation of fire extinguishing and 57156
fire alarm systems. 57157

Sec. 5111.31. (A) Every provider agreement with an operator 57158
of a nursing facility or intermediate care facility for the 57159
mentally retarded shall: 57160

(1) Prohibit the facility from failing or refusing to retain 57161
as a patient any person because the person is, becomes, or may, as 57162
a patient in the facility, become a recipient of assistance under 57163
the medical assistance program. For the purposes of this division, 57164
a recipient of medical assistance who is a patient in a facility 57165
shall be considered a patient in the facility during any hospital 57166
stays totaling less than twenty-five days during any twelve-month 57167
period. Recipients who have been identified by the department of 57168
job and family services or its designee as requiring the level of 57169
care of an intermediate care facility for the mentally retarded 57170
shall not be subject to a maximum period of absences during which 57171
they are considered patients if prior authorization of the 57172
department for visits with relatives and friends and participation 57173
in therapeutic programs is obtained under rules adopted under 57174
section 5111.02 of the Revised Code. 57175

(2) Include any part of the facility that meets standards for 57176
certification of compliance with federal and state laws and rules 57177
for participation in the medical assistance program, except that 57178
nursing facilities that, during the period beginning July 1, 1987, 57179
and ending July 1, 1993, added beds licensed as nursing home beds 57180
under Chapter 3721. of the Revised Code are not required to 57181
include those beds under a provider agreement unless otherwise 57182
required by federal law. Once added to the provider agreement, 57183

however, those nursing home beds may not be removed unless the 57184
facility withdraws from the medical assistance program in its 57185
entirety. 57186

(3) Prohibit the facility from discriminating against any 57187
patient on the basis of race, color, sex, creed, or national 57188
origin. 57189

(4) Except as otherwise prohibited under section 5111.55 of 57190
the Revised Code, prohibit the facility from failing or refusing 57191
to accept a patient because the patient is, becomes, or may, as a 57192
patient in the facility, become a recipient of assistance under 57193
the medical assistance program if less than eighty per cent of the 57194
patients in the facility are recipients of medical assistance. 57195

(B) Nothing in this section shall bar any religious or 57196
denominational nursing facility or intermediate care facility for 57197
the mentally retarded that is operated, supervised, or controlled 57198
by a religious organization from giving preference to persons of 57199
the same religion or denomination. Nothing in this section shall 57200
bar any facility from giving preference to persons with whom it 57201
has contracted to provide continuing care. 57202

(C) Nothing in this section shall bar any county home 57203
organized under Chapter 5155. of the Revised Code from admitting 57204
residents exclusively from the county in which the county home is 57205
located. 57206

(D) No operator of a nursing facility or intermediate care 57207
facility for the mentally retarded with which a provider agreement 57208
is in effect shall violate the provider contract obligations 57209
imposed under this section. 57210

(E) Nothing in divisions (A) and (B) of this section shall 57211
bar any nursing facility or intermediate care facility for the 57212
mentally retarded from retaining patients who have resided in the 57213
facility for not less than one year as private pay patients and 57214

who subsequently become recipients of assistance under the 57215
medicaid program, but refusing to accept as a patient any person 57216
who is or may, as a patient in the facility, become a recipient of 57217
assistance under the medicaid program, if all of the following 57218
apply: 57219

(1) The facility does not refuse to retain any patient who 57220
has resided in the facility for not less than one year as a 57221
private pay patient because the patient becomes a recipient of 57222
assistance under the medicaid program, except as necessary to 57223
comply with division (E)(2) of this section; 57224

(2) The number of medicaid recipients retained under this 57225
division does not at any time exceed ten per cent of all the 57226
patients in the facility; 57227

(3) On July 1, 1980, all the patients in the facility were 57228
private pay patients. 57229

Sec. 5111.34. (A) There is hereby created the nursing 57230
facility reimbursement study council consisting of the following 57231
~~seventeen~~ eighteen members: 57232

(1) The director of job and family services; 57233

(2) The deputy director of the office of Ohio health plans of 57234
the department of job and family services; 57235

(3) An employee of the governor's office; 57236

(4) The director of health; 57237

(5) The director of aging; 57238

(6) Three members of the house of representatives, not more 57239
than two of whom are members of the same political party, 57240
appointed by the speaker of the house of representatives; 57241

(7) Three members of the senate, not more than two of whom 57242
are members of the same political party, appointed by the 57243

president of the senate; 57244

(8) One representative of medicaid recipients residing in nursing facilities, appointed by the governor; 57245
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(9) Two representatives of each of the following 57247
organizations, appointed by their respective governing bodies: 57248

(a) The Ohio academy of nursing homes; 57249

(b) The association of Ohio philanthropic homes and housing 57250
for the aging; 57251

(c) The Ohio health care association. 57252

Initial appointments of members described in divisions 57253
(A)(6), (7), and ~~(8)~~(9) of this section shall be made no later 57254
than ninety days after June 6, 2001, except that the initial 57255
appointments of the two additional members described in divisions 57256
(A)(6) and (7) of this section added by Am. Sub. H.B. 405 of the 57257
124th general assembly shall be made not later than ninety days 57258
after ~~the effective date of this amendment~~ March 14, 2002. Initial 57259
appointment of the member described in division (A)(8) of this 57260
section shall be made not later than ninety days after the 57261
effective date of this amendment. Vacancies in any of those 57262
appointments shall be filled in the same manner as original 57263
appointments. The members described in divisions (A)(6), (7), ~~and~~ 57264
(8), and (9) of this section shall serve at the pleasure of the 57265
official or governing body appointing the member. The members 57266
described in divisions (A)(1), (2), (3), (4), and (5) of this 57267
section shall serve for as long as they hold the position that 57268
qualifies them for membership on the council. The speaker of the 57269
house of representatives and the president of the senate jointly 57270
shall appoint the chairperson of the council. Members of the 57271
council shall serve without compensation. 57272

(B) The council shall review, on an ongoing basis, the system 57273
established by sections 5111.20 to 5111.32 of the Revised Code for 57274

reimbursing nursing facilities under the medical assistance 57275
program. The council shall recommend any changes it determines are 57276
necessary. The council shall issue a report of its activities, 57277
findings, and recommendations to the governor, the speaker of the 57278
house of representatives, and the president of the senate not 57279
later than July 30, 2004. Thereafter, the council periodically 57280
shall report its activities, findings, and recommendations to the 57281
governor, the speaker of the house of representatives, and the 57282
president of the senate. 57283

(C) The council shall meet quarterly. Its first quarterly 57284
meeting after the effective date of this amendment shall be held 57285
not later than August 1, 2003. 57286

Sec. 5111.65. As used in sections 5111.65 to 5111.6810 of the 57287
Revised Code: 57288

(A) "Change of operator" means an entering operator becoming 57289
the operator of a nursing facility or intermediate care facility 57290
for the mentally retarded in the place of the exiting operator. 57291

(1) Actions that constitute a change of operator include, but 57292
are not limited to, the following: 57293

(a) A change in an exiting operator's form of legal 57294
organization, including the formation of a partnership or 57295
corporation from a sole proprietorship; 57296

(b) A transfer of all the exiting operator's ownership 57297
interest in the operation of the facility to the entering 57298
operator, regardless of whether ownership of any or all of the 57299
real property or personal property associated with the facility is 57300
also transferred; 57301

(c) A lease of the facility to the entering operator or the 57302
exiting operator's termination of the lease; 57303

(d) If the exiting operator is a partnership, dissolution of 57304

<u>the partnership;</u>	57305
<u>(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:</u>	57306
<u>(i) The change in composition does not cause the partnership's dissolution under state law.</u>	57307
<u>(ii) The partners agree that the change in composition does not constitute a change in operator.</u>	57308
<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>	57309
<u>(2) The following, alone, do not constitute a change of operator:</u>	57310
<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>	57311
<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>	57312
<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>	57313
<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>	57314
<u>(C) "Effective date of a facility closure" means the last day</u>	57315

that the last of the residents of the nursing facility or 57335
intermediate care facility for the mentally retarded resides in 57336
the facility. 57337

(D) "Effective date of a voluntary termination" means the day 57338
the intermediate care facility for the mentally retarded ceases to 57339
accept medicaid patients. 57340

(E) "Effective date of a voluntary withdrawal of 57341
participation" means the day the nursing facility ceases to accept 57342
new medicaid patients other than the individuals who reside in the 57343
nursing facility on the day before the effective date of the 57344
voluntary withdrawal of participation. 57345

(F) "Entering operator" means the person or government entity 57346
that will become the operator of a nursing facility or 57347
intermediate care facility for the mentally retarded when a change 57348
of operator occurs. 57349

(G) "Exiting operator" means any of the following: 57350

(1) An operator that will cease to be the operator of a 57351
nursing facility or intermediate care facility for the mentally 57352
retarded on the effective date of a change of operator; 57353

(2) An operator that will cease to be the operator of a 57354
nursing facility or intermediate care facility for the mentally 57355
retarded on the effective date of a facility closure; 57356

(3) An operator of an intermediate care facility for the 57357
mentally retarded that is undergoing or has undergone a voluntary 57358
termination; 57359

(4) An operator of a nursing facility that is undergoing or 57360
has undergone a voluntary withdrawal of participation. 57361

(H) "Facility closure" means discontinuance of the use of the 57362
building, or part of the building, that houses the facility as a 57363
nursing facility or intermediate care facility for the mentally 57364

retarded that results in the relocation of all of the facility's 57365
residents. A facility closure occurs regardless of any of the 57366
following: 57367

(1) The operator completely or partially replacing the 57368
facility by constructing a new facility or transferring the 57369
facility's license to another facility; 57370

(2) The facility's residents relocating to another of the 57371
operator's facilities; 57372

(3) Any action the department of health takes regarding the 57373
facility's certification under Title XIX of the "Social Security 57374
Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, that may 57375
result in the transfer of part of the facility's survey findings 57376
to another of the operator's facilities; 57377

(4) Any action the department of health takes regarding the 57378
facility's license under Chapter 3721. of the Revised Code; 57379

(5) Any action the department of mental retardation and 57380
developmental disabilities takes regarding the facility's license 57381
under section 5123.19 of the Revised Code. 57382

(I) "Fiscal year" means the fiscal year of this state, as 57383
specified in section 9.34 of the Revised Code. 57384

(J) "Intermediate care facility for the mentally retarded," 57385
"nursing home," "operator," and "owner" have the same meanings as 57386
in section 5111.20 of the Revised Code. 57387

(K) "Provider agreement" means a contract between the 57388
department of job and family services and the operator of a 57389
nursing facility or intermediate care facility for the mentally 57390
retarded for the provision of nursing facility services or 57391
intermediate care facility services for the mentally retarded 57392
under the medical assistance program. 57393

(L) "Voluntary termination" means an operator's voluntary 57394

election to terminate the participation of an intermediate care facility for the mentally retarded in the medicaid program but to continue to provide service of the type provided by a residential facility as defined in section 5123.19 of the Revised Code. 57395
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(M) "Voluntary withdrawal of participation" means an operator's voluntary election to terminate the participation of a nursing facility in the medicaid program but to continue to provide service of the type provided by nursing facilities. 57399
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Sec. 5111.66. An exiting operator or owner of a nursing facility or intermediate care facility for the mentally retarded participating in the medicaid program shall provide the department of job and family services written notice of a facility closure, voluntary termination, or voluntary withdrawal of participation not less than ninety days before the effective date of the facility closure, voluntary termination, or voluntary withdrawal of participation. The written notice shall include all of the following: 57403
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(A) The name of the exiting operator and, if any, the exiting operator's authorized agent; 57412
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(B) The name of the nursing facility or intermediate care facility for the mentally retarded that is the subject of the facility closure, voluntary termination, or voluntary withdrawal of participation; 57414
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(C) The exiting operator's medicaid provider agreement number; 57418
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(D) The effective date of the facility closure, voluntary termination, or voluntary withdrawal of participation; 57420
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(E) The signature of the exiting operator's or owner's representative. 57422
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Sec. 5111.661. An operator shall comply with section 57424
1919(c)(2)(F) of the "Social Security Act," 79 Stat. 286 (1965), 57425
42 U.S.C. 1396r(c)(2)(F) if the operator's nursing facility 57426
undergoes a voluntary withdrawal of participation. 57427

Sec. 5111.67. (A) An exiting operator or owner and entering 57428
operator shall provide the department of job and family services 57429
written notice of a change of operator if the nursing facility or 57430
intermediate care facility for the mentally retarded participates 57431
in the medicaid program and the entering operator seeks to 57432
continue the facility's participation. The written notice shall be 57433
provided to the department not later than forty-five days before 57434
the effective date of the change of operator if the change of 57435
operator does not entail the relocation of residents. The written 57436
notice shall be provided to the department not later than ninety 57437
days before the effective date of the change of operator if the 57438
change of operator entails the relocation of residents. The 57439
written notice shall include all of the following: 57440

(1) The name of the exiting operator and, if any, the exiting 57441
operator's authorized agent; 57442

(2) The name of the nursing facility or intermediate care 57443
facility for the mentally retarded that is the subject of the 57444
change of operator; 57445

(3) The exiting operator's medicaid provider agreement 57446
number; 57447

(4) The name of the entering operator; 57448

(5) The effective date of the change of operator; 57449

(6) The manner in which the entering operator becomes the 57450
facility's operator, including through sale, lease, merger, or 57451
other action; 57452

(7) If the manner in which the entering operator becomes the facility's operator involves more than one step, a description of each step; 57453
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(8) Written authorization from the exiting operator or owner and entering operator for the department to process a provider agreement for the entering operator; 57456
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(9) The signature of the exiting operator's or owner's representative. 57459
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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: 57461
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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; 57465
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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. 57471
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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: 57477
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(A) The department receives a properly completed written notice required by section 5111.67 of the Revised Code on or 57481
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<u>before the date required by that section.</u>	57483
<u>(B) The entering operator furnishes to the department copies of all the fully executed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the change of operator not later than ten days after the effective date of the change of operator.</u>	57484 57485 57486 57487 57488
<u>(C) The entering operator is eligible for medicaid payments as provided in section 5111.21 of the Revised Code.</u>	57489 57490
Sec. 5111.672. <u>(A) The department of job and family services may enter into a provider agreement with an entering operator that goes into effect at 12:01 a.m. on the date determined under division (B) of this section if all of the following are the case:</u>	57491 57492 57493 57494
<u>(1) The department receives a properly completed written notice required by section 5111.67 of the Revised Code.</u>	57495 57496
<u>(2) The entering operator furnishes to the department copies of all the fully executed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to change of operator.</u>	57497 57498 57499 57500
<u>(3) The requirement of division (A)(1) of this section is met after the time required by section 5111.67 of the Revised Code, the requirement of division (A)(2) of this section is met more than ten days after the effective date of the change of operator, or both.</u>	57501 57502 57503 57504 57505
<u>(4) The entering operator is eligible for medicaid payments as provided in section 5111.21 of the Revised Code.</u>	57506 57507
<u>(B) The department shall determine the date a provider agreement entered into under this section is to go into effect as follows:</u>	57508 57509 57510
<u>(1) The effective date shall give the department sufficient time to process the change of operator, assure no duplicate</u>	57511 57512

payments are made, make the withholding required by section 57513
5111.681 of the Revised Code, and withhold the final payment to 57514
the exiting operator until the following: 57515

(a) Ninety days after the exiting operator submits to the 57516
department a properly completed cost report under section 5111.683 57517
of the Revised Code; 57518

(b) One hundred eighty days after the department waives the 57519
cost report requirement of section 5111.683 of the Revised Code. 57520

(2) The effective date shall be not earlier than the later of 57521
the effective date of the change of operator or the date that the 57522
exiting operator or owner and entering operator comply with 57523
section 5111.67 of the Revised Code. 57524

(3) The effective date shall be not later than the following 57525
after the later of the dates specified in division (B)(2) of this 57526
section: 57527

(a) Forty-five days if the change of operator does not entail 57528
the relocation of residents; 57529

(b) Ninety days if the change of operator entails the 57530
relocation of residents. 57531

Sec. 5111.673. A provider agreement that the department of 57532
job and family services enters into with an entering operator 57533
under section 5111.671 or 5111.672 of the Revised Code shall 57534
satisfy all of the following requirements: 57535

(A) Comply with all applicable federal statutes and 57536
regulations; 57537

(B) Comply with section 5111.22 of the Revised Code and all 57538
other applicable state statutes and rules; 57539

(C) Include all the terms and conditions of the exiting 57540
operator's provider agreement, including, but not limited to, all 57541

<u>of the following:</u>	57542
<u>(1) Any plan of correction;</u>	57543
<u>(2) Compliance with health and safety standards;</u>	57544
<u>(3) Compliance with the ownership and financial interest</u>	57545
<u>disclosure requirements of 42 C.F.R. 455.104, 455.105, and 1002.3;</u>	57546
<u>(4) Compliance with the civil rights requirements of 45</u>	57547
<u>C.F.R. parts 80, 84, and 90;</u>	57548
<u>(5) Compliance with additional requirements imposed by the</u>	57549
<u>department;</u>	57550
<u>(6) Any sanctions relating to remedies for violation of the</u>	57551
<u>provider agreement, including deficiencies, compliance periods,</u>	57552
<u>accountability periods, monetary penalties, notification for</u>	57553
<u>correction of contract violations, and history of deficiencies.</u>	57554
<u>(D) Require the entering operator to assume the exiting</u>	57555
<u>operator's remaining debt to the department and United States</u>	57556
<u>centers for medicare and medicaid services that the department is</u>	57557
<u>unable to collect from the exiting operator.</u>	57558
<u>Sec. 5111.674. In the case of a change of operator, the</u>	57559
<u>exiting operator shall be considered to be the operator of the</u>	57560
<u>nursing facility or intermediate care facility for the mentally</u>	57561
<u>retarded for purposes of the medicaid program, including medicaid</u>	57562
<u>payments, until the effective date of the entering operator's</u>	57563
<u>provider agreement if the provider agreement is entered into under</u>	57564
<u>section 5111.671 or 5111.672 of the Revised Code.</u>	57565
<u>Sec. 5111.675. The department of job and family services may</u>	57566
<u>enter into a provider agreement as provided in section 5111.22 of</u>	57567
<u>the Revised Code, rather than section 5111.671 or 5111.672 of the</u>	57568
<u>Revised Code, with an entering operator if the entering operator</u>	57569
<u>does not agree to a provider agreement that satisfies the</u>	57570

requirements of division (C) or (D) of section 5111.673 of the 57571
Revised Code. The department may not enter into the provider 57572
agreement unless the department of health certifies the nursing 57573
facility or intermediate care facility for the mentally retarded 57574
under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 57575
42 U.S.C.A. 1396, as amended. The effective date of the provider 57576
agreement shall not precede any of the following: 57577

(A) The date that the department of health certifies the 57578
facility; 57579

(B) The effective date of the change of operator; 57580

(C) The date the requirement of section 5111.67 of the 57581
Revised Code is satisfied. 57582

Sec. 5111.676. The director of job and family services may 57583
adopt rules in accordance with Chapter 119. of the Revised Code 57584
governing adjustments to the medicaid reimbursement rate for a 57585
nursing facility or intermediate care facility for the mentally 57586
retarded that undergoes a change of operator. No rate adjustment 57587
resulting from a change of operator shall be effective before the 57588
effective date of the entering operator's provider agreement. This 57589
is the case regardless of whether the provider agreement is 57590
entered into under section 5111.671, section 5111.672, or, 57591
pursuant to section 5111.675, section 5111.22 of the Revised Code. 57592

Sec. 5111.677. Neither of the following shall affect the 57593
department of job and family services' determination of whether or 57594
when a change of operator occurs or the effective date of an 57595
entering operator's provider agreement under section 5111.671, 57596
section 5111.672, or, pursuant to section 5111.675, section 57597
5111.22 of the Revised Code: 57598

(A) The department of health's determination that a change of 57599
operator has or has not occurred for purposes of licensure under 57600

<u>Chapter 3721. of the Revised Code;</u>	57601
<u>(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.</u>	57602 57603 57604 57605
<u>Sec. 5111.68. (A) On receipt of a written notice under section 5111.66 of the Revised Code of a facility closure, voluntary termination, or voluntary withdrawal of participation or a written notice under section 5111.67 of the Revised Code of a change of operator, the department of job and family services shall determine the amount of any overpayments made under the medicaid program to the exiting operator, including overpayments the exiting operator disputes, and other actual and potential debts the exiting operator owes or may owe to the department and United States centers for medicare and medicaid services under the medicaid program. In determining the exiting operator's other actual and potential debts to the department under the medicaid program, the department shall include all of the following that the department determines is applicable:</u>	57606 57607 57608 57609 57610 57611 57612 57613 57614 57615 57616 57617 57618 57619
<u>(1) Refunds due the department under division (G) of section 5111.25 of the Revised Code or division (H) of section 5111.251 of the Revised Code;</u>	57620 57621 57622
<u>(2) Interest owed to the department and United States centers for medicare and medicaid services;</u>	57623 57624
<u>(3) Final civil monetary and other penalties for which all right of appeal has been exhausted;</u>	57625 57626
<u>(4) Third-party liabilities;</u>	57627
<u>(5) Money owed the department and United States centers for medicare and medicaid services from any outstanding final fiscal audit, including a final fiscal audit for the last fiscal year or</u>	57628 57629 57630

portion thereof in which the exiting operator participated in the 57631
medicaid program. 57632

(B) If the department is unable to determine the amount of 57633
the overpayments and other debts for any period before the 57634
effective date of the entering operator's provider agreement or 57635
the effective date of the facility closure, voluntary termination, 57636
or voluntary withdrawal of participation, the department shall 57637
make a reasonable estimate of the overpayments and other debts for 57638
the period. The department shall make the estimate using 57639
information available to the department, including prior 57640
determinations of overpayments and other debts. 57641

Sec. 5111.681. (A) The department of job and family services 57642
shall withhold the greater of the following from payment due an 57643
exiting operator under the medicaid program: 57644

(1) The total amount of any overpayments made under the 57645
medicaid program to the exiting operator, including overpayments 57646
the exiting operator disputes, and other actual and potential 57647
debts, including any unpaid penalties, the exiting operator owes 57648
or may owe to the department and United States centers for 57649
medicare and medicaid services under the medicaid program; 57650

(2) An amount equal to the average amount of monthly payments 57651
to the exiting operator under the medicaid program for the 57652
twelve-month period immediately preceding the month that includes 57653
the last day the exiting operator's provider agreement is in 57654
effect or, in the case of a voluntary withdrawal of participation, 57655
the effective date of the voluntary withdrawal of participation. 57656

(B) The department may transfer the amount withheld under 57657
division (A) of this section to an escrow account with a bank, 57658
trust company, or savings and loan association. 57659

(C) If payment due an exiting operator under the medicaid 57660

program is less than the amount the department is required to 57661
withhold under division (A) of this section, the department shall 57662
require that the exiting operator provide the difference in the 57663
form of a security. 57664

(D) The department shall release to the exiting operator the 57665
actual amount withheld under division (A) of this section if the 57666
department allows the exiting operator to provide the department a 57667
security in the amount the department is required to withhold 57668
under division (A) of this section, less any of that amount 57669
provided to the department in the form of a security under 57670
division (C) of this section. 57671

(E) Security provided to the department under division (C) or 57672
(D) of this section shall be in either or both of the following 57673
forms: 57674

(1) In the case of a change of operator, the entering 57675
operator's nontransferable, unconditional, written agreement to 57676
pay the department any debt the exiting operator owes the 57677
department under the medicaid program; 57678

(2) In the case of a change of operator, facility closure, 57679
voluntary termination, or voluntary withdrawal of participation, a 57680
form of collateral or security acceptable to the department that 57681
satisfies both of the following conditions: 57682

(a) Is at least equal to the amount the department is 57683
required to withhold under division (A) of this section, less any 57684
amounts the department has received through actual withholding or 57685
one or more other forms of security under this division; 57686

(b) Is payable to the department if the exiting operator 57687
fails to pay any debt owed the department under the medicaid 57688
program within fifteen days of receiving the department's written 57689
demand for payment of the debt. 57690

Sec. 5111.682. An entering operator that provides the 57691
department of job and family services a security in the form 57692
provided by division (E)(1) of section 5111.681 of the Revised 57693
Code shall also provide the department a list of the entering 57694
operator's assets and liabilities. The department shall determine 57695
whether the assets are sufficient for the purpose of the security. 57696

Sec. 5111.683. (A) Except as provided in division (B) of this 57697
section, an exiting operator shall file with the department of job 57698
and family services a cost report not later than ninety days after 57699
the last day the exiting operator's provider agreement is in 57700
effect or, in the case of a voluntary withdrawal of participation, 57701
the effective date of the voluntary withdrawal of participation. 57702
The cost report shall cover the period that begins with the day 57703
after the last day covered by the operator's most recent previous 57704
cost report required by section 5111.26 of the Revised Code and 57705
ends on the last day the exiting operator's provider agreement is 57706
in effect or, in the case of a voluntary withdrawal of 57707
participation, the effective date of the voluntary withdrawal of 57708
participation. The cost report shall include, as applicable, all 57709
of the following: 57710

(1) The sale price of the nursing facility or intermediate 57711
care facility for the mentally retarded; 57712

(2) A final depreciation schedule that shows which assets are 57713
transferred to the buyer and which assets are not transferred to 57714
the buyer; 57715

(3) Any other information the department requires. 57716

(B) The department, at its sole discretion, may waive the 57717
requirement that an exiting operator file a cost report in 57718
accordance with division (A) of this section. 57719

Sec. 5111.684. If an exiting operator required by section 5111.683 of the Revised Code to file a cost report with the department of job and family services fails to file the cost report in accordance with that section, all payments under the medicaid program for the period the cost report is required to cover are deemed overpayments until the date the department receives the properly completed cost report. The department may impose on the exiting operator a penalty of one hundred dollars for each calendar day the properly completed cost report is late.

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Sec. 5111.685. The department of job and family services may not provide an exiting operator final payment under the medicaid program until the department receives all properly completed cost reports the exiting operator is required to file under sections 5111.26 and 5111.683 of the Revised Code.

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Sec. 5111.686. The department of job and family services shall determine the actual amount of debt an exiting operator owes the department under the medicaid program by completing all final fiscal audits not already completed and performing all other appropriate actions the department determines to be necessary. The department shall issue a report on this matter not later than ninety days after the date the exiting operator files the properly completed cost report required by section 5111.683 of the Revised Code with the department or, if the department waives the cost report requirement for the exiting operator, one hundred eighty days after the date the department waives the cost report requirement. The report shall include the department's findings and the amount of debt the department determines the exiting operator owes the department and United States centers for medicare and medicaid services under the medicaid program. Only the parts of the report that are subject to an adjudication as

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specified in division (B) of section 5111.29 of the Revised Code 57750
are subject to an adjudication conducted in accordance with 57751
Chapter 119. of the Revised Code. 57752

Sec. 5111.687. The department of job and family services 57753
shall release the actual amount withheld under division (A) of 57754
section 5111.681 of the Revised Code, and any security provided to 57755
the department under that section, less any amount the exiting 57756
operator owes the department and United States centers for 57757
medicare and medicaid services under the medicaid program, as 57758
follows: 57759

(A) Ninety-one days after the date the exiting operator files 57760
a properly completed cost report required by section 5111.683 of 57761
the Revised Code unless the department issues the report required 57762
by section 5111.686 of the Revised Code not later than ninety days 57763
after the date the exiting operator files the properly completed 57764
cost report; 57765

(B) Not later than fifteen days after the exiting operator 57766
agrees to a final fiscal audit resulting from the report required 57767
by section 5111.686 of the Revised Code if the department issues 57768
the report not later than ninety days after the date the exiting 57769
operator files a properly completed cost report required by 57770
section 5111.683 of the Revised Code; 57771

(C) One hundred eighty-one days after the date the department 57772
waives the cost report requirement of section 5111.683 of the 57773
Revised Code unless the department issues the report required by 57774
section 5111.686 of the Revised Code not later than one hundred 57775
eighty days after the date the department waives the cost report 57776
requirement; 57777

(D) Not later than fifteen days after the exiting operator 57778
agrees to a final fiscal audit resulting from the report required 57779
by section 5111.686 of the Revised Code if the department issues 57780

the report not later than one hundred eighty days after the date 57781
the department waives the cost report requirement of section 57782
5111.683 of the Revised Code. 57783

Sec. 5111.688. If the actual amount the department of job and 57784
family services withholds from an exiting operator under division 57785
(A) of section 5111.681 of the Revised Code, and any security 57786
provided to the department under that section, is inadequate to 57787
pay the exiting operator's debt to the department and United 57788
States centers for medicare and medicaid services under the 57789
medicaid program or the department is required to release the 57790
withholdings and security under section 5111.687 of the Revised 57791
Code before the department is paid the exiting operator's debt, 57792
the department shall collect the debt as follows: 57793

(A) From the exiting operator; 57794

(B) From the entering operator if the department is unable to 57795
collect the entire debt from the exiting operator and the entering 57796
operator entered into a provider agreement under section 5111.671 57797
or 5111.672 of the Revised Code. The department may collect the 57798
remaining debt by withholding the amount due from payments to the 57799
entering operator under the medicaid program. The department may 57800
enter into an agreement with the entering operator under which the 57801
entering operator pays the remaining debt, with applicable 57802
interest, in installments from withholdings from the entering 57803
operator's payments under the medicaid program. 57804

Sec. 5111.689. The department of job and family services, at 57805
its sole discretion, may release the amount withheld under 57806
division (A) of section 5111.681 of the Revised Code, and any 57807
security provided to the department under that section, if the 57808
exiting operator submits to the department written notice of a 57809
postponement of a change of operator, facility closure, voluntary 57810

termination, or voluntary withdrawal of participation and the 57811
transactions leading to the change of operator, facility closure, 57812
voluntary termination, or voluntary withdrawal of participation 57813
are postponed for at least thirty days but less than ninety days 57814
after the date originally proposed for the change of operator, 57815
facility closure, voluntary termination, or voluntary withdrawal 57816
of participation as reported in the written notice required by 57817
section 5111.66 or 5111.67 of the Revised Code. The department 57818
shall release the amount withheld and security if the exiting 57819
operator submits to the department written notice of a 57820
cancellation or postponement of a change of operator, facility 57821
closure, voluntary termination, or voluntary withdrawal of 57822
participation and the transactions leading to the change of 57823
operator, facility closure, voluntary termination, or voluntary 57824
withdrawal of participation are canceled, or postponed for more 57825
than ninety days after the date originally proposed for the change 57826
of operator, facility closure, voluntary termination, or voluntary 57827
withdrawal of participation as reported in the written notice 57828
required by section 5111.66 or 5111.67 of the Revised Code. 57829

After the department receives a written notice regarding a 57830
cancellation or postponement of a facility closure, voluntary 57831
termination, or voluntary withdrawal of participation, the exiting 57832
operator or owner shall provide new written notice to the 57833
department under section 5111.66 of the Revised Code regarding any 57834
transactions leading to a facility closure, voluntary termination, 57835
or voluntary withdrawal of participation at a future time. After 57836
the department receives a written notice regarding a cancellation 57837
or postponement of a change of operator, the exiting operator or 57838
owner and entering operator shall provide new written notice to 57839
the department under section 5111.67 of the Revised Code regarding 57840
any transactions leading to a change of operator at a future time. 57841

Sec. 5111.6810. The director of job and family services may 57842

adopt rules in accordance with Chapter 119. of the Revised Code to 57843
implement sections 5111.65 to 5111.6810 of the Revised Code, 57844
including rules applicable to an exiting operator that provides 57845
written notification under section 5111.66 of the Revised Code of 57846
a voluntary withdrawal of participation. Rules adopted under this 57847
section shall comply with section 1919(c)(2)(F) of the "Social 57848
Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396r(c)(2)(F), 57849
regarding restrictions on transfers or discharges of nursing 57850
facility residents in the case of a voluntary withdrawal of 57851
participation. The rules may prescribe a medicaid reimbursement 57852
methodology and other procedures that are applicable after the 57853
effective date of a voluntary withdrawal of participation that 57854
differ from the reimbursement methodology and other procedures 57855
that would otherwise apply. 57856

Sec. 5111.85. (A) As used in this section, "medicaid waiver 57857
component" means a component of the medicaid program authorized by 57858
a waiver granted by the United States department of health and 57859
human services under section 1115 or 1915 of the "Social Security 57860
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1315 or 1396n. "Medicaid 57861
waiver component" does not include a ~~managed~~ care management 57862
system established under section ~~5111.17~~ 5111.16 of the Revised 57863
Code. 57864

(B) The director of job and family services may adopt rules 57865
under Chapter 119. of the Revised Code governing medicaid waiver 57866
components that establish all of the following: 57867

(1) Eligibility requirements for the medicaid waiver 57868
components; 57869

(2) The type, amount, duration, and scope of services the 57870
medicaid waiver components provide; 57871

(3) The conditions under which the medicaid waiver components 57872
cover services; 57873

(4) The amount the medicaid waiver components pay for services or the method by which the amount is determined;	57874 57875
(5) The manner in which the medicaid waiver components pay for services;	57876 57877
(6) Safeguards for the health and welfare of medicaid recipients receiving services under a medicaid waiver component;	57878 57879
(7) Procedures for enforcing the rules, including establishing corrective action plans for, and imposing financial and administrative sanctions on, persons and government entities that violate the rules. Sanctions shall include terminating medicaid provider agreements. The procedures shall include due process protections.	57880 57881 57882 57883 57884 57885
(8) Other policies necessary for the efficient administration of the medicaid waiver components.	57886 57887
(C) The director of job and family services may adopt different rules for the different medicaid waiver components. The rules shall be consistent with the terms of the waiver authorizing the medicaid waiver component.	57888 57889 57890 57891
(D) The director of job and family services may conduct reviews of the medicaid waiver components. The reviews may include physical inspections of records and sites where services are provided under the medicaid waiver components and interviews of providers and recipients of the services. If the director determines pursuant to a review that a person or government entity has violated a rule governing a medicaid waiver component, the director may establish a corrective action plan for the violator and impose fiscal, administrative, or both types of sanctions on the violator in accordance with rules adopted under division (B) of this section.	57892 57893 57894 57895 57896 57897 57898 57899 57900 57901 57902
Sec. 5111.87. As used in this section and section 5111.871 of	57903

the Revised Code, "intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

The director of job and family services may apply to the United States secretary of health and human services for one or more medicaid waivers under which home and community-based services are provided to individuals with mental retardation or other developmental disability as an alternative to placement in an intermediate care facility for the mentally retarded. ~~Before the director applies~~ The director of mental retardation and developmental disabilities may request that the director of job and family services apply for one or more medicaid waivers under this section.

Before applying for a waiver under this section, the director of job and family services shall seek, accept, and consider public comments.

Sec. 5111.871. The department of job and family services shall enter into a contract with the department of mental retardation and developmental disabilities under section 5111.91 of the Revised Code with regard to one or more of the component components of the medicaid program established by the department of job and family services under one or more of the medicaid waivers ~~from the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396n, as amended, to provide eligible medicaid recipients with home and community based services as an alternative to placement in an intermediate care facility for the mentally retarded sought under section 5111.87 of the Revised Code.~~ The contract shall provide for the department of mental retardation and developmental disabilities to administer the ~~component~~ components in accordance with the terms of the

~~waiver~~ waivers. The directors of job and family services and 57935
mental retardation and developmental disabilities shall adopt 57936
rules in accordance with Chapter 119. of the Revised Code 57937
governing the ~~component~~ components. 57938

If the department of mental retardation and developmental 57939
disabilities or the department of job and family services denies 57940
an individual's application for home and community-based services 57941
provided under ~~this~~ any of these medicaid ~~component~~ components, 57942
the department that denied the services shall give timely notice 57943
to the individual that the individual may request a hearing under 57944
section 5101.35 of the Revised Code. 57945

The departments of mental retardation and developmental 57946
disabilities and job and family services may approve, reduce, 57947
deny, or terminate a service included in the individualized 57948
service plan developed for a medicaid recipient eligible for home 57949
and community-based services provided under ~~this~~ any of these 57950
medicaid ~~component~~ components. The departments shall consider the 57951
recommendations a county board of mental retardation and 57952
developmental disabilities makes under division (A)(1)(c) of 57953
section 5126.055 of the Revised Code. If either department 57954
approves, reduces, denies, or terminates a service, that 57955
department shall give timely notice to the medicaid recipient that 57956
the recipient may request a hearing under section 5101.35 of the 57957
Revised Code. 57958

If supported living or residential services, as defined in 57959
section 5126.01 of the Revised Code, are to be provided under ~~this~~ 57960
~~component~~ any of these components, any person or government entity 57961
with a current, valid medicaid provider agreement and a current, 57962
valid license under section 5123.19 or certificate under section 57963
5123.045 or 5126.431 of the Revised Code may provide the services. 57964

Sec. 5111.872. When the department of mental retardation and 57965

developmental disabilities allocates enrollment numbers to a 57966
county board of mental retardation and developmental disabilities 57967
for home and community-based services provided under any of the 57968
~~component~~ components of the medicaid program that the department 57969
administers under section 5111.871 of the Revised Code, the 57970
department shall consider all of the following: 57971

(A) The number of individuals with mental retardation or 57972
other developmental disability who are on a waiting list the 57973
county board establishes under division (C) of section 5126.042 of 57974
the Revised Code for those services and are given priority on the 57975
waiting list pursuant to division (D) or (E) of that section; 57976

(B) The implementation component required by division (A)(4) 57977
of section 5126.054 of the Revised Code of the county board's plan 57978
approved under section 5123.046 of the Revised Code; 57979

(C) Anything else the department considers necessary to 57980
enable county boards to provide those services to individuals in 57981
accordance with the priority requirements of ~~division~~ divisions 57982
(D) and (E) of section 5126.042 of the Revised Code. 57983

Sec. 5111.873. (A) Not later than the effective date of the 57984
first of any medicaid waivers the United States secretary of 57985
health and human services grants pursuant to a request made under 57986
section 5111.87 of the Revised Code, the director of job and 57987
family services shall adopt rules in accordance with Chapter 119. 57988
of the Revised Code establishing statewide fee schedules for home 57989
and community-based services provided under the ~~component~~ 57990
components of the medicaid program that the department of mental 57991
retardation and developmental disabilities administers under 57992
section 5111.871 of the Revised Code. The rules shall provide for 57993
all of the following: 57994

(1) The department of mental retardation and developmental 57995
disabilities arranging for the initial and ongoing collection of 57996

cost information from a comprehensive, statistically valid sample 57997
of persons and government entities providing the services at the 57998
time the information is obtained; 57999

(2) The collection of consumer-specific information through 58000
an assessment instrument the department of mental retardation and 58001
developmental disabilities shall provide to the department of job 58002
and family services; 58003

(3) With the information collected pursuant to divisions 58004
(A)(1) and (2) of this section, an analysis of that information, 58005
and other information the director determines relevant, methods 58006
and standards for calculating the fee schedules that do all of the 58007
following: 58008

(a) Assure that the fees are consistent with efficiency, 58009
economy, and quality of care; 58010

(b) Consider the intensity of consumer resource need; 58011

(c) Recognize variations in different geographic areas 58012
regarding the resources necessary to assure the health and welfare 58013
of consumers; 58014

(d) Recognize variations in environmental supports available 58015
to consumers. 58016

(B) As part of the process of adopting rules under this 58017
section, the director shall consult with the director of mental 58018
retardation and developmental disabilities, representatives of 58019
county boards of mental retardation and developmental 58020
disabilities, persons who provide the home and community-based 58021
services, and other persons and government entities the director 58022
identifies. 58023

(C) The directors of job and family services and mental 58024
retardation and developmental disabilities shall review the rules 58025
adopted under this section at times they determine to ensure that 58026

the methods and standards established by the rules for calculating 58027
the fee schedules continue to do everything that division (A)(3) 58028
of this section requires. 58029

Sec. 5111.911. Any contract the department of job and family 58030
services enters into with the department of mental health or 58031
department of alcohol and drug addiction services under section 58032
5111.91 of the Revised Code is subject to the approval of the 58033
director of budget and management and shall require or specify all 58034
of the following: 58035

(A) In the case of a contract with the department of mental 58036
health, that section 5111.912 of the Revised Code be complied 58037
with; 58038

(B) In the case of a contract with the department of alcohol 58039
and drug addiction services, that section 5111.913 of the Revised 58040
Code be complied with; 58041

(C) How providers will be paid for providing the services; 58042

(D) The department of mental health's or department of 58043
alcohol and drug addiction services' responsibilities for 58044
reimbursing providers, including program oversight and quality 58045
assurance. 58046

Sec. 5111.912. If the department of job and family services 58047
enters into a contract with the department of mental health under 58048
section 5111.91 of the Revised Code, the department of mental 58049
health and boards of alcohol, drug addiction, and mental health 58050
services shall pay the nonfederal share of any medicaid payment to 58051
a provider for services under the component, or aspect of the 58052
component, the department of mental health administers. 58053

Sec. 5111.913. If the department of job and family services 58054
enters into a contract with the department of alcohol and drug 58055

addiction services under section 5111.91 of the Revised Code, the 58056
department of alcohol and drug addiction services and boards of 58057
alcohol, drug addiction, and mental health services shall pay the 58058
nonfederal share of any medicaid payment to a provider for 58059
services under the component, or aspect of the component, the 58060
department of alcohol and drug addiction services administers. 58061

Sec. 5111.92. (A)(1) Except as provided in division (B) of 58062
this section, if a state agency or political subdivision 58063
administers one or more components of the medicaid program that 58064
the United States department of health and human services 58065
approved, and for which federal financial participation was 58066
initially obtained, prior to January 1, 2002, or administers one 58067
or more aspects of such a component, the department of job and 58068
family services may retain or collect not more than ten per cent 58069
of the federal financial participation the state agency or 58070
political subdivision obtains through an approved, administrative 58071
claim regarding the component or aspect of the component. If the 58072
department retains or collects a percentage of such federal 58073
financial participation, the percentage the department retains or 58074
collects shall be specified in a contract the department enters 58075
into with the state agency or political subdivision under section 58076
5111.91 of the Revised Code. 58077

(2) Except as provided in division (B) of this section, if a 58078
state agency or political subdivision administers one or more 58079
components of the medicaid program that the United States 58080
department of health and human services approved on or after 58081
January 1, 2002, or administers one or more aspects of such a 58082
component, the department of job and family services shall retain 58083
or collect not less than three and not more than ten per cent of 58084
the federal financial participation the state agency or political 58085
subdivision obtains through an approved, administrative claim 58086
regarding the component or aspect of the component. The percentage 58087

the department retains or collects shall be specified in a 58088
contract the department enters into with the state agency or 58089
political subdivision under section 5111.91 of the Revised Code. 58090

(B) The department of job and family services may retain or 58091
collect a percentage of federal financial participation under 58092
divisions (A)(1) and (2) of this section only to the extent 58093
permitted by federal statutes and regulations and shall not retain 58094
or collect a percentage of federal financial participation 58095
obtained pursuant to section 5126.058 of the Revised Code. 58096

(C) All amounts the department retains or collects under this 58097
section shall be deposited into the health care services 58098
administration fund created under section 5111.94 of the Revised 58099
Code. 58100

Sec. 5111.94. (A) As used in this section, "vendor offset" 58101
means a reduction of a medicaid payment to a medicaid provider to 58102
correct a previous, incorrect medicaid payment to that provider. 58103

(B) There is hereby created in the state treasury the health 58104
care services administration fund. Except as provided in division 58105
(C) of this section, all the following shall be deposited into the 58106
fund: 58107

(1) Amounts deposited into the fund pursuant to sections 58108
5111.92 and 5111.93 of the Revised Code; 58109

(2) The amount of the state share of all money the department 58110
of job and family services, in fiscal year 2003 and each fiscal 58111
year thereafter, recovers pursuant to a tort action under the 58112
department's right of recovery under section 5101.58 of the 58113
Revised Code that exceeds the state share of all money the 58114
department, in fiscal year 2002, recovers pursuant to a tort 58115
action under that right of recovery; 58116

(3) Subject to division (D) of this section, the amount of 58117

the state share of all money the department of job and family services, in fiscal year 2003 and each fiscal year thereafter, recovers through audits of medicaid providers that exceeds the state share of all money the department, in fiscal year 2002, recovers through such audits;

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

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

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

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

Sec. 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. 58148

(2) "Criminal records check" has the same meaning as in 58149
section 109.572 of the Revised Code. 58150

(3) "Waiver agency" means a person or government entity that 58151
is not certified under the medicare program and is accredited by 58152
the community health accreditation program or the joint commission 58153
on accreditation of health care organizations or a company that 58154
provides home and community-based waiver services to persons with 58155
disabilities through department of job and family services 58156
administered home and community-based waiver programs. "Waiver 58157
agency" does not include a person or government entity that 58158
provides home and community-based waiver services through 58159
components of the medicaid program being administered by the 58160
department of mental retardation and developmental disabilities 58161
pursuant to a contract entered into with the department of job and 58162
family services under section 5111.871 of the Revised Code. 58163

(4) "Home and community-based waiver services" means services 58164
furnished under the provision of 42 C.F.R. 441, subpart G, that 58165
permit individuals to live in a home setting rather than a nursing 58166
facility or hospital. Home and community-based waiver services are 58167
approved by the centers for medicare and medicaid for specific 58168
populations and are not otherwise available under the medicaid 58169
state plan. 58170

(B)(1) The chief administrator of a waiver agency shall 58171
request that the superintendent of the bureau of criminal 58172
identification and investigation conduct a criminal records check 58173
with respect to each applicant. If an applicant for whom a 58174
criminal records check request is required under this division 58175
does not present proof of having been a resident of this state for 58176
the five-year period immediately prior to the date the criminal 58177
records check is requested or provide evidence that within that 58178
five-year period the superintendent has requested information 58179

about the applicant from the federal bureau of investigation in a 58180
criminal records check, the chief administrator shall request that 58181
the superintendent obtain information from the federal bureau of 58182
investigation as part of the criminal records check of the 58183
applicant. Even if an applicant for whom a criminal records check 58184
request is required under this division presents proof of having 58185
been a resident of this state for the five-year period, the chief 58186
administrator may request that the superintendent include 58187
information from the federal bureau of investigation in the 58188
criminal records check. 58189

(2) A person required by division (B)(1) of this section to 58190
request a criminal records check shall do both of the following: 58191

(a) Provide to each applicant for whom a criminal records 58192
check request is required under division (B)(1) of this section a 58193
copy of the form prescribed pursuant to division (C)(1) of section 58194
109.572 of the Revised Code and a standard fingerprint impression 58195
sheet prescribed pursuant to division (C)(2) of that section, and 58196
obtain the completed form and impression sheet from the applicant; 58197

(b) Forward the completed form and impression sheet to the 58198
superintendent of the bureau of criminal identification and 58199
investigation. 58200

(3) An applicant provided the form and fingerprint impression 58201
sheet under division (B)(2)(a) of this section who fails to 58202
complete the form or provide fingerprint impressions shall not be 58203
employed in any position in a waiver agency for which a criminal 58204
records check is required by this section. 58205

(C)(1) Except as provided in rules adopted by the department 58206
of job and family services in accordance with division (F) of this 58207
section and subject to division (C)(2) of this section, no waiver 58208
agency shall employ a person in a position that involves providing 58209
home and community-based waiver services to persons with 58210

disabilities if the person has been convicted of or pleaded guilty 58211
to any of the following: 58212

(a) A violation of section 2903.01, 2903.02, 2903.03, 58213
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 58214
2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 58215
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 58216
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 58217
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 58218
2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 58219
2913.43, 2913.47, 2913.51, 2919.12, 2919.24, 2919.25, 2921.36, 58220
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 58221
2925.06, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the 58222
Revised Code, felonious sexual penetration in violation of former 58223
section 2907.12 of the Revised Code, a violation of section 58224
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 58225
violation of section 2919.23 of the Revised Code that would have 58226
been a violation of section 2905.04 of the Revised Code as it 58227
existed prior to July 1, 1996, had the violation been committed 58228
prior to that date; 58229

(b) An existing or former law of this state, any other state, 58230
or the United States that is substantially equivalent to any of 58231
the offenses listed in division (C)(1)(a) of this section. 58232

(2)(a) A waiver agency may employ conditionally an applicant 58233
for whom a criminal records check request is required under 58234
division (B) of this section prior to obtaining the results of a 58235
criminal records check regarding the individual, provided that the 58236
agency shall request a criminal records check regarding the 58237
individual in accordance with division (B)(1) of this section not 58238
later than five business days after the individual begins 58239
conditional employment. 58240

(b) A waiver agency that employs an individual conditionally 58241
under authority of division (C)(2)(a) of this section shall 58242

terminate the individual's employment if the results of the 58243
criminal records check request under division (B) of this section, 58244
other than the results of any request for information from the 58245
federal bureau of investigation, are not obtained within the 58246
period ending sixty days after the date the request is made. 58247
Regardless of when the results of the criminal records check are 58248
obtained, if the results indicate that the individual has been 58249
convicted of or pleaded guilty to any of the offenses listed or 58250
described in division (C)(1) of this section, the agency shall 58251
terminate the individual's employment unless the agency chooses to 58252
employ the individual pursuant to division (F) of this section. 58253
Termination of employment under this division shall be considered 58254
just cause for discharge for purposes of division (D)(2) of 58255
section 4141.29 of the Revised Code if the individual makes any 58256
attempt to deceive the agency about the individual's criminal 58257
record. 58258

(D)(1) Each waiver agency shall pay to the bureau of criminal 58259
identification and investigation the fee prescribed pursuant to 58260
division (C)(3) of section 109.572 of the Revised Code for each 58261
criminal records check conducted pursuant to a request made under 58262
division (B) of this section. 58263

(2) A waiver agency may charge an applicant a fee not 58264
exceeding the amount the agency pays under division (D)(1) of this 58265
section. An agency may collect a fee only if the agency notifies 58266
the person at the time of initial application for employment of 58267
the amount of the fee and that, unless the fee is paid, the person 58268
will not be considered for employment. 58269

(E) The report of any criminal records check conducted 58270
pursuant to a request made under this section is not a public 58271
record for the purposes of section 149.43 of the Revised Code and 58272
shall not be made available to any person other than the 58273
following: 58274

<u>(1) The individual who is the subject of the criminal records check or the individual's representative;</u>	58275
	58276
<u>(2) The chief administrator of the agency requesting the criminal records check or the administrator's representative;</u>	58277
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<u>(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.</u>	58279
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<u>(F) The department shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which a waiver agency may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the department.</u>	58283
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<u>(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.</u>	58289
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<u>(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.</u>	58296
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<u>(2) This section shall not apply to a person to whom all of the following apply:</u>	58303
	58304

(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. 58305
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(b) The person previously had been the subject of a criminal background check relating to that position; 58309
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(c) The person has been continuously employed in that position since that criminal background check had been conducted. 58311
58312

Sec. 5111.96. (A) As used in this section: 58313

(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. 58314
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(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code. 58317
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(3) "The department" means the department of job and family services or its designee. 58319
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(4) "Independent provider" means a person who is submitting an application for a provider agreement or who has a provider agreement as an independent provider in a department of job and family services administered home and community-based services program providing home and community-based waiver services to consumers with disabilities. 58321
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(5) "Home and community-based waiver services" has the same meaning as in section 5111.95 of the Revised Code. 58327
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(B)(1) The department shall inform each independent provider, at the time of initial application for a provider agreement that involves providing home and community-based waiver services to consumers with disabilities, that the independent provider is required to provide a set of fingerprint impressions and that a 58329
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criminal records check is required to be conducted if the person 58334
is to become an independent provider in a department administered 58335
home and community-based waiver program. 58336

(2) Beginning on the effective date of this section, the 58337
department shall inform each enrolled medicaid independent 58338
provider on or before time of the anniversary date of the provider 58339
agreement that involves providing home and community-based waiver 58340
services to consumers with disabilities that the independent 58341
provider is required to provide a set of fingerprint impressions 58342
and that a criminal records check is required to be conducted. 58343

(C)(1) The department shall require the independent provider 58344
to complete a criminal records check prior to entering into a 58345
provider agreement with the independent provider and at least 58346
annually thereafter. If an independent provider for whom a 58347
criminal records check is required under this division does not 58348
present proof of having been a resident of this state for the 58349
five-year period immediately prior to the date the criminal 58350
records check is requested or provide evidence that within that 58351
five-year period the superintendent has requested information 58352
about the applicant from the federal bureau of investigation in a 58353
criminal records check, the department shall request the 58354
independent provider obtain through the superintendent a criminal 58355
records request from the federal bureau of investigation as part 58356
of the criminal records check of the independent provider. Even if 58357
an independent provider for whom a criminal records check request 58358
is required under this division presents proof of having been a 58359
resident of this state for the five-year period, the department 58360
may request that the independent provider obtain information 58361
through the superintendent from the federal bureau of 58362
investigation in the criminal records check. 58363

(2) The department shall do both of the following: 58364

(a) Provide information to each independent provider for whom 58365

a criminal records check request is required under division (C)(1) of this section about requesting a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet and fee from the independent provider;

(b) Forward the completed form, impression sheet, and fee to the superintendent of the bureau of criminal identification and investigation.

(3) An independent provider given information about obtaining the form and fingerprint impression sheet under division (C)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be approved as an independent provider.

(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 58398
violation of section 2919.23 of the Revised Code that would have 58399
been a violation of section 2905.04 of the Revised Code as it 58400
existed prior to July 1, 1996, had the violation been committed 58401
prior to that date; 58402

(2) An existing or former law of this state, any other state, 58403
or the United States that is substantially equivalent to any of 58404
the offenses listed in division (D)(1) of this section. 58405

(E) Each independent provider shall pay to the bureau of 58406
criminal identification and investigation the fee prescribed 58407
pursuant to division (C)(3) of section 109.572 of the Revised Code 58408
for each criminal records check conducted pursuant to a request 58409
made under division (C) of this section. 58410

(F) The report of any criminal records check conducted by the 58411
bureau of criminal identification and investigation in accordance 58412
with section 109.572 of the Revised Code and pursuant to a request 58413
made under division (C) of this section is not a public record for 58414
the purposes of section 149.43 of the Revised Code and shall not 58415
be made available to any person other than the following: 58416

(1) The person who is the subject of the criminal records 58417
check or the person's representative; 58418

(2) The administrator at the department who is requesting the 58419
criminal records check or the administrator's representative; 58420

(3) Any court, hearing officer, or other necessary individual 58421
involved in a case dealing with a denial or termination of a 58422
provider agreement related to the criminal records check. 58423

(G) The department shall adopt rules in accordance with 58424
Chapter 119. of the Revised Code to implement this section. The 58425
rules shall specify circumstances under which the department may 58426
issue a provider agreement to an independent provider who has been 58427
convicted of or pleaded guilty to an offense listed or described 58428

in division (C)(1) of this section but meets personal character 58429
standards set by the department. 58430

Sec. 5111.97. (A) The director of job and family services may 58431
submit a request to the United States secretary of health and 58432
human services pursuant to section 1915 of the "Social Security 58433
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to obtain 58434
waivers of federal medicaid requirements that would otherwise be 58435
violated in the creation and implementation of two medicaid home 58436
and community-based services programs to replace the Ohio home 58437
care program being operated pursuant to rules adopted under 58438
sections 5111.01 and 5111.02 of the Revised Code and a medicaid 58439
waiver granted prior to the effective date of this section. In the 58440
request, the director may specify the following: 58441

(1) That one of the replacement programs will provide home 58442
and community-based services to individuals in need of nursing 58443
facility care, including individuals enrolled in the Ohio home 58444
care program; 58445

(2) That the other replacement program will provide services 58446
to individuals in need of hospital care, including individuals 58447
enrolled in the Ohio home care program; 58448

(3) That there will be a maximum number of individuals who 58449
may be enrolled in the replacement programs in addition to the 58450
number of individuals to be transferred from the Ohio home care 58451
program; 58452

(4) That there will be a maximum amount the department may 58453
expend each year for each individual enrolled in the replacement 58454
programs; 58455

(5) That there will be a maximum aggregate amount the 58456
department may expend each year for all individuals enrolled in 58457
the replacement programs; 58458

(6) Any other requirement the director selects for the replacement programs. 58459
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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. 58461
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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 been transferred, the director may submit to the secretary an amendment to the state medicaid plan to provide for the elimination of the Ohio home care program. 58466
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Sec. 5112.03. (A) The director of job and family services shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code for the purpose of administering sections 5112.01 to 5112.21 of the Revised Code, including rules that do all of the following: 58474
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(1) Define as a "disproportionate share hospital" any hospital included under subsection (b) of section 1923 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r-4(b), as amended, and any other hospital the director determines appropriate; 58479
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(2) Prescribe the form for submission of cost reports under section 5112.04 of the Revised Code; 58484
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(3) Establish, in accordance with division (A) of section 5112.06 of the Revised Code, the assessment rate or rates to be applied to hospitals under that section; 58486
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(4) Establish schedules for hospitals to pay installments on their assessments under section 5112.06 of the Revised Code and for governmental hospitals to pay installments on their intergovernmental transfers under section 5112.07 of the Revised Code;	58489 58490 58491 58492 58493
(5) Establish procedures to notify hospitals of adjustments made under division (B)(2)(b) of section 5112.06 of the Revised Code in the amount of installments on their assessment;	58494 58495 58496
(6) Establish procedures to notify hospitals of adjustments made under division (D) of section 5112.09 of the Revised Code in the total amount of their assessment and to adjust for the remainder of the program year the amount of the installments on the assessments;	58497 58498 58499 58500 58501
(7) Establish, in accordance with section 5112.08 of the Revised Code, the methodology for paying hospitals under that section.	58502 58503 58504
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.	58505 58506 58507
(B) Rules adopted under this section may provide that "total facility costs" excludes costs associated with any of the following:	58508 58509 58510
(1) Recipients of the medical assistance program;	58511
(2) <u>Recipients of financial assistance provided under Chapter 5115. of the Revised Code;</u>	58512 58513
(3) Recipients of disability assistance medical assistance provided under Chapter 5115. of the Revised Code;	58514 58515
(3) (4) Recipients of the program for medically handicapped children established under section 3701.023 of the Revised Code;	58516 58517
(4) (5) Recipients of the medicare program established under	58518

Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended: 58519
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~~(5)~~(6) Recipients of Title V of the "Social Security Act"; 58521

~~(6)~~(7) Any other category of costs deemed appropriate by the director in accordance with Title XIX of the "Social Security Act" and the rules adopted under that title. 58522
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Sec. 5112.08. The director of job and family services shall adopt rules under section 5112.03 of the Revised Code establishing a methodology to pay hospitals that is sufficient to expend all money in the indigent care pool. Under the rules: 58525
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(A) The department of job and family services may classify similar hospitals into groups and allocate funds for distribution within each group. 58529
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(B) The department shall establish a method of allocating funds to hospitals, taking into consideration the relative amount of indigent care provided by each hospital or group of hospitals. The amount to be allocated shall be based on any combination of the following indicators of indigent care that the director considers appropriate: 58532
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(1) Total costs, volume, or proportion of services to recipients of the medical assistance program, including recipients enrolled in health insuring corporations; 58538
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(2) Total costs, volume, or proportion of services to low-income patients in addition to recipients of the medical assistance program, which may include recipients of Title V of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and disability recipients of financial or medical assistance established provided under Chapter 5115. of the Revised Code; 58541
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(3) The amount of uncompensated care provided by the hospital 58548

or group of hospitals; 58549

(4) Other factors that the director considers to be 58550
appropriate indicators of indigent care. 58551

(C) The department shall distribute funds to each hospital or 58552
group of hospitals in a manner that first may provide for an 58553
additional distribution to individual hospitals that provide a 58554
high proportion of indigent care in relation to the total care 58555
provided by the hospital or in relation to other hospitals. The 58556
department shall establish a formula to distribute the remainder 58557
of the funds. The formula shall be consistent with section 1923 of 58558
the "Social Security Act," 42 U.S.C.A. 1396r-4, as amended, shall 58559
be based on any combination of the indicators of indigent care 58560
listed in division (B) of this section that the director considers 58561
appropriate. 58562

(D) The department shall distribute funds to each hospital in 58563
installments not later than ten working days after the deadline 58564
established in rules for each hospital to pay an installment on 58565
its assessment under section 5112.06 of the Revised Code. In the 58566
case of a governmental hospital that makes intergovernmental 58567
transfers, the department shall pay an installment under this 58568
section not later than ten working days after the earlier of that 58569
deadline or the deadline established in rules for the governmental 58570
hospital to pay an installment on its intergovernmental transfer. 58571
If the amount in the hospital care assurance program fund and the 58572
hospital care assurance match fund created under section 5112.18 58573
of the Revised Code is insufficient to make the total 58574
distributions for which hospitals are eligible to receive in any 58575
period, the department shall reduce the amount of each 58576
distribution by the percentage by which the amount is 58577
insufficient. The department shall distribute to hospitals any 58578
amounts not distributed in the period in which they are due as 58579
soon as moneys are available in the funds. 58580

Sec. 5112.17. (A) As used in this section: 58581

(1) "Federal poverty guideline" means the official poverty 58582
guideline as revised annually by the United States secretary of 58583
health and human services in accordance with section 673 of the 58584
"Community Service Block Grant Act," 95 Stat. 511 (1981), 42 58585
U.S.C.A. 9902, as amended, for a family size equal to the size of 58586
the family of the person whose income is being determined. 58587

(2) "Third-party payer" means any private or public entity or 58588
program that may be liable by law or contract to make payment to 58589
or on behalf of an individual for health care services. 58590
"Third-party payer" does not include a hospital. 58591

(B) Each hospital that receives funds distributed under 58592
sections 5112.01 to 5112.21 of the Revised Code shall provide, 58593
without charge to the individual, basic, medically necessary 58594
hospital-level services to individuals who are residents of this 58595
state, are not recipients of the medical assistance program, and 58596
whose income is at or below the federal poverty guideline. 58597
Recipients of disability financial assistance and recipients of 58598
disability medical assistance provided under Chapter 5115. of the 58599
Revised Code qualify for services under this section. The director 58600
of job and family services shall adopt rules under section 5112.03 58601
of the Revised Code specifying the hospital services to be 58602
provided under this section. 58603

(C) Nothing in this section shall be construed to prevent a 58604
hospital from requiring an individual to apply for eligibility 58605
under the medical assistance program before the hospital processes 58606
an application under this section. Hospitals may bill any 58607
third-party payer for services rendered under this section. 58608
Hospitals may bill the medical assistance program, in accordance 58609
with Chapter 5111. of the Revised Code and the rules adopted under 58610
that chapter, for services rendered under this section if the 58611

individual becomes a recipient of the program. Hospitals may bill 58612
individuals for services under this section if all of the 58613
following apply: 58614

(1) The hospital has an established post-billing procedure 58615
for determining the individual's income and canceling the charges 58616
if the individual is found to qualify for services under this 58617
section. 58618

(2) The initial bill, and at least the first follow-up bill, 58619
is accompanied by a written statement that does all of the 58620
following: 58621

(a) Explains that individuals with income at or below the 58622
federal poverty guideline are eligible for services without 58623
charge; 58624

(b) Specifies the federal poverty guideline for individuals 58625
and families of various sizes at the time the bill is sent; 58626

(c) Describes the procedure required by division (C)(1) of 58627
this section. 58628

(3) The hospital complies with any additional rules the 58629
department adopts under section 5112.03 of the Revised Code. 58630

Notwithstanding division (B) of this section, a hospital 58631
providing care to an individual under this section is subrogated 58632
to the rights of any individual to receive compensation or 58633
benefits from any person or governmental entity for the hospital 58634
goods and services rendered. 58635

(D) Each hospital shall collect and report to the department, 58636
in the form and manner prescribed by the department, information 58637
on the number and identity of patients served pursuant to this 58638
section. 58639

(E) This section applies beginning May 22, 1992, regardless 58640
of whether the department has adopted rules specifying the 58641

services to be provided. Nothing in this section alters the scope 58642
or limits the obligation of any governmental entity or program, 58643
including the program awarding reparations to victims of crime 58644
under sections 2743.51 to 2743.72 of the Revised Code and the 58645
program for medically handicapped children established under 58646
section 3701.023 of the Revised Code, to pay for hospital services 58647
in accordance with state or local law. 58648

Sec. 5112.31. The department of job and family services 58649
shall: 58650

(A) For the purpose of providing home and community-based 58651
services for mentally retarded and developmentally disabled 58652
persons, annually assess each intermediate care facility for the 58653
mentally retarded a franchise permit fee equal to nine dollars and 58654
~~twenty-four~~ sixty-three cents multiplied by the product of the 58655
following: 58656

(1) The number of beds certified under Title XIX of the 58657
"Social Security Act" on the first day of May of the calendar year 58658
in which the assessment is determined pursuant to division (A) of 58659
section 5112.33 of the Revised Code; 58660

(2) The number of days in the fiscal year beginning on the 58661
first day of July of the same calendar year. 58662

(B) ~~Not later than~~ Beginning July 1, ~~1996~~ 2005, and the first 58663
day of each July thereafter, adjust fees determined under division 58664
(A) of this section in accordance with the composite inflation 58665
factor established in rules adopted under section 5112.39 of the 58666
Revised Code. 58667

If the United States secretary of health and human services 58668
determines that the franchise permit fee established by sections 58669
5112.30 to 5112.39 of the Revised Code would be an impermissible 58670
health care-related tax under section 1903(w) of the "Social 58671

Security Act," 42 U.S.C.A. 1396b(w), as amended, the department 58672
shall take all necessary actions to cease implementation of those 58673
sections in accordance with rules adopted under section 5112.39 of 58674
the Revised Code. 58675

Sec. 5112.99. (A) The director of job and family services 58676
shall impose a penalty ~~of one hundred dollars~~ for each day that a 58677
hospital fails to report the information required under section 58678
5112.04 of the Revised Code on or before the dates specified in 58679
that section. The amount of the penalty shall be established by 58680
the director in rules adopted under section 5112.03 of the Revised 58681
Code. 58682

(B) In addition to any other remedy available to the 58683
department of job and family services under law to collect unpaid 58684
assessments and transfers, the director shall impose a penalty of 58685
ten per cent of the amount due, ~~not to exceed twenty thousand~~ 58686
~~dollars,~~ on any hospital that fails to pay assessments or make 58687
intergovernmental transfers by the dates required by rules adopted 58688
under section 5112.03 of the Revised Code. 58689

(C) The director shall waive the penalties provided for in 58690
divisions (A) and (B) of this section for good cause shown by the 58691
hospital. 58692

(D) All penalties imposed under this section shall be 58693
deposited into the ~~general revenue~~ health care administration fund 58694
created by section 5111.94 of the Revised Code. 58695

Sec. 5115.01. (A) ~~There is hereby established~~ The director of 58696
job and family services shall establish the disability financial 58697
assistance program. ~~Except as provided in division (D) of this~~ 58698
~~section, a disability assistance recipient shall receive financial~~ 58699
~~assistance. Except as provided in section 5115.11 of the Revised~~ 58700
~~Code, a disability assistance recipient also shall receive~~ 58701

~~disability assistance medical assistance.~~ 58702

~~Except as provided by division (B) of this section, a person~~ 58703
~~who meets all of the following requirements is (B) Subject to all~~ 58704
~~other eligibility requirements established by this chapter and the~~ 58705
~~rules adopted under it for the disability financial assistance~~ 58706
~~program, a person may be eligible for disability financial~~ 58707
~~assistance only if one of the following applies:~~ 58708

(1) ~~The person is ineligible to participate in the Ohio works~~ 58709
~~first program established under Chapter 5107. of the Revised Code~~ 58710
~~and to receive supplemental security income provided pursuant to~~ 58711
~~Title XVI of the Social Security Act, 86 Stat. 1475 (1972), 42~~ 58712
~~U.S.C.A. 1383, as amended;~~ 58713

~~(2) The person is at least one of the following:~~ 58714

~~(a) Under age eighteen;~~ 58715

~~(b) Age sixty or older;~~ 58716

~~(c) Pregnant;~~ 58717

~~(d) Unable unable to do any substantial or gainful activity~~ 58718
~~by reason of a medically determinable physical or mental~~ 58719
~~impairment that can be expected to result in death or has lasted~~ 58720
~~or can be expected to last for not less than nine months;~~ 58721

~~(e) A resident of a residential treatment center certified as~~ 58722
~~an alcohol or drug addiction program by the department of alcohol~~ 58723
~~and drug addiction services under section 3793.06 of the Revised~~ 58724
~~Code.~~ 58725

~~(f) Medication dependent as determined by a physician, as~~ 58726
~~defined in section 4730.01 of the Revised Code, who has certified~~ 58727
~~to the county department of job and family services that the~~ 58728
~~person is receiving ongoing treatment for a chronic medical~~ 58729
~~condition requiring continuous prescription medication for an~~ 58730
~~indefinite, long term period of time and for whom the loss of the~~ 58731

~~medication would result in a significant risk of medical emergency and loss of employability lasting at least nine months.~~ 58732
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~~(3) The (2) On the day before the effective date of this amendment, the person meets the eligibility requirements established in rules adopted under section 5115.05 of the Revised Code was sixty years of age or older and one of the following is the case:~~ 58734
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~~(a) The person was receiving or was scheduled to begin receiving financial assistance under this chapter on the basis of being sixty years of age or older;~~ 58739
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~~(b) An eligibility determination was pending regarding the person's application to receive financial assistance under this chapter on the basis of being sixty years of age or older and, on or after the effective date of this amendment, the person receives a determination of eligibility based on that application.~~ 58742
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~~(B)(1) A person is ineligible for disability assistance if the person is ineligible to participate in the Ohio works first program because of any of the following:~~ 58747
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~~(a) Section 5101.83, 5107.14, or 5107.16 of the Revised Code;~~ 58750

~~(b) The time limit established by section 5107.18 of the Revised Code;~~ 58751
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~~(c) Failure to comply with an application or verification procedure;~~ 58753
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~~(d) The fraud control program established pursuant to 45 C.F.R. 235.112, as in effect July 1, 1996.~~ 58755
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~~(2) A person under age eighteen is ineligible for disability assistance pursuant to division (B)(1)(a) of this section only if the person caused the assistance group to be ineligible to participate in the Ohio works first program or resides with a person age eighteen or older who was a member of the same~~ 58757
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~~ineligible assistance group. A person age eighteen or older is 58762
ineligible for disability assistance pursuant to division 58763
(B)(1)(a) of this section regardless of whether the person caused 58764
the assistance group to be ineligible to participate in the Ohio 58765
works first program. 58766~~

~~(C) The county department of job and family services that 58767
serves the county in which a person receiving disability 58768
assistance pursuant to division (A)(2)(c) of this section 58769
participates in an alcohol or drug addiction program shall 58770
designate a representative payee for purposes of receiving and 58771
distributing financial assistance provided under the disability 58772
assistance program to the person. 58773~~

~~(D) A person eligible for disability assistance pursuant to 58774
division (A)(2)(f) of this section shall not receive financial 58775
assistance. 58776~~

~~(E) The director of job and family services shall adopt rules 58777
in accordance with section 111.15 of the Revised Code defining 58778
terms and establishing standards for determining whether a person 58779
meets a condition of disability assistance eligibility pursuant to 58780
this section. 58781~~

Sec. 5115.04 5115.02. (A) An individual is not eligible for 58782
disability financial assistance under this chapter if ~~either~~ any 58783
of the following apply: 58784

~~(A)(1) The individual is eligible to participate in the Ohio 58785
works first program established under Chapter 5107. of the Revised 58786
Code; eligible to receive supplemental security income provided 58787
pursuant to Title XVI of the "Social Security Act," 86 Stat. 1475 58788
(1972), 42 U.S.C. 1383, as amended; or eligible to participate in 58789
or receive assistance through another state or federal program 58790
that provides financial assistance similar to disability financial 58791
assistance, as determined by the director of job and family 58792~~

<u>services;</u>	58793
<u>(2) The individual is ineligible to participate in the Ohio works first program because of any of the following:</u>	58794
<u>(a) The time limit established by section 5107.18 of the Revised Code;</u>	58795
<u>(a) The time limit established by section 5107.18 of the Revised Code;</u>	58796
<u>(a) The time limit established by section 5107.18 of the Revised Code;</u>	58797
<u>(b) Failure to comply with an application or verification procedure;</u>	58798
<u>(b) Failure to comply with an application or verification procedure;</u>	58799
<u>(c) The fraud control provisions of section 5101.83 of the Revised Code or the fraud control program established pursuant to 45 C.F.R. 235.112, as in effect July 1, 1996;</u>	58800
<u>(c) The fraud control provisions of section 5101.83 of the Revised Code or the fraud control program established pursuant to 45 C.F.R. 235.112, as in effect July 1, 1996;</u>	58801
<u>(c) The fraud control provisions of section 5101.83 of the Revised Code or the fraud control program established pursuant to 45 C.F.R. 235.112, as in effect July 1, 1996;</u>	58802
<u>(d) The self-sufficiency contract provisions of sections 5107.14 and 5107.16 of the Revised Code;</u>	58803
<u>(d) The self-sufficiency contract provisions of sections 5107.14 and 5107.16 of the Revised Code;</u>	58804
<u>(e) The minor parent provisions of section 5107.24 of the Revised Code;</u>	58805
<u>(e) The minor parent provisions of section 5107.24 of the Revised Code;</u>	58806
<u>(f) The provisions of section 5107.26 of the Revised Code regarding termination of employment without just cause.</u>	58807
<u>(f) The provisions of section 5107.26 of the Revised Code regarding termination of employment without just cause.</u>	58808
<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>	58809
<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>	58810
<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>	58811
<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>	58812
<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>	58813
<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>	58814
<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>	58815
<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>	58816
<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>	58817
<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>	58818
<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>	58819
<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>	58820
<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>	58821
<u>(8) The individual reside in a county home, city infirmary,</u>	58822

<u>jail, or public institution;</u>	58823
(9) The individual is a fugitive felon as defined in section 5101.26 of the Revised Code;	58824 58825
(B) (10) The individual is violating a condition of probation, a community control sanction, parole, or a post-release control sanction imposed under federal or state law.	58826 58827 58828
<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>	58829 58830 58831
<u>(2) Ineligibility under division (A)(2)(c) or (d) of this section applies as follows:</u>	58832 58833
<u>(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.</u>	58834 58835 58836 58837 58838 58839
<u>(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.</u>	58840 58841 58842 58843
Sec. 5115.03. (A) The director of job and family services shall do both of the following:	58844 58845
(A) Adopt <u>adopt</u> rules <u>in accordance with section 111.15 of the Revised Code</u> 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.	58846 58847 58848 58849 58850
(B) Make investigations to determine whether disability assistance is being administered in compliance with the Revised	58851 58852

<u>Code and rules adopted by the director. may establish or specify</u>	58853
<u>any or all of the following:</u>	58854
<u>(1) Maximum payment amounts under the disability financial</u>	58855
<u>assistance program, based on state appropriations for the program;</u>	58856
<u>(2) Limits on the length of time an individual may receive</u>	58857
<u>disability financial assistance;</u>	58858
<u>(3) Limits on the total number of individuals in the state</u>	58859
<u>who may receive disability financial assistance;</u>	58860
<u>(4) Income, resource, citizenship, age, residence, living</u>	58861
<u>arrangement, and other eligibility requirements for disability</u>	58862
<u>financial assistance;</u>	58863
<u>(5) Procedures for disregarding amounts of earned and</u>	58864
<u>unearned income for the purpose of determining eligibility for</u>	58865
<u>disability financial assistance and the amount of assistance to be</u>	58866
<u>provided;</u>	58867
<u>(6) Procedures for including the income and resources, or a</u>	58868
<u>certain amount of the income and resources, of a member of an</u>	58869
<u>individual's family when determining eligibility for disability</u>	58870
<u>financial assistance and the amount of assistance to be provided.</u>	58871
<u>(B) In establishing or specifying eligibility requirements</u>	58872
<u>for disability financial assistance, the director shall exclude</u>	58873
<u>the value of any tuition payment contract entered into under</u>	58874
<u>section 3334.09 of the Revised Code or any scholarship awarded</u>	58875
<u>under section 3334.18 of the Revised Code and the amount of</u>	58876
<u>payments made by the Ohio tuition trust authority under section</u>	58877
<u>3334.09 of the Revised Code pursuant to the contract or</u>	58878
<u>scholarship. The director shall not require any individual to</u>	58879
<u>terminate a tuition payment contract entered into under Chapter</u>	58880
<u>3334. of the Revised Code as a condition of eligibility for</u>	58881
<u>disability financial assistance. The director shall consider as</u>	58882
<u>income any refund paid under section 3334.10 of the Revised Code.</u>	58883

(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. 58884
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(D) For purposes of limiting the cost of the disability financial assistance program, the director may do either or both of the following: 58893
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(1) Adopt rules in accordance with section 111.15 of the Revised Code that revise the program's eligibility requirements, the maximum payment amounts, or any other requirement or standard established or specified in the rules adopted by the director; 58896
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(2) Suspend acceptance of applications for disability financial assistance. While a suspension is in effect, no person shall receive a determination or redetermination of eligibility for disability financial assistance unless the person was receiving the assistance during the month immediately preceding the suspension's effective date or the person submitted an application prior to the suspension's effective date and receives a determination of eligibility based on that application. The director may adopt rules in accordance with section 111.15 of the Revised Code establishing requirements and specifying procedures applicable to the suspension of acceptance of new applications. 58900
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Sec. 5115.02 5115.04. (A) The department of job and family services shall supervise and administer the disability financial assistance program, except that the department may require county departments of job and family services to perform any 58911
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administrative function specified in rules adopted by the director 58915
of job and family services, ~~including making determinations of~~ 58916
~~financial eligibility and initial determinations of whether an~~ 58917
~~applicant meets a condition of eligibility under division~~ 58918
~~(A)(2)(d) of section 5115.01 of the Revised Code, distributing~~ 58919
~~financial assistance payments, reimbursing providers of medical~~ 58920
~~services for services provided to disability assistance~~ 58921
~~recipients, and any other function specified in the rules. The~~ 58922
~~department may also require county departments to make a final~~ 58923
~~determination of whether an applicant meets a condition for~~ 58924
~~eligibility under division (A)(2)(a), (b), (c), (e), or (f) of~~ 58925
~~section 5115.01 of the Revised Code. The department shall make the~~ 58926
~~final determination of whether an applicant meets a condition of~~ 58927
~~eligibility under division (A)(2)(d) of section 5115.01 of the~~ 58928
~~Revised Code.~~ 58929

(B) If the department requires county departments to perform 58930
administrative functions under this section, the director shall 58931
adopt rules in accordance with section 111.15 of the Revised Code 58932
governing the performance of the functions to be performed by 58933
county departments. County departments shall perform the functions 58934
in accordance with the rules. The director shall conduct 58935
investigations to determine whether disability financial 58936
assistance is being administered in compliance with the Revised 58937
Code and rules adopted by the director. 58938

(C) If disability financial assistance payments ~~or medical~~ 58939
~~services reimbursements~~ are made by the county department of job 58940
and family services, the department shall advance sufficient funds 58941
to provide the county treasurer with the amount estimated for the 58942
payments ~~or reimbursements~~. Financial assistance payments shall be 58943
distributed in accordance with sections 117.45, 319.16, and 329.03 58944
of the Revised Code. 58945

Sec. 5115.05. (A) The director of job and family services 58946
shall adopt rules in accordance with section 111.15 of the Revised 58947
Code establishing application and verification procedures, 58948
reapplication procedures, and ~~income, resource, citizenship, age,~~ 58949
~~residence, living arrangement, assistance group composition, and~~ 58950
other eligibility requirements the director considers necessary in 58951
the administration of the application process for disability 58952
financial assistance. The rules may ~~provide for disregarding~~ 58953
~~amounts of earned and unearned income for the purpose of~~ 58954
~~determining whether an assistance group is eligible for assistance~~ 58955
~~and the amount of assistance provided under this chapter. The~~ 58956
rules also may provide that the income and resources, or a certain 58957
amount of the income and resources, of a member of an assistance 58958
group's family group will be included in determining whether the 58959
assistance group is eligible for aid and the amount of aid 58960
provided under this chapter. 58961

~~If financial assistance under this chapter is to be paid by~~ 58962
~~the auditor of state through the medium of direct deposit, the~~ 58963
~~application shall be accompanied by information the auditor needs~~ 58964
~~to make direct deposits.~~ 58965

~~The department of job and family services may require~~ 58966
recipients of disability financial assistance to participate in a 58967
reapplication process two months after initial approval for 58968
assistance has been determined and at such other times as 58969
specified in the department requires rules. 58970

~~If a recipient of disability assistance, or the spouse of or~~ 58971
~~member of the assistance group of a recipient, becomes possessed~~ 58972
~~of resources or income in excess of the amount allowed under rules~~ 58973
~~adopted under this section, or if other changes occur that affect~~ 58974
~~the person's eligibility or need for assistance, the recipient~~ 58975
shall notify the department or county department of job and family 58976

~~services within the time limits specified in the rules. Failure of 58977
a recipient to report possession of excess resources or income or 58978
a change affecting eligibility or need within those time limits 58979
shall be considered prima facie evidence of intent to defraud 58980
under section 5115.15 of the Revised Code. 58981~~

~~Each applicant for or recipient of disability assistance 58982
shall make reasonable efforts to secure support from persons 58983
responsible for the applicant's or recipient's support, and from 58984
other sources, as a means of preventing or reducing the provision 58985
of disability assistance at public expense. The department or 58986
county department may provide assistance to the applicant or 58987
recipient in securing other forms of financial or medical 58988
assistance. 58989~~

~~Notwithstanding section 3109.01 of the Revised Code, when a 58990
disability assistance applicant or recipient who is at least 58991
eighteen but under twenty two years of age resides with the 58992
applicant's or recipient's parents, the income of the parents 58993
shall be taken into account in determining the applicant's or 58994
recipient's financial eligibility. The director shall adopt rules 58995
for determining the amount of income to be attributed to the 58996
assistance group of applicants in this age category. 58997~~

~~(B) Any person who applies for disability financial 58998
assistance under this section shall receive a voter registration 58999
application under section 3503.10 of the Revised Code. 59000~~

~~**Sec. 5115.07 5115.06.** Financial assistance Assistance under 59001
the disability financial assistance program may be given by 59002
warrant, direct deposit, or, if provided by the director of job 59003
and family services pursuant to section 5101.33 of the Revised 59004
Code, by electronic benefit transfer. It shall be inalienable 59005
whether by way of assignment, charge, or otherwise, and is exempt 59006
from attachment, garnishment, or other like process. ~~Any~~ 59007~~

Any direct deposit shall be made to a financial institution 59008
and account designated by the recipient. ~~The~~ If disability 59009
financial assistance is to be paid by the auditor of state through 59010
direct deposit, the application for assistance shall be 59011
accompanied by information the auditor needs to make direct 59012
deposits. 59013

The director of job and family services may adopt rules for 59014
designation of financial institutions and accounts. ~~No~~ 59015

No financial institution shall impose any charge for direct 59016
deposit of disability ~~assistance~~ financial assistance payments 59017
that it does not charge all customers for similar services. 59018

~~The department of job and family services shall establish~~ 59019
~~financial assistance payment amounts based on state~~ 59020
~~appropriations.~~ 59021

~~Disability assistance may be given to persons living in their~~ 59022
~~own homes or other suitable quarters, but shall not be given to~~ 59023
~~persons who reside in a county home, city infirmary, jail, or~~ 59024
~~public institution. Disability assistance shall not be given to an~~ 59025
~~unemancipated child unless the child lives with the child's~~ 59026
~~parents, guardians, or other persons standing in place of parents.~~ 59027
~~For the purpose of this section, a child is emancipated if the~~ 59028
~~child is married, serving in the armed forces, or has been~~ 59029
~~emancipated by court order.~~ 59030

~~No person shall be eligible for disability assistance if, for~~ 59031
~~the purpose of avoiding consideration of property in~~ 59032
~~determinations of the person's eligibility for disability~~ 59033
~~assistance or a greater amount of assistance, the person has~~ 59034
~~transferred property during the two years preceding application~~ 59035
~~for or most recent redetermination of eligibility for disability~~ 59036
~~assistance.~~ 59037

~~Sec. 5115.13~~ 5115.07. The acceptance of ~~disability~~ financial 59038
assistance under ~~this chapter~~ the disability financial assistance 59039
program constitutes an assignment to the department of job and 59040
family services of any rights an individual receiving ~~disability~~ 59041
the assistance has to financial support from any other person, 59042
~~excluding medical support assigned pursuant to section 5101.59 of~~ 59043
~~the Revised Code~~. The rights to support assigned to the department 59044
pursuant to this section constitute an obligation of the person 59045
responsible for providing the support to the state for the amount 59046
of disability financial assistance payments to the recipient or 59047
recipients whose needs are included in determining the amount of 59048
~~disability~~ assistance received. Support payments assigned to the 59049
state pursuant to this section shall be collected by the county 59050
department of job and family services and reimbursements for 59051
disability financial assistance payments shall be credited to the 59052
state treasury. 59053

~~Sec. 5115.10~~. (A) The director of job and family services 59054
shall establish a disability ~~assistance~~ medical assistance program 59055
~~shall consist of a system of managed primary care. Until July 1,~~ 59056
~~1992, the program shall also include limited hospital services,~~ 59057
~~except that if prior to that date hospitals are required by~~ 59058
~~section 5112.17 of the Revised Code to provide medical services~~ 59059
~~without charge to persons specified in that section, the program~~ 59060
~~shall cease to include hospital services at the time the~~ 59061
~~requirement of section 5112.17 of the Revised Code takes effect.~~ 59062

~~The department of job and family services may require~~ 59063
~~disability assistance medical assistance recipients to enroll in~~ 59064
~~health insuring corporations or other managed care programs, or~~ 59065
~~may limit the number or type of health care providers from which a~~ 59066
~~recipient may receive services.~~ 59067

~~The director of job and family services shall adopt rules governing the disability assistance medical assistance program established under this division. The rules shall specify all of the following:~~

~~(1) Services that will be provided under the system of managed primary care;~~

~~(2) Hospital services that will be provided during the period that hospital services are provided under the program;~~

~~(3) The maximum authorized amount, scope, duration, or limit of payment for services.~~

~~(B) The director of job and family services shall designate medical services providers for the disability assistance medical assistance program. The first such designation shall be made not later than September 30, 1991. Services under the program shall be provided only by providers designated by the director. The director may require that, as a condition of being designated a disability assistance medical assistance provider, a provider enter into a provider agreement with the state department.~~

~~(C) As long as the disability assistance medical assistance program continues to include hospital services, the department or a county director of job and family services may, pursuant to rules adopted under this section, approve an application for disability assistance medical assistance for emergency inpatient hospital services when care has been given to a person who had not completed a sworn application for disability assistance at the time the care was rendered, if all of the following apply:~~

~~(1) The person files an application for disability assistance within sixty days after being discharged from the hospital or, if the conditions of division (D) of this section are met, while in the hospital;~~

~~(2) The person met all eligibility requirements for disability assistance at the time the care was rendered;~~ 59098
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~~(3) The care given to the person was a medical service within the scope of disability assistance medical assistance as established under rules adopted by the director of job and family services.~~ 59100
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~~(D) If a person files an application for disability assistance medical assistance for emergency inpatient hospital services while in the hospital, a face to face interview shall be conducted with the applicant while the applicant is in the hospital to determine whether the applicant is eligible for the assistance. If the hospital agrees to reimburse the county department of job and family services for all actual costs incurred by the department in conducting the interview, the interview shall be conducted by an employee of the county department. If, at the request of the hospital, the county department designates an employee of the hospital to conduct the interview, the interview shall be conducted by the hospital employee.~~ 59104
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~~(E) The department of job and family services may assume responsibility for peer review of expenditures for disability assistance medical assistance~~ 59117
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(B) Subject to all other eligibility requirements established by this chapter and the rules adopted under it for the disability medical assistance program, a person may be eligible for disability medical assistance only if the person is medication dependent, as determined by the department of job and family services. 59119
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(C) The director shall adopt rules under section 111.15 of the Revised Code for purposes of implementing division (B) of this section. The rules may specify or establish any or all of the following: 59125
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(1) Standards for determining whether a person is medication dependent, including standards under which a person may qualify as being medication dependent only if it is determined that both of the following are the case: 59129
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(a) The person is receiving ongoing treatment for a chronic medical condition that requires continuous prescription medication for an indefinite, long-term period of time; 59133
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(b) Loss of the medication would result in a significant risk of medical emergency and loss of employability lasting at least nine months. 59136
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(2) A requirement that a person's medical condition be certified by an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery; 59139
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(3) Limitations on the chronic medical conditions and prescription medications that may qualify a person as being medication dependent. 59143
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Sec. 5115.11. ~~If a member of an assistance group receiving disability assistance under this chapter~~ An individual who 59146
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qualifies for the medical assistance program established under 59148
Chapter 5111. of the Revised Code, ~~the member~~ shall receive 59149
medical assistance through that program rather than through the 59150
disability ~~assistance~~ medical assistance program. 59151

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. 59152
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Sec. 5115.12. (A) The director of job and family services 59159
shall adopt rules in accordance with section 111.15 of the Revised 59160
Code governing the disability medical assistance program. The 59161
rules may establish or specify any or all of the following: 59162

(1) Income, resource, citizenship, age, residence, living 59163
arrangement, and other eligibility requirements; 59164

(2) Health services to be included in the program; 59165

(3) The maximum authorized amount, scope, duration, or limit 59166
of payment for services; 59167

(4) Limits on the length of time an individual may receive 59168
disability medical assistance; 59169

(5) Limits on the total number of individuals in the state 59170
who may receive disability medical assistance. 59171

(B) For purposes of limiting the cost of the disability 59172
medical assistance program, the director may do either of the 59173
following: 59174

(1) Adopt rules in accordance with section 111.15 of the 59175
Revised Code that revise the program's eligibility requirements; 59176
the maximum authorized amount, scope, duration, or limit of 59177
payment for services included in the program; or any other 59178
requirement or standard established or specified by rules adopted 59179
under division (A) of this section or under section 5115.10 of the 59180
Revised Code; 59181

(2) Suspend acceptance of applications for disability medical 59182
assistance. While a suspension is in effect, no person shall 59183
receive a determination or redetermination of eligibility for 59184
disability medical assistance unless the person was receiving the 59185
assistance during the month immediately preceding the suspension's 59186
effective date or the person submitted an application prior to the 59187
suspension's effective date and receives a determination of 59188

eligibility based on that application. The director may adopt 59189
rules in accordance with section 111.15 of the Revised Code 59190
establishing requirements and specifying procedures applicable to 59191
the suspension of acceptance of new applications. 59192

Sec. 5115.13. (A) The department of job and family services 59193
shall supervise and administer the disability medical program, 59194
except as follows: 59195

(1) The department may require county departments of job and 59196
family services to perform any administrative function specified 59197
in rules adopted by the director of job and family services. 59198

(2) The director may contract with any private or public 59199
entity in this state to perform any administrative function or to 59200
administer any or all of the program. 59201

(B) If the department requires county departments to perform 59202
administrative functions, the director of job and family services 59203
shall adopt rules in accordance with section 111.15 of the Revised 59204
Code governing the performance of the functions to be performed by 59205
county departments. County departments shall perform the functions 59206
in accordance with the rules. 59207

If the director contracts with a private or public entity to 59208
perform administrative functions or to administer any or all of 59209
the program, the director may either adopt rules in accordance 59210
with section 111.15 of the Revised Code or include provisions in 59211
the contract governing the performance of the functions by the 59212
private or public entity. Entities under contract shall perform 59213
the functions in accordance with the requirements established by 59214
the director. 59215

(C) Whenever division (A)(1) or (2) of this section is 59216
implemented, the director shall conduct investigations to 59217
determine whether disability medical assistance is being 59218

administered in compliance with the Revised Code and rules adopted 59219
by the director or in accordance with the terms of the contract. 59220

Sec. 5115.14. (A) The director of job and family services 59221
shall adopt rules in accordance with section 111.15 of the Revised 59222
Code establishing application and verification procedures, 59223
reapplication procedures, and other requirements the director 59224
considers necessary in the administration of the application 59225
process for disability medical assistance. 59226

(B) Any person who applies for disability medical assistance 59227
shall receive a voter registration application under section 59228
3503.10 of the Revised Code. 59229

Sec. 5115.20. (A) The department of job and family services 59230
shall establish a disability advocacy program and each county 59231
department of job and family services shall establish a disability 59232
advocacy program unit or join with other county departments of job 59233
and family services to establish a joint county disability 59234
advocacy program unit. Through the program the department and 59235
county departments shall cooperate in efforts to assist applicants 59236
for and recipients of assistance under ~~this chapter~~ the disability 59237
financial assistance program and the disability medical assistance 59238
program, who might be eligible for supplemental security income 59239
benefits under Title XVI of the "Social Security Act," 86 Stat. 59240
1475 (1972), 42 U.S.C.A. 1383, as amended, in applying for those 59241
benefits. The 59242

As part of their disability advocacy programs, the state 59243
department and county departments may enter into contracts for the 59244
services ~~to applicants for and recipients of assistance under this~~ 59245
~~chapter who might be eligible for supplemental security income~~ 59246
~~benefits with~~ of persons and governmental government entities that 59247
in the judgment of the department or county department have 59248

demonstrated expertise in representing persons seeking 59249
supplemental security income benefits. Each contract shall require 59250
the person or entity with which a department contracts to assess 59251
each person referred to it by the department to determine whether 59252
the person appears to be eligible for supplemental security income 59253
benefits, and, if the person appears to be eligible, assist the 59254
person in applying and represent the person in any proceeding of 59255
the social security administration, including any appeal or 59256
reconsideration of a denial of benefits. The department or county 59257
department shall provide to the person or entity with which it 59258
contracts all records in its possession relevant to the 59259
application for supplemental security income benefits. The 59260
department shall require a county department with relevant records 59261
to submit them to the person or entity. 59262

(B) Each applicant for or recipient of disability financial 59263
assistance or disability medical assistance ~~under this chapter~~ 59264
who, in the judgment of the department or a county department 59265
might be eligible for supplemental security benefits, ~~must~~ shall, 59266
as a condition of eligibility for assistance, apply for such 59267
benefits if directed to do so by the department or county 59268
department. 59269

(C) ~~Each~~ With regard to applicants for and recipients of 59270
disability financial assistance or disability medical assistance, 59271
each county department of job and family services shall do all of 59272
the following: 59273

(1) Identify applicants ~~for~~ and recipients of ~~assistance~~ 59274
~~under this chapter~~ who might be eligible for supplemental security 59275
income benefits; 59276

(2) Assist applicants ~~for~~ and recipients of ~~assistance under~~ 59277
~~this chapter~~ in securing documentation of disabling conditions or 59278
refer them for such assistance to a person or government ~~agency~~ 59279
entity with which the department or county department has 59280

contracted under division (A) of this section; 59281

(3) Inform applicants ~~for~~ and recipients ~~of assistance under~~ 59282
~~this chapter~~ of available sources of representation, which may 59283
include a person or government entity with which the department or 59284
county department has contracted under division (A) of this 59285
section, and of their right to represent themselves in 59286
reconsiderations and appeals of social security administration 59287
decisions that deny them supplemental security income benefits. 59288
The county department may require the applicants and recipients, 59289
as a condition of eligibility for assistance, to pursue 59290
reconsiderations and appeals of social security administration 59291
decisions that deny them supplemental security income benefits, 59292
and shall assist applicants and recipients as necessary to obtain 59293
such benefits or refer them to a person or government ~~agency~~ 59294
entity with which the department or county department has 59295
contracted under division (A) of this section. 59296

(4) Require applicants ~~for~~ and recipients ~~of assistance under~~ 59297
~~this chapter~~ who, in the judgment of the county department, are or 59298
may be aged, blind, or disabled, to apply for medical assistance 59299
under Chapter 5111. of the Revised Code, make determinations when 59300
appropriate as to eligibility for medical assistance, and refer 59301
their applications when necessary to the disability determination 59302
unit established in accordance with division (F) of this section 59303
for expedited review; 59304

(5) Require each applicant ~~for~~ and ~~each~~ recipient ~~of~~ 59305
~~assistance under this chapter~~ who in the judgment of the 59306
department or the county department might be eligible for 59307
supplemental security income benefits, as a condition of 59308
eligibility for disability financial assistance or disability 59309
medical assistance ~~under this chapter~~, to execute a written 59310
authorization for the secretary of health and human services to 59311
withhold benefits due that individual and pay to the director of 59312

job and family services or the director's designee an amount 59313
sufficient to reimburse the state and county shares of interim 59314
assistance furnished to the individual. For the purposes of 59315
division (C)(5) of this section, "benefits" and "interim 59316
assistance" have the meanings given in Title XVI of the "Social 59317
Security Act." 59318

(D) The director of job and family services shall adopt rules 59319
in accordance with ~~Chapter 119.~~ section 111.15 of the Revised Code 59320
for the effective administration of the disability advocacy 59321
program. The rules shall include all of the following: 59322

(1) Methods to be used in collecting information from and 59323
disseminating it to county departments, including the following: 59324

(a) The number of individuals in the county who are disabled 59325
recipients of disability financial assistance or disability 59326
medical assistance ~~under this chapter in the county;~~ 59327

(b) The final decision made either by the social security 59328
administration or by a court for each application or 59329
reconsideration in which an individual was assisted pursuant to 59330
this section. 59331

(2) The type and process of training to be provided by the 59332
department of job and family services to the employees of the 59333
county department of job and family services who perform duties 59334
under this section; 59335

(3) Requirements for the written authorization required by 59336
division (C)(5) of this section. 59337

(E) The department shall provide basic and continuing 59338
training to employees of the county department of job and family 59339
services who perform duties under this section. Training shall 59340
include but not be limited to all processes necessary to obtain 59341
federal disability benefits, and methods of advocacy. 59342

(F) The department shall establish a disability determination unit and develop guidelines for expediting reviews of applications for medical assistance under Chapter 5111. of the Revised Code for persons who have been referred to the unit under division (C)(4) of this section. The department shall make determinations of eligibility for medical assistance for any such person within the time prescribed by federal regulations.

(G) The department may, under rules the director of job and family services adopts in accordance with section 111.15 of the Revised Code, pay a portion of the federal reimbursement described in division (C)(5) of this section to persons or ~~agencies~~ government entities that assist or represent assistance recipients in reconsiderations and appeals of social security administration decisions denying them supplemental security income benefits.

(H) The director shall conduct investigations to determine whether disability advocacy programs are being administered in compliance with the Revised Code and the rules adopted by the director pursuant to this section.

Sec. 5115.22. (A) If a recipient of disability financial assistance or disability medical assistance, or an individual whose income and resources are included in determining the recipient's eligibility for the assistance, becomes possessed of resources or income in excess of the amount allowed to retain eligibility, or if other changes occur that affect the recipient's eligibility or need for assistance, the recipient shall notify the state or county department of job and family services within the time limits specified in rules adopted by the director of job and family services in accordance with section 111.15 of the Revised Code. Failure of a recipient to report possession of excess resources or income or a change affecting eligibility or need within those time limits shall be considered prima-facie evidence

of intent to defraud under section 5115.23 of the Revised Code. 59374

(B) As a condition of eligibility for disability financial 59375
assistance or disability medical assistance, and as a means of 59376
preventing or reducing the provision of assistance at public 59377
expense, each applicant for or recipient of the assistance shall 59378
make reasonable efforts to secure support from persons responsible 59379
for the applicant's or recipient's support, and from other 59380
sources, including any federal program designed to provide 59381
assistance to individuals with disabilities. The state or county 59382
department of job and family services may provide assistance to 59383
the applicant or recipient in securing other forms of financial 59384
assistance. 59385

Sec. 5115.15 5115.23. As used in this section, "erroneous 59386
payments" means disability financial assistance payments, 59387
~~including~~ or disability ~~assistance~~ medical assistance payments, 59388
made to persons who are not entitled to receive them, including 59389
payments made as a result of misrepresentation or fraud, and 59390
payments made due to an error by the recipient or by the county 59391
department of job and family services that made the payment. 59392

The department of job and family services shall adopt rules 59393
in accordance with section 111.15 of the Revised Code specifying 59394
the circumstances under which action is to be taken under this 59395
section to recover erroneous payments. The department, or a county 59396
department of job and family services at the request of the 59397
department, shall take action to recover erroneous payments in the 59398
circumstances specified in the rules. The department or county 59399
department may institute a civil action to recover erroneous 59400
payments. 59401

Whenever disability financial assistance or disability 59402
medical assistance has been furnished to a recipient for whose 59403
support another person is responsible, the other person shall, in 59404

addition to the liability otherwise imposed, as a consequence of 59405
failure to support the recipient, be liable for all disability 59406
assistance furnished the recipient. The value of the assistance so 59407
furnished may be recovered in a civil action brought by the county 59408
department of job and family services. 59409

Each county department of job and family services shall 59410
retain fifty per cent of the erroneous payments it recovers under 59411
this section. The department of job and family services shall 59412
receive the remaining fifty per cent. 59413

Sec. 5119.61. Any provision in this chapter that refers to a 59414
board of alcohol, drug addiction, and mental health services also 59415
refers to the community mental health board in an alcohol, drug 59416
addiction, and mental health service district that has a community 59417
mental health board. 59418

The director of mental health with respect to all facilities 59419
and programs established and operated under Chapter 340. of the 59420
Revised Code for mentally ill and emotionally disturbed persons, 59421
shall do all of the following: 59422

(A) Adopt rules pursuant to Chapter 119. of the Revised Code 59423
that may be necessary to carry out the purposes of Chapter 340. 59424
and sections 5119.61 to 5119.63 of the Revised Code. 59425

(1) The rules shall include all of the following: 59426

(a) Rules governing a community mental health agency's 59427
services under section 340.091 of the Revised Code to an 59428
individual referred to the agency under division (C)(2) of section 59429
173.35 of the Revised Code; 59430

(b) For the purpose of division (A)(16) of section 340.03 of 59431
the Revised Code, rules governing the duties of mental health 59432
agencies and boards of alcohol, drug addiction, and mental health 59433
services under section 3722.18 of the Revised Code regarding 59434

referrals of individuals with mental illness or severe mental disability to adult care facilities and effective arrangements for ongoing mental health services for the individuals. The rules shall do at least the following:

(i) Provide for agencies and boards to participate fully in the procedures owners and managers of adult care facilities must follow under division (A)(2) of section 3722.18 of the Revised Code;

(ii) Specify the manner in which boards are accountable for ensuring that ongoing mental health services are effectively arranged for individuals with mental illness or severe mental disability who are referred by the board or mental health agency under contract with the board to an adult care facility.

(c) Rules governing a board of alcohol, drug addiction, and mental health services when making a report to the director of health under section 3722.17 of the Revised Code regarding the quality of care and services provided by an adult care facility to a person with mental illness or a severe mental disability.

(2) Rules may be adopted to govern the method of paying a community mental health facility ~~described, as defined in division (B) of~~ section 5111.022 of the Revised Code, for providing services ~~established by~~ listed in division ~~(A)(B)~~ of that section. Such rules must be consistent with the contract entered into between the departments of job and family services and mental health under ~~division (E) of that~~ section 5111.91 of the Revised Code and include requirements ensuring appropriate service utilization.

(B) Review and evaluate, and, taking into account the findings and recommendations of the board of alcohol, drug addiction, and mental health services of the district served by the program and the requirements and priorities of the state

mental health plan, including the needs of residents of the 59466
district now residing in state mental institutions, approve and 59467
allocate funds to support community programs, and make 59468
recommendations for needed improvements to boards of alcohol, drug 59469
addiction, and mental health services; 59470

(C) Withhold state and federal funds for any program, in 59471
whole or in part, from a board of alcohol, drug addiction, and 59472
mental health services in the event of failure of that program to 59473
comply with Chapter 340. or section 5119.61, 5119.611, 5119.612, 59474
or 5119.62 of the Revised Code or rules of the department of 59475
mental health. The director shall identify the areas of 59476
noncompliance and the action necessary to achieve compliance. The 59477
director shall offer technical assistance to the board to achieve 59478
compliance. The director shall give the board a reasonable time 59479
within which to comply or to present its position that it is in 59480
compliance. Before withholding funds, a hearing shall be conducted 59481
to determine if there are continuing violations and that either 59482
assistance is rejected or the board is unable to achieve 59483
compliance. Subsequent to the hearing process, if it is determined 59484
that compliance has not been achieved, the director may allocate 59485
all or part of the withheld funds to a public or private agency to 59486
provide the services not in compliance until the time that there 59487
is compliance. The director shall establish rules pursuant to 59488
Chapter 119. of the Revised Code to implement this division. 59489

(D) Withhold state or federal funds from a board of alcohol, 59490
drug addiction, and mental health services that denies available 59491
service on the basis of religion, race, color, creed, sex, 59492
national origin, age, disability as defined in section 4112.01 of 59493
the Revised Code, developmental disability, or the inability to 59494
pay; 59495

(E) Provide consultative services to community mental health 59496
agencies with the knowledge and cooperation of the board of 59497

alcohol, drug addiction, and mental health services; 59498

(F) Provide to boards of alcohol, drug addiction, and mental 59499
health services state or federal funds, in addition to those 59500
allocated under section 5119.62 of the Revised Code, for special 59501
programs or projects the director considers necessary but for 59502
which local funds are not available; 59503

(G) Establish criteria by which a board of alcohol, drug 59504
addiction, and mental health services reviews and evaluates the 59505
quality, effectiveness, and efficiency of services provided 59506
through its community mental health plan. The criteria shall 59507
include requirements ensuring appropriate service utilization. The 59508
department shall assess a board's evaluation of services and the 59509
compliance of each board with this section, Chapter 340. or 59510
section 5119.62 of the Revised Code, and other state or federal 59511
law and regulations. The department, in cooperation with the 59512
board, periodically shall review and evaluate the quality, 59513
effectiveness, and efficiency of services provided through each 59514
board. The department shall collect information that is necessary 59515
to perform these functions. 59516

(H) Develop and operate a community mental health information 59517
system. 59518

Boards of alcohol, drug abuse, and mental health services 59519
shall submit information requested by the department in the form 59520
and manner prescribed by the department. Information collected by 59521
the department shall include, but not be limited to, all of the 59522
following: 59523

(1) Information regarding units of services provided in whole 59524
or in part under contract with a board, including diagnosis and 59525
special needs, demographic information, the number of units of 59526
service provided, past treatment, financial status, and service 59527
dates in accordance with rules adopted by the department in 59528

accordance with Chapter 119. of the Revised Code; 59529

(2) Financial information other than price or price-related 59530
data regarding expenditures of boards and community mental health 59531
agencies, including units of service provided, budgeted and actual 59532
expenses by type, and sources of funds. 59533

Boards shall submit the information specified in division 59534
(H)(1) of this section no less frequently than annually for each 59535
client, and each time the client's case is opened or closed. The 59536
department shall not collect any information for the purpose of 59537
identifying by name any person who receives a service through a 59538
board of alcohol, drug addiction, and mental health services, 59539
except as required by state or federal law to validate appropriate 59540
reimbursement. For the purposes of division (H)(1) of this 59541
section, the department shall use an identification system that is 59542
consistent with applicable nationally recognized standards. 59543

(I) Review each board's community mental health plan 59544
submitted pursuant to section 340.03 of the Revised Code and 59545
approve or disapprove it in whole or in part. Periodically, in 59546
consultation with representatives of boards and after considering 59547
the recommendations of the medical director, the director shall 59548
issue criteria for determining when a plan is complete, criteria 59549
for plan approval or disapproval, and provisions for conditional 59550
approval. The factors that the director considers may include, but 59551
are not limited to, the following: 59552

(1) The mental health needs of all persons residing within 59553
the board's service district, especially severely mentally 59554
disabled children, adolescents, and adults; 59555

(2) The demonstrated quality, effectiveness, efficiency, and 59556
cultural relevance of the services provided in each service 59557
district, the extent to which any services are duplicative of 59558
other available services, and whether the services meet the needs 59559

identified above; 59560

(3) The adequacy of the board's accounting for the 59561
expenditure of funds. 59562

If the director disapproves all or part of any plan, the 59563
director shall provide the board an opportunity to present its 59564
position. The director shall inform the board of the reasons for 59565
the disapproval and of the criteria that must be met before the 59566
plan may be approved. The director shall give the board a 59567
reasonable time within which to meet the criteria, and shall offer 59568
technical assistance to the board to help it meet the criteria. 59569

If the approval of a plan remains in dispute thirty days 59570
prior to the conclusion of the fiscal year in which the board's 59571
current plan is scheduled to expire, the board or the director may 59572
request that the dispute be submitted to a mutually agreed upon 59573
third-party mediator with the cost to be shared by the board and 59574
the department. The mediator shall issue to the board and the 59575
department recommendations for resolution of the dispute. Prior to 59576
the conclusion of the fiscal year in which the current plan is 59577
scheduled to expire, the director, taking into consideration the 59578
recommendations of the mediator, shall make a final determination 59579
and approve or disapprove the plan, in whole or in part. 59580

Sec. 5119.611. (A) A board of alcohol, drug addiction, and 59581
mental health services may not contract with a community mental 59582
health agency under division (A)(8)(a) of section 340.03 of the 59583
Revised Code to provide community mental health services included 59584
in the board's community mental health plan unless the services 59585
are certified by the director of mental health under this section. 59586

A community mental health agency that seeks the director's 59587
certification of its community mental health services shall submit 59588
an application to the director. On receipt of the application, the 59589
director may visit and shall evaluate the agency to determine 59590

whether its services satisfy the standards established by rules 59591
adopted under division (C) of this section. The director shall 59592
make the evaluation, and, if the director visits the agency, shall 59593
make the visit, in cooperation with the board of alcohol, drug 59594
addiction, and mental health services with which the agency seeks 59595
to contract. 59596

If the director determines that a community mental health 59597
agency's services satisfy the standards, the director shall 59598
certify the services. 59599

If the director determines that a community mental health 59600
agency's services do not satisfy the standards, the director shall 59601
identify the areas of noncompliance, specify what action is 59602
necessary to satisfy the standards, and offer technical assistance 59603
to the board of alcohol, drug addiction, and mental health 59604
services so that the board may assist the agency in satisfying the 59605
standards. The director shall give the agency a reasonable time 59606
within which to demonstrate that its services satisfy the 59607
standards or to bring the services into compliance with the 59608
standards. If the director concludes that the services continue to 59609
fail to satisfy the standards, the director may request that the 59610
board reallocate the funds for the community mental health 59611
services the agency was to provide to another community mental 59612
health agency whose community mental health services satisfy the 59613
standards. If the board does not reallocate those funds in a 59614
reasonable period of time, the director may withhold state and 59615
federal funds for the community mental health services and 59616
allocate those funds directly to a community mental health agency 59617
whose community mental health services satisfy the standards. 59618

(B) Each community mental health agency seeking certification 59619
of its community mental health services under this section shall 59620
pay a fee for the certification review required by this section. 59621
Fees shall be paid into the sale of goods and services fund 59622

created pursuant to section 5119.161 of the Revised Code. 59623

(C) The director shall adopt rules in accordance with Chapter 59624
119. of the Revised Code to implement this section. The rules 59625
shall do all of the following: 59626

(1) Establish certification standards for community mental 59627
health services, including assertive community treatment and 59628
intensive home-based mental health services, that are consistent 59629
with nationally recognized applicable standards and facilitate 59630
participation in federal assistance programs. The rules shall 59631
include as certification standards only requirements that improve 59632
the quality of services or the health and safety of clients of 59633
community mental health services. The standards shall address at a 59634
minimum all of the following: 59635

(a) Reporting major unusual incidents to the director; 59636

(b) Procedures for applicants for and clients of community 59637
mental health services to file grievances and complaints; 59638

(c) Seclusion; 59639

(d) Restraint; 59640

(e) Development of written policies addressing the rights of 59641
clients, including all of the following: 59642

(i) The right to a copy of the written policies addressing 59643
client rights; 59644

(ii) The right at all times to be treated with consideration 59645
and respect for the client's privacy and dignity; 59646

(iii) The right to have access to the client's own 59647
psychiatric, medical, or other treatment records unless access is 59648
specifically restricted in the client's treatment plan for clear 59649
treatment reasons; 59650

(iv) The right to have a client rights officer provided by 59651
the agency or board of alcohol, drug addiction, and mental health 59652

services advise the client of the client's rights, including the 59653
client's rights under Chapter 5122. of the Revised Code if the 59654
client is committed to the agency or board. 59655

(2) Establish standards for qualifications of mental health 59656
professionals as defined in section 340.02 of the Revised Code and 59657
personnel who provide the community mental health services; 59658

(3) Establish the process for certification of community 59659
mental health services; 59660

(4) Set the amount of certification review fees based on a 59661
portion of the cost of performing the review; 59662

(5) Specify the type of notice and hearing to be provided 59663
prior to a decision on whether to reallocate funds. 59664

(D) The rules adopted under division (C)(1) of this section 59665
to establish certification standards for assertive community 59666
treatment and intensive home-based mental health services shall be 59667
adopted not later than July 1, 2004. 59668

Sec. 5120.52. The department of rehabilitation and correction 59669
may enter into a contract ~~with a political subdivision in under~~ 59670
which a state correctional institution is ~~located under which the~~ 59671
~~institution will provide sewage treatment services for the~~ 59672
~~political subdivision if the institution that~~ has a water or 59673
sewage treatment facility with sufficient excess capacity to 59674
provide the water or sewage treatment services will provide the 59675
services for the other contracting party. The 59676

~~Any such~~ contract shall include all of the following that 59677
apply: 59678

(A) Limitations on the quantity of sewage that the facility 59679
will accept ~~that~~ which are compatible with the needs of the state 59680
correctional institution; 59681

(B) Limitations on the quantity of potable water that the 59682

facility will provide which are compatible with the needs of the 59683
state correctional institution; 59684

(C) The bases for calculating reasonable rates to be charged 59685
the ~~political subdivision~~ contracting party for potable water or 59686
sewage treatment services and for adjusting the rates; 59687

~~(C)~~(D) All other provisions the department considers 59688
necessary or proper to protect the interests of the state in the 59689
facility and the purpose for which it was constructed. 59690

All amounts due the department under the contract shall be 59691
paid to the department by the ~~political subdivision~~ contracting 59692
party at the times specified in the contract. The department shall 59693
deposit all ~~such~~ of those amounts in the state treasury to the 59694
credit of the correctional institution water and sewage treatment 59695
facility services fund, which is hereby created. The fund shall be 59696
used by the department to pay costs associated with operating and 59697
maintaining the water and sewage treatment ~~facility~~ facilities. 59698

Sec. 5123.01. As used in this chapter: 59699

(A) "Chief medical officer" means the licensed physician 59700
appointed by the managing officer of an institution for the 59701
mentally retarded with the approval of the director of mental 59702
retardation and developmental disabilities to provide medical 59703
treatment for residents of the institution. 59704

(B) "Chief program director" means a person with special 59705
training and experience in the diagnosis and management of the 59706
mentally retarded, certified according to division (C) of this 59707
section in at least one of the designated fields, and appointed by 59708
the managing officer of an institution for the mentally retarded 59709
with the approval of the director to provide habilitation and care 59710
for residents of the institution. 59711

(C) "Comprehensive evaluation" means a study, including a 59712

sequence of observations and examinations, of a person leading to 59713
conclusions and recommendations formulated jointly, with 59714
dissenting opinions if any, by a group of persons with special 59715
training and experience in the diagnosis and management of persons 59716
with mental retardation or a developmental disability, which group 59717
shall include individuals who are professionally qualified in the 59718
fields of medicine, psychology, and social work, together with 59719
such other specialists as the individual case may require. 59720

(D) "Education" means the process of formal training and 59721
instruction to facilitate the intellectual and emotional 59722
development of residents. 59723

(E) "Habilitation" means the process by which the staff of 59724
the institution assists the resident in acquiring and maintaining 59725
those life skills that enable the resident to cope more 59726
effectively with the demands of the resident's own person and of 59727
the resident's environment and in raising the level of the 59728
resident's physical, mental, social, and vocational efficiency. 59729
Habilitation includes but is not limited to programs of formal, 59730
structured education and training. 59731

(F) "Habilitation center services" means services provided by 59732
a habilitation center certified by the department of mental 59733
retardation and developmental disabilities under section 5123.041 59734
of the Revised Code and covered by the medicaid program pursuant 59735
to rules adopted under section 5111.041 of the Revised Code. 59736

(G) "Health officer" means any public health physician, 59737
public health nurse, or other person authorized or designated by a 59738
city or general health district. 59739

(H) "Home and community-based services" means medicaid-funded 59740
home and community-based services provided under a the medicaid 59741
~~component~~ components the department of mental retardation and 59742
developmental disabilities administers pursuant to section 59743

5111.871 of the Revised Code. 59744

(I) "Indigent person" means a person who is unable, without 59745
substantial financial hardship, to provide for the payment of an 59746
attorney and for other necessary expenses of legal representation, 59747
including expert testimony. 59748

(J) "Institution" means a public or private facility, or a 59749
part of a public or private facility, that is licensed by the 59750
appropriate state department and is equipped to provide 59751
residential habilitation, care, and treatment for the mentally 59752
retarded. 59753

(K) "Licensed physician" means a person who holds a valid 59754
certificate issued under Chapter 4731. of the Revised Code 59755
authorizing the person to practice medicine and surgery or 59756
osteopathic medicine and surgery, or a medical officer of the 59757
government of the United States while in the performance of the 59758
officer's official duties. 59759

(L) "Managing officer" means a person who is appointed by the 59760
director of mental retardation and developmental disabilities to 59761
be in executive control of an institution for the mentally 59762
retarded under the jurisdiction of the department. 59763

(M) "Medicaid" has the same meaning as in section 5111.01 of 59764
the Revised Code. 59765

(N) "Medicaid case management services" means case management 59766
services provided to an individual with mental retardation or 59767
other developmental disability that the state medicaid plan 59768
requires. 59769

(O) "Mentally retarded person" means a person having 59770
significantly subaverage general intellectual functioning existing 59771
concurrently with deficiencies in adaptive behavior, manifested 59772
during the developmental period. 59773

(P) "Mentally retarded person subject to institutionalization by court order" means a person eighteen years of age or older who is at least moderately mentally retarded and in relation to whom, because of the person's retardation, either of the following conditions exist:

(1) The person represents a very substantial risk of physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's most basic physical needs and that provision for those needs is not available in the community;

(2) The person needs and is susceptible to significant habilitation in an institution.

(Q) "A person who is at least moderately mentally retarded" means a person who is found, following a comprehensive evaluation, to be impaired in adaptive behavior to a moderate degree and to be functioning at the moderate level of intellectual functioning in accordance with standard measurements as recorded in the most current revision of the manual of terminology and classification in mental retardation published by the American association on mental retardation.

(R) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.

"Developmental disability" means a severe, chronic disability that is characterized by all of the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of section 5122.01 of the Revised Code.

- (2) It is manifested before age twenty-two. 59804
- (3) It is likely to continue indefinitely. 59805
- (4) It results in one of the following: 59806
- (a) In the case of a person under three years of age, at 59807
least one developmental delay or an established risk; 59808
- (b) In the case of a person at least three years of age but 59809
under six years of age, at least two developmental delays or an 59810
established risk; 59811
- (c) In the case of a person six years of age or older, a 59812
substantial functional limitation in at least three of the 59813
following areas of major life activity, as appropriate for the 59814
person's age: self-care, receptive and expressive language, 59815
learning, mobility, self-direction, capacity for independent 59816
living, and, if the person is at least sixteen years of age, 59817
capacity for economic self-sufficiency. 59818
- (5) It causes the person to need a combination and sequence 59819
of special, interdisciplinary, or other type of care, treatment, 59820
or provision of services for an extended period of time that is 59821
individually planned and coordinated for the person. 59822
- (S) "Developmentally disabled person" means a person with a 59823
developmental disability. 59824
- (T) "State institution" means an institution that is 59825
tax-supported and under the jurisdiction of the department. 59826
- (U) "Residence" and "legal residence" have the same meaning 59827
as "legal settlement," which is acquired by residing in Ohio for a 59828
period of one year without receiving general assistance prior to 59829
July 17, 1995, under former Chapter 5113. of the Revised Code, 59830
~~disability~~ financial assistance under Chapter 5115. of the Revised 59831
Code, or assistance from a private agency that maintains records 59832
of assistance given. A person having a legal settlement in the 59833

state shall be considered as having legal settlement in the 59834
assistance area in which the person resides. No adult person 59835
coming into this state and having a spouse or minor children 59836
residing in another state shall obtain a legal settlement in this 59837
state as long as the spouse or minor children are receiving public 59838
assistance, care, or support at the expense of the other state or 59839
its subdivisions. For the purpose of determining the legal 59840
settlement of a person who is living in a public or private 59841
institution or in a home subject to licensing by the department of 59842
job and family services, the department of mental health, or the 59843
department of mental retardation and developmental disabilities, 59844
the residence of the person shall be considered as though the 59845
person were residing in the county in which the person was living 59846
prior to the person's entrance into the institution or home. 59847
Settlement once acquired shall continue until a person has been 59848
continuously absent from Ohio for a period of one year or has 59849
acquired a legal residence in another state. A woman who marries a 59850
man with legal settlement in any county immediately acquires the 59851
settlement of her husband. The legal settlement of a minor is that 59852
of the parents, surviving parent, sole parent, parent who is 59853
designated the residential parent and legal custodian by a court, 59854
other adult having permanent custody awarded by a court, or 59855
guardian of the person of the minor, provided that: 59856

(1) A minor female who marries shall be considered to have 59857
the legal settlement of her husband and, in the case of death of 59858
her husband or divorce, she shall not thereby lose her legal 59859
settlement obtained by the marriage. 59860

(2) A minor male who marries, establishes a home, and who has 59861
resided in this state for one year without receiving general 59862
assistance prior to July 17, 1995, under former Chapter 5113. of 59863
the Revised Code, ~~disability~~ financial assistance under Chapter 59864
5115. of the Revised Code, or assistance from a private agency 59865

that maintains records of assistance given shall be considered to 59866
have obtained a legal settlement in this state. 59867

(3) The legal settlement of a child under eighteen years of 59868
age who is in the care or custody of a public or private child 59869
caring agency shall not change if the legal settlement of the 59870
parent changes until after the child has been in the home of the 59871
parent for a period of one year. 59872

No person, adult or minor, may establish a legal settlement 59873
in this state for the purpose of gaining admission to any state 59874
institution. 59875

(V)(1) "Resident" means, subject to division (R)(2) of this 59876
section, a person who is admitted either voluntarily or 59877
involuntarily to an institution or other facility pursuant to 59878
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 59879
Code subsequent to a finding of not guilty by reason of insanity 59880
or incompetence to stand trial or under this chapter who is under 59881
observation or receiving habilitation and care in an institution. 59882

(2) "Resident" does not include a person admitted to an 59883
institution or other facility under section 2945.39, 2945.40, 59884
2945.401, or 2945.402 of the Revised Code to the extent that the 59885
reference in this chapter to resident, or the context in which the 59886
reference occurs, is in conflict with any provision of sections 59887
2945.37 to 2945.402 of the Revised Code. 59888

(W) "Respondent" means the person whose detention, 59889
commitment, or continued commitment is being sought in any 59890
proceeding under this chapter. 59891

(X) "Working day" and "court day" mean Monday, Tuesday, 59892
Wednesday, Thursday, and Friday, except when such day is a legal 59893
holiday. 59894

(Y) "Prosecutor" means the prosecuting attorney, village 59895
solicitor, city director of law, or similar chief legal officer 59896

who prosecuted a criminal case in which a person was found not 59897
guilty by reason of insanity, who would have had the authority to 59898
prosecute a criminal case against a person if the person had not 59899
been found incompetent to stand trial, or who prosecuted a case in 59900
which a person was found guilty. 59901

(Z) "Court" means the probate division of the court of common 59902
pleas. 59903

Sec. 5123.051. (A) If the department of mental retardation 59904
and developmental disabilities determines pursuant to an audit 59905
conducted under section 5123.05 of the Revised Code or a 59906
reconciliation conducted under section 5123.18 or ~~5111.252~~ 59907
5123.199 of the Revised Code that money is owed the state by a 59908
provider of a service or program, the department may enter into a 59909
payment agreement with the provider. The agreement shall include 59910
the following: 59911

(1) A schedule of installment payments whereby the money owed 59912
the state is to be paid in full within a period not to exceed one 59913
year; 59914

(2) A provision that the provider may pay the entire balance 59915
owed at any time during the term of the agreement; 59916

(3) A provision that if any installment is not paid in full 59917
within forty-five days after it is due, the entire balance owed is 59918
immediately due and payable; 59919

(4) Any other terms and conditions that are agreed to by the 59920
department and the provider. 59921

(B) The department may include a provision in a payment 59922
agreement that requires the provider to pay interest on the money 59923
owed the state. The department, in its discretion, shall determine 59924
whether to require the payment of interest and, if it so requires, 59925
the rate of interest. Neither the obligation to pay interest nor 59926

the rate of interest is subject to negotiation between the 59927
department and the provider. 59928

(C) If the provider fails to pay any installment in full 59929
within forty-five days after its due date, the department shall 59930
certify the entire balance owed to the attorney general for 59931
collection under section 131.02 of the Revised Code. The 59932
department may withhold funds from payments made to a provider 59933
under section 5123.18 or ~~5111.252~~ 5123.199 of the Revised Code to 59934
satisfy a judgment secured by the attorney general. 59935

(D) The purchase of service fund is hereby created. Money 59936
credited to the fund shall be used solely for purposes of section 59937
5123.05 of the Revised Code. 59938

Sec. 5123.19. (A) As used in this section and in sections 59939
5123.191, 5123.194, 5123.196, 5123.198, 5123.1910, and 5123.20 of 59940
the Revised Code: 59941

(1)(a) "Residential facility" means a home or facility in 59942
which a mentally retarded or developmentally disabled person 59943
resides, except the home of a relative or legal guardian in which 59944
a mentally retarded or developmentally disabled person resides, a 59945
respite care home certified under section 5126.05 of the Revised 59946
Code, a county home or district home operated pursuant to Chapter 59947
5155. of the Revised Code, or a dwelling in which the only 59948
mentally retarded or developmentally disabled residents are in an 59949
independent living arrangement or are being provided supported 59950
living. 59951

(b) "Intermediate care facility for the mentally retarded" 59952
means a residential facility that is considered an intermediate 59953
care facility for the mentally retarded for the purposes of 59954
Chapter 5111. of the Revised Code. 59955

(2) "Political subdivision" means a municipal corporation, 59956

county, or township. 59957

(3) "Independent living arrangement" means an arrangement in 59958
which a mentally retarded or developmentally disabled person 59959
resides in an individualized setting chosen by the person or the 59960
person's guardian, which is not dedicated principally to the 59961
provision of residential services for mentally retarded or 59962
developmentally disabled persons, and for which no financial 59963
support is received for rendering such service from any 59964
governmental agency by a provider of residential services. 59965

(4) "Supported living" has the same meaning as in section 59966
5126.01 of the Revised Code. 59967

(5) "Licensee" means the person or government agency that has 59968
applied for a license to operate a residential facility and to 59969
which the license was issued under this section. 59970

(B) Every person or government agency desiring to operate a 59971
residential facility shall apply for licensure of the facility to 59972
the director of mental retardation and developmental disabilities 59973
unless the residential facility is subject to section 3721.02, 59974
3722.04, 5103.03, or 5119.20 of the Revised Code. Notwithstanding 59975
Chapter 3721. of the Revised Code, a nursing home that is 59976
certified as an intermediate care facility for the mentally 59977
retarded under Title XIX of the "Social Security Act," 79 Stat. 59978
286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for 59979
licensure of the portion of the home that is certified as an 59980
intermediate care facility for the mentally retarded. 59981

(C) ~~The~~ Subject to section 5123.196 of the Revised Code, the 59982
director of mental retardation and developmental disabilities 59983
shall license the operation of residential facilities. An initial 59984
license shall be issued for a period that does not exceed one 59985
year, unless the director denies the license under division (D) of 59986
this section. A license shall be renewed for a period that does 59987

not exceed three years, unless the director refuses to renew the license under division (D) of this section. The director, when issuing or renewing a license, shall specify the period for which the license is being issued or renewed. A license remains valid for the length of the licensing period specified by the director, unless the license is terminated, revoked, or voluntarily surrendered.

(D) If it is determined that an applicant or licensee is not in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, the director may deny issuance of a license, refuse to renew a license, terminate a license, revoke a license, issue an order for the suspension of admissions to a facility, issue an order for the placement of a monitor at a facility, issue an order for the immediate removal of residents, or take any other action the director considers necessary consistent with the director's authority under this chapter regarding residential facilities. In the director's selection and administration of the sanction to be imposed, all of the following apply:

(1) The director may deny, refuse to renew, or revoke a license, if the director determines that the applicant or licensee has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of residents of a residential facility.

(2) The director may terminate a license if more than twelve consecutive months have elapsed since the residential facility was last occupied by a resident or a notice required by division (J) of this section is not given.

(3) The director may issue an order for the suspension of admissions to a facility for any violation that may result in sanctions under division (D)(1) of this section and for any other violation specified in rules adopted under division (G)(2) of this

section. If the suspension of admissions is imposed for a 60020
violation that may result in sanctions under division (D)(1) of 60021
this section, the director may impose the suspension before 60022
providing an opportunity for an adjudication under Chapter 119. of 60023
the Revised Code. The director shall lift an order for the 60024
suspension of admissions when the director determines that the 60025
violation that formed the basis for the order has been corrected. 60026

(4) The director may order the placement of a monitor at a 60027
residential facility for any violation specified in rules adopted 60028
under division (G)(2) of this section. The director shall lift the 60029
order when the director determines that the violation that formed 60030
the basis for the order has been corrected. 60031

(5) If the director determines that two or more residential 60032
facilities owned or operated by the same person or government 60033
entity are not being operated in compliance with a provision of 60034
this chapter that applies to residential facilities or the rules 60035
adopted under such a provision, and the director's findings are 60036
based on the same or a substantially similar action, practice, 60037
circumstance, or incident that creates a substantial risk to the 60038
health and safety of the residents, the director shall conduct a 60039
survey as soon as practicable at each residential facility owned 60040
or operated by that person or government entity. The director may 60041
take any action authorized by this section with respect to any 60042
facility found to be operating in violation of a provision of this 60043
chapter that applies to residential facilities or the rules 60044
adopted under such a provision. 60045

(6) When the director initiates license revocation 60046
proceedings, no opportunity for submitting a plan of correction 60047
shall be given. The director shall notify the licensee by letter 60048
of the initiation of such proceedings. The letter shall list the 60049
deficiencies of the residential facility and inform the licensee 60050
that no plan of correction will be accepted. The director shall 60051

also notify each affected resident, the resident's guardian if the 60052
resident is an adult for whom a guardian has been appointed, the 60053
resident's parent or guardian if the resident is a minor, and the 60054
county board of mental retardation and developmental disabilities. 60055

(7) Pursuant to rules which shall be adopted in accordance 60056
with Chapter 119. of the Revised Code, the director may order the 60057
immediate removal of residents from a residential facility 60058
whenever conditions at the facility present an immediate danger of 60059
physical or psychological harm to the residents. 60060

(8) In determining whether a residential facility is being 60061
operated in compliance with a provision of this chapter that 60062
applies to residential facilities or the rules adopted under such 60063
a provision, or whether conditions at a residential facility 60064
present an immediate danger of physical or psychological harm to 60065
the residents, the director may rely on information obtained by a 60066
county board of mental retardation and developmental disabilities 60067
or other governmental agencies. 60068

(9) In proceedings initiated to deny, refuse to renew, or 60069
revoke licenses, the director may deny, refuse to renew, or revoke 60070
a license regardless of whether some or all of the deficiencies 60071
that prompted the proceedings have been corrected at the time of 60072
the hearing. 60073

(E) The director shall establish a program under which public 60074
notification may be made when the director has initiated license 60075
revocation proceedings or has issued an order for the suspension 60076
of admissions, placement of a monitor, or removal of residents. 60077
The director shall adopt rules in accordance with Chapter 119. of 60078
the Revised Code to implement this division. The rules shall 60079
establish the procedures by which the public notification will be 60080
made and specify the circumstances for which the notification must 60081
be made. The rules shall require that public notification be made 60082
if the director has taken action against the facility in the 60083

eighteen-month period immediately preceding the director's latest 60084
action against the facility and the latest action is being taken 60085
for the same or a substantially similar violation of a provision 60086
of this chapter that applies to residential facilities or the 60087
rules adopted under such a provision. The rules shall specify a 60088
method for removing or amending the public notification if the 60089
director's action is found to have been unjustified or the 60090
violation at the residential facility has been corrected. 60091

(F)(1) Except as provided in division (F)(2) of this section, 60092
appeals from proceedings initiated to impose a sanction under 60093
division (D) of this section shall be conducted in accordance with 60094
Chapter 119. of the Revised Code. 60095

(2) Appeals from proceedings initiated to order the 60096
suspension of admissions to a facility shall be conducted in 60097
accordance with Chapter 119. of the Revised Code, unless the order 60098
was issued before providing an opportunity for an adjudication, in 60099
which case all of the following apply: 60100

(a) The licensee may request a hearing not later than ten 60101
days after receiving the notice specified in section 119.07 of the 60102
Revised Code. 60103

(b) If a timely request for a hearing is made, the hearing 60104
shall commence not later than thirty days after the department 60105
receives the request. 60106

(c) After commencing, the hearing shall continue 60107
uninterrupted, except for Saturdays, Sundays, and legal holidays, 60108
unless other interruptions are agreed to by the licensee and the 60109
director. 60110

(d) If the hearing is conducted by a hearing examiner, the 60111
hearing examiner shall file a report and recommendations not later 60112
than ten days after the close of the hearing. 60113

(e) Not later than five days after the hearing examiner files 60114

the report and recommendations, the licensee may file objections 60115
to the report and recommendations. 60116

(f) Not later than fifteen days after the hearing examiner 60117
files the report and recommendations, the director shall issue an 60118
order approving, modifying, or disapproving the report and 60119
recommendations. 60120

(g) Notwithstanding the pendency of the hearing, the director 60121
shall lift the order for the suspension of admissions when the 60122
director determines that the violation that formed the basis for 60123
the order has been corrected. 60124

(G) In accordance with Chapter 119. of the Revised Code, the 60125
director shall adopt and may amend and rescind rules for licensing 60126
and regulating the operation of residential facilities, including 60127
intermediate care facilities for the mentally retarded. The rules 60128
for intermediate care facilities for the mentally retarded may 60129
differ from those for other residential facilities. The rules 60130
shall establish and specify the following: 60131

(1) Procedures and criteria for issuing and renewing 60132
licenses, including procedures and criteria for determining the 60133
length of the licensing period that the director must specify for 60134
each license when it is issued or renewed; 60135

(2) Procedures and criteria for denying, refusing to renew, 60136
terminating, and revoking licenses and for ordering the suspension 60137
of admissions to a facility, placement of a monitor at a facility, 60138
and the immediate removal of residents from a facility; 60139

(3) Fees for issuing and renewing licenses; 60140

(4) Procedures for surveying residential facilities; 60141

(5) Requirements for the training of residential facility 60142
personnel; 60143

(6) Classifications for the various types of residential 60144

facilities;	60145
(7) Certification procedures for licensees and management contractors that the director determines are necessary to ensure that they have the skills and qualifications to properly operate or manage residential facilities;	60146 60147 60148 60149
(8) The maximum number of persons who may be served in a particular type of residential facility;	60150 60151
(9) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities;	60152 60153
(10) Other standards for the operation of residential facilities and the services provided at residential facilities;	60154 60155
(11) Procedures for waiving any provision of any rule adopted under this section.	60156 60157
(H) Before issuing a license, the director of the department or the director's designee shall conduct a survey of the residential facility for which application is made. The director or the director's designee shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed. A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there.	60158 60159 60160 60161 60162 60163 60164 60165 60166
In conducting surveys, the director or the director's designee shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the facility; and all persons acting on behalf of, under the control of, or in connection with the licensee. The licensee and all persons on behalf of, under the control of, or in connection with the licensee shall cooperate with the director or the director's designee in conducting the survey.	60167 60168 60169 60170 60171 60172 60173 60174 60175

Following each survey, unless the director initiates a license revocation proceeding, the director or the director's designee shall provide the licensee with a report listing any deficiencies, specifying a timetable within which the licensee shall submit a plan of correction describing how the deficiencies will be corrected, and, when appropriate, specifying a timetable within which the licensee must correct the deficiencies. After a plan of correction is submitted, the director or the director's designee shall approve or disapprove the plan. A copy of the report and any approved plan of correction shall be provided to any person who requests it.

The director shall initiate disciplinary action against any department employee who notifies or causes the notification to any unauthorized person of an unannounced survey of a residential facility by an authorized representative of the department.

(I) In addition to any other information which may be required of applicants for a license pursuant to this section and except as provided in section 5123.1910 of the Revised Code, the director shall require each applicant to provide a copy of an approved plan for a proposed residential facility pursuant to section 5123.042 of the Revised Code. This division does not apply to renewal of a license.

(J) A licensee shall notify the owner of the building in which the licensee's residential facility is located of any significant change in the identity of the licensee or management contractor before the effective date of the change if the licensee is not the owner of the building.

Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may require notification to the department of any significant change in the ownership of a residential facility or in the identity of the

licensee or management contractor. If the director determines that 60207
a significant change of ownership is proposed, the director shall 60208
consider the proposed change to be an application for development 60209
by a new operator pursuant to section 5123.042 of the Revised Code 60210
and shall advise the applicant within sixty days of such 60211
notification that the current license shall continue in effect or 60212
a new license will be required pursuant to this section. If the 60213
director requires a new license, the director shall permit the 60214
facility to continue to operate under the current license until 60215
the new license is issued, unless the current license is revoked, 60216
refused to be renewed, or terminated in accordance with Chapter 60217
119. of the Revised Code. 60218

(K) A county board of mental retardation and developmental 60219
disabilities, the legal rights service, and any interested person 60220
may file complaints alleging violations of statute or department 60221
rule relating to residential facilities with the department. All 60222
complaints shall be in writing and shall state the facts 60223
constituting the basis of the allegation. The department shall not 60224
reveal the source of any complaint unless the complainant agrees 60225
in writing to waive the right to confidentiality or until so 60226
ordered by a court of competent jurisdiction. 60227

The department shall adopt rules in accordance with Chapter 60228
119. of the Revised Code establishing procedures for the receipt, 60229
referral, investigation, and disposition of complaints filed with 60230
the department under this division. 60231

(L) The department shall establish procedures for the 60232
notification of interested parties of the transfer or interim care 60233
of residents from residential facilities that are closing or are 60234
losing their license. 60235

(M) Before issuing a license under this section to a 60236
residential facility that will accommodate at any time more than 60237
one mentally retarded or developmentally disabled individual, the 60238

director shall, by first class mail, notify the following: 60239

(1) If the facility will be located in a municipal 60240
corporation, the clerk of the legislative authority of the 60241
municipal corporation; 60242

(2) If the facility will be located in unincorporated 60243
territory, the clerk of the appropriate board of county 60244
commissioners and the clerk of the appropriate board of township 60245
trustees. 60246

The director shall not issue the license for ten days after 60247
mailing the notice, excluding Saturdays, Sundays, and legal 60248
holidays, in order to give the notified local officials time in 60249
which to comment on the proposed issuance. 60250

Any legislative authority of a municipal corporation, board 60251
of county commissioners, or board of township trustees that 60252
receives notice under this division of the proposed issuance of a 60253
license for a residential facility may comment on it in writing to 60254
the director within ten days after the director mailed the notice, 60255
excluding Saturdays, Sundays, and legal holidays. If the director 60256
receives written comments from any notified officials within the 60257
specified time, the director shall make written findings 60258
concerning the comments and the director's decision on the 60259
issuance of the license. If the director does not receive written 60260
comments from any notified local officials within the specified 60261
time, the director shall continue the process for issuance of the 60262
license. 60263

(N) Any person may operate a licensed residential facility 60264
that provides room and board, personal care, habilitation 60265
services, and supervision in a family setting for at least six but 60266
not more than eight persons with mental retardation or a 60267
developmental disability as a permitted use in any residential 60268
district or zone, including any single-family residential district 60269

or zone, of any political subdivision. These residential 60270
facilities may be required to comply with area, height, yard, and 60271
architectural compatibility requirements that are uniformly 60272
imposed upon all single-family residences within the district or 60273
zone. 60274

(O) Any person may operate a licensed residential facility 60275
that provides room and board, personal care, habilitation 60276
services, and supervision in a family setting for at least nine 60277
but not more than sixteen persons with mental retardation or a 60278
developmental disability as a permitted use in any multiple-family 60279
residential district or zone of any political subdivision, except 60280
that a political subdivision that has enacted a zoning ordinance 60281
or resolution establishing planned unit development districts may 60282
exclude these residential facilities from such districts, and a 60283
political subdivision that has enacted a zoning ordinance or 60284
resolution may regulate these residential facilities in 60285
multiple-family residential districts or zones as a conditionally 60286
permitted use or special exception, in either case, under 60287
reasonable and specific standards and conditions set out in the 60288
zoning ordinance or resolution to: 60289

(1) Require the architectural design and site layout of the 60290
residential facility and the location, nature, and height of any 60291
walls, screens, and fences to be compatible with adjoining land 60292
uses and the residential character of the neighborhood; 60293

(2) Require compliance with yard, parking, and sign 60294
regulation; 60295

(3) Limit excessive concentration of these residential 60296
facilities. 60297

(P) This section does not prohibit a political subdivision 60298
from applying to residential facilities nondiscriminatory 60299
regulations requiring compliance with health, fire, and safety 60300

regulations and building standards and regulations. 60301

(Q) Divisions (N) and (O) of this section are not applicable 60302
to municipal corporations that had in effect on June 15, 1977, an 60303
ordinance specifically permitting in residential zones licensed 60304
residential facilities by means of permitted uses, conditional 60305
uses, or special exception, so long as such ordinance remains in 60306
effect without any substantive modification. 60307

(R)(1) The director may issue an interim license to operate a 60308
residential facility to an applicant for a license under this 60309
section if either of the following is the case: 60310

(a) The director determines that an emergency exists 60311
requiring immediate placement of persons in a residential 60312
facility, that insufficient licensed beds are available, and that 60313
the residential facility is likely to receive a permanent license 60314
under this section within thirty days after issuance of the 60315
interim license. 60316

(b) The director determines that the issuance of an interim 60317
license is necessary to meet a temporary need for a residential 60318
facility. 60319

(2) To be eligible to receive an interim license, an 60320
applicant must meet the same criteria that must be met to receive 60321
a permanent license under this section, except for any differing 60322
procedures and time frames that may apply to issuance of a 60323
permanent license. 60324

(3) An interim license shall be valid for thirty days and may 60325
be renewed by the director for a period not to exceed one hundred 60326
fifty days. 60327

(4) The director shall adopt rules in accordance with Chapter 60328
119. of the Revised Code as the director considers necessary to 60329
administer the issuance of interim licenses. 60330

(S) Notwithstanding rules adopted pursuant to this section 60331
establishing the maximum number of persons who may be served in a 60332
particular type of residential facility, a residential facility 60333
shall be permitted to serve the same number of persons being 60334
served by the facility on the effective date of such rules or the 60335
number of persons for which the facility is authorized pursuant to 60336
a current application for a certificate of need with a letter of 60337
support from the department of mental retardation and 60338
developmental disabilities and which is in the review process 60339
prior to April 4, 1986. 60340

(T) The director or the director's designee may enter at any 60341
time, for purposes of investigation, any home, facility, or other 60342
structure that has been reported to the director or that the 60343
director has reasonable cause to believe is being operated as a 60344
residential facility without a license issued under this section. 60345

The director may petition the court of common pleas of the 60346
county in which an unlicensed residential facility is located for 60347
an order enjoining the person or governmental agency operating the 60348
facility from continuing to operate without a license. The court 60349
may grant the injunction on a showing that the person or 60350
governmental agency named in the petition is operating a 60351
residential facility without a license. The court may grant the 60352
injunction, regardless of whether the residential facility meets 60353
the requirements for receiving a license under this section. 60354

(U) Except as provided in section 5123.198 of the Revised 60355
Code, whenever a resident of a residential facility is committed 60356
to a state-operated intermediate care facility for the mentally 60357
retarded pursuant to sections 5123.71 to 5123.76 of the Revised 60358
Code, the department shall reduce by one the maximum number of 60359
residents for which the facility is licensed. 60360

Sec. 5123.196. (A) Except as provided in divisions (E) and 60361

(F) of this section, the director of mental retardation and developmental disabilities shall not issue a license under section 5123.19 of the Revised Code on or after July 1, 2003, if issuance will result in there being more beds in all residential facilities licensed under that section than is permitted under division (B) of this section.

(B) The maximum number of beds for the purpose of division (A) of this section shall not exceed ten thousand eight hundred thirty-eight minus, except as provided in division (C) of this section, both of the following:

(1) The number of such beds taken out of service on or after July 1, 2003, because a residential facility license is revoked, terminated, or not renewed for any reason or is surrendered;

(2) The number of such beds for which a licensee voluntarily converts to use for supported living on or after July 1, 2003.

(C) The director is not required to reduce the maximum number of beds pursuant to division (B) of this section by a bed taken out of service if the director determines that the bed is needed to provide services to an individual with mental retardation or a developmental disability who resided in the residential facility in which the bed was located.

(D) The director shall maintain an up-to-date written record of the maximum number of residential facility beds provided for by division (B) of this section.

(E) If required by section 5123.1910 of the Revised Code to issue a license under section 5123.19 of the Revised Code, the director shall issue the license regardless of whether issuance will result in there being more beds in all residential facilities licensed under that section than is permitted under division (B) of this section.

(F) The director may issue an interim license under division

(R) of section 5123.19 of the Revised Code and issue, pursuant to 60393
rules adopted under division (G)(11) of that section, a waiver 60394
allowing a residential facility to admit more residents than the 60395
facility is licensed to admit regardless of whether the interim 60396
license or waiver will result in there being more beds in all 60397
residential facilities licensed under that section than is 60398
permitted under division (B) of this section. 60399

Sec. 5123.198. (A) Except as provided in division (B) of this 60400
section, whenever a resident of a residential facility is 60401
committed to a state-operated intermediate care facility for the 60402
mentally retarded pursuant to sections 5123.71 to 5123.76 of the 60403
Revised Code, the department of mental retardation and 60404
developmental disabilities, pursuant to an adjudication order 60405
issued in accordance with Chapter 119. of the Revised code, shall 60406
reduce by one the number of residents for which the facility in 60407
which the resident resided is licensed. 60408

(B) The department shall not reduce under division (A) of 60409
this section the number of residents for which a residential 60410
facility is licensed if any of the following are the case: 60411

(1) The residential facility admits an individual who resides 60412
in a state-operated intermediate care facility for the mentally 60413
retarded on the date of the commitment of the resident of the 60414
residential facility to the state-operated intermediate care 60415
facility for the mentally retarded; 60416

(2) There are no individuals residing in a state-operated 60417
intermediate care facility for the mentally retarded on the date 60418
of the commitment who have needs that the residential facility can 60419
meet; 60420

(3) The residential facility admits an individual who resides 60421
in another residential facility on the date of the commitment, has 60422
needs the residential facility can meet, and is designated for 60423

transfer to the residential facility by the department not later 60424
than ninety days after the date of the commitment; 60425

(4) There are no individuals residing in another residential 60426
facility on the date of the commitment who have needs that the 60427
residential facility can meet; 60428

(5) The department fails within the time specified in 60429
division (B)(3) of this section to designate for transfer to the 60430
residential facility an individual who has needs that the 60431
residential facility can meet and resides in another residential 60432
facility on the date of the commitment; 60433

(6) Every individual the department designates within the 60434
time specified in division (B)(3) of this section for transfer to 60435
the residential facility, or the parents or guardians of every 60436
such individual, refuses placement in the facility. 60437

(C) A residential facility that admits, discharges, or 60438
transfers a resident under this section shall comply with the 60439
uniform procedures for admissions, transfers, and discharges 60440
established by rules adopted under division (G)(9) of section 60441
5123.19 of the Revised Code. 60442

(D) The department of mental retardation and developmental 60443
disabilities may notify the department of job and family services 60444
of any reduction under this section in the number of residents for 60445
which a residential facility that is an intermediate care facility 60446
for the mentally retarded is licensed. On receiving the notice, 60447
the department of job and family services may transfer to the 60448
department of mental retardation and developmental disabilities 60449
the savings in the nonfederal share of medicaid expenditures for 60450
each fiscal year after the year of the commitment to be used for 60451
costs of the resident's care in the state-operated intermediate 60452
care facility for the mentally retarded. In determining the amount 60453
saved, the department of job and family services shall consider 60454

medicaid payments for the remaining residents of the facility in 60455
which the resident resided. 60456

Sec. ~~5111.252~~ 5123.199. (A) As used in this section: 60457

(1) "Contractor" means a person or government agency that has 60458
entered into a contract with the department of mental retardation 60459
and developmental disabilities under this section. 60460

(2) "Government agency" and "residential services" have the 60461
same meanings as in section 5123.18 of the Revised Code. 60462

(3) "Intermediate care facility for the mentally retarded" 60463
has the same meaning as in section 5111.20 of the Revised Code. 60464

(4) "Respite care services" has the same meaning as in 60465
section 5123.171 of the Revised Code. 60466

(B) The department of mental retardation and developmental 60467
disabilities may enter into a contract with a person or government 60468
agency to do any of the following: 60469

(1) Provide residential services in an intermediate care 60470
facility for the mentally retarded to an individual who meets the 60471
criteria for admission to such a facility but is not eligible for 60472
assistance under ~~this chapter~~ Chapter 5111. of the Revised Code 60473
due to unliquidated assets subject to final probate action; 60474

(2) Provide respite care services in an intermediate care 60475
facility for the mentally retarded; 60476

(3) Provide residential services in a facility for which the 60477
person or government agency has applied for, but has not received, 60478
certification and payment as an intermediate care facility for the 60479
mentally retarded if the person or government agency is making a 60480
good faith effort to bring the facility into compliance with 60481
requirements for certification and payment as an intermediate care 60482
facility for the mentally retarded. In assigning payment amounts 60483
to such contracts, the department shall take into account costs 60484

incurred in attempting to meet certification requirements. 60485

(4) Reimburse an intermediate care facility for the mentally 60486
retarded for costs not otherwise reimbursed under ~~this chapter~~ 60487
Chapter 5111. of the Revised Code for clothing for individuals who 60488
are mentally retarded or developmentally disabled. Reimbursement 60489
under such contracts shall not exceed a maximum amount per 60490
individual per year specified in rules that the department shall 60491
adopt in accordance with Chapter 119. of the Revised Code. 60492

(C) The amount paid to a contractor under divisions (B)(1) to 60493
(3) of this section shall not exceed the reimbursement that would 60494
be made under ~~this chapter~~ Chapter 5111. of the Revised Code by 60495
the department of job and family services for the same goods and 60496
services. 60497

(D) The department of mental retardation and developmental 60498
disabilities shall adopt rules as necessary to implement this 60499
section, including rules establishing standards and procedures for 60500
the submission of cost reports by contractors and the department's 60501
conduct of audits and reconciliations regarding the contracts. The 60502
rules shall be adopted in accordance with Chapter 119. of the 60503
Revised Code. 60504

Sec. 5123.1910. (A) The director of mental retardation and 60505
developmental disabilities shall issue one or more residential 60506
facility licenses under section 5123.19 of the Revised Code to an 60507
applicant without requiring the applicant to have plans submitted, 60508
reviewed, or approved under section 5123.042 of the Revised Code 60509
for the residential facility if all of the following requirements 60510
are met: 60511

(1) The applicant satisfies the requirements for the license 60512
established by section 5123.19 of the Revised Code and rules 60513
adopted under that section, other than any rule that requires an 60514
applicant for a residential facility license to have plans 60515

submitted, reviewed, or approved under section 5123.042 of the 60516
Revised Code for the residential facility. 60517

(2) The applicant operates at least one residential facility 60518
licensed under section 5123.19 of the Revised Code on the 60519
effective date of this section. 60520

(3) The applicant provides services to individuals with 60521
mental retardation or a developmental disability who have a 60522
chronic, medically complex, or technology-dependent condition that 60523
requires special supervision or care, the majority of whom 60524
received habilitation services from the applicant before attaining 60525
eighteen years of age. 60526

(4) The applicant has created directly or through a corporate 60527
affiliate a research center that has the mission of funding, 60528
promoting, and carrying on scientific research in the public 60529
interest related to individuals with mental retardation or a 60530
developmental disability for the purpose of improving the lives of 60531
such individuals. 60532

(5) If the applicant seeks two or more residential facility 60533
licenses, the residential facilities for which a license is sought 60534
after the effective date of this section are located on the same 60535
or adjoining property sites. 60536

(6) The residential facilities for which the applicant seeks 60537
licensure have not more than eight beds each and forty-eight beds 60538
total. 60539

(7) The applicant, one or more of the applicant's corporate 60540
affiliates, or both employ or contract for, on a full-time basis, 60541
at least one licensed physician who is certified by the American 60542
board of pediatrics or would be eligible for certification from 60543
that board if the physician passed an examination necessary to 60544
obtain certification from that board. 60545

(8) The applicant, one or more of the applicant's corporate 60546

affiliates, or both have educational facilities suitable for the 60547
instruction of individuals under eighteen years of age with mental 60548
retardation or a developmental disability who have a medically 60549
complex or technology-dependent condition. 60550

(9) The applicant has a policy for giving individuals with 60551
mental retardation or a developmental disability who meet all of 60552
the following conditions priority over all others in admissions to 60553
one of the residential facilities licensed under section 5123.19 60554
of the Revised Code that the applicant operates on the effective 60555
date of this section: 60556

(a) Are under eighteen years of age; 60557

(b) Have a chronic, medically complex, or 60558
technology-dependent condition that requires special supervision 60559
or care; 60560

(c) Are eligible for medicaid; 60561

(d) Reside in a nursing home, as defined in section 3721.01 60562
of the Revised Code, or a hospital, as defined in section 3727.01, 60563
prior to being admitted to the residential facility. 60564

(B) The director shall issue one or more residential facility 60565
licenses under section 5123.19 of the Revised Code to an applicant 60566
who meets all of the requirements of this section regardless of 60567
whether the requirements for approval of a plan for a proposed 60568
residential facility established by rules adopted under section 60569
5123.042 of the Revised Code are met. 60570

Sec. 5123.38. (A) Except as provided in division (B) and (C) 60571
of this section, if an individual receiving supported living or 60572
home and community-based services, as defined in section 5126.01 60573
of the Revised Code, funded by a county board of mental 60574
retardation and developmental disabilities is committed to a 60575
state-operated intermediate care facility for the mentally 60576

retarded pursuant to sections 5123.71 to 5123.76 of the Revised 60577
Code, the department of mental retardation and developmental 60578
disabilities shall use the funds otherwise allocated to the county 60579
board as the nonfederal share of medicaid expenditures for the 60580
individual's care in the state-operated facility. 60581

(B) Division (A) of this section does not apply if the county 60582
board, not later than ninety days after the date of the commitment 60583
of a person receiving supported services, commences funding of 60584
supported living for an individual who resides in a state-operated 60585
intermediate care facility for the mentally retarded on the date 60586
of the commitment or another eligible individual designated by the 60587
department. 60588

(C) Division (A) of this section does not apply if the county 60589
board, not later than ninety days after the date of the commitment 60590
of a person receiving home and community-based services, commences 60591
funding of home and community-based services for an individual who 60592
resides in a state-operated intermediate care facility for the 60593
mentally retarded on the date of the commitment or another 60594
eligible individual designated by the department. 60595

Sec. 5123.60. (A) A legal rights service is hereby created 60596
and established to protect and advocate the rights of mentally ill 60597
persons, mentally retarded persons, developmentally disabled 60598
persons, and other disabled persons who may be represented by the 60599
service pursuant to division (L) of this section; to receive and 60600
act upon complaints concerning institutional and hospital 60601
practices and conditions of institutions for mentally retarded or 60602
developmentally disabled persons and hospitals for the mentally 60603
ill; and to assure that all persons detained, hospitalized, 60604
discharged, or institutionalized, and all persons whose detention, 60605
hospitalization, discharge, or institutionalization is sought or 60606
has been sought under this chapter or Chapter 5122. of the Revised 60607

Code are fully informed of their rights and adequately represented 60608
by counsel in proceedings under this chapter or Chapter 5122. of 60609
the Revised Code and in any proceedings to secure the rights of 60610
those persons. Notwithstanding the definitions of "mentally 60611
retarded person" and "developmentally disabled person" in section 60612
5123.01 of the Revised Code, the legal rights service shall 60613
determine who is a mentally retarded or developmentally disabled 60614
person for purposes of this section and sections 5123.601 to 60615
5123.604 of the Revised Code. 60616

(B) In regard to those persons detained, hospitalized, or 60617
institutionalized under Chapter 5122. of the Revised Code, the 60618
legal rights service shall undertake formal representation only of 60619
those persons who are involuntarily detained, hospitalized, or 60620
institutionalized pursuant to sections 5122.10 to 5122.15 of the 60621
Revised Code, and those voluntarily detained, hospitalized, or 60622
institutionalized who are minors, who have been adjudicated 60623
incompetent, who have been detained, hospitalized, or 60624
institutionalized in a public hospital, or who have requested 60625
representation by the legal rights service. If a person referred 60626
to in division (A) of this section voluntarily requests in writing 60627
that the legal rights service terminate participation in the 60628
person's case, such involvement shall cease. 60629

(C) Any person voluntarily hospitalized or institutionalized 60630
in a public hospital under division (A) of section 5122.02 of the 60631
Revised Code, after being fully informed of the person's rights 60632
under division (A) of this section, may, by written request, waive 60633
assistance by the legal rights service if the waiver is knowingly 60634
and intelligently made, without duress or coercion. 60635

The waiver may be rescinded at any time by the voluntary 60636
patient or resident, or by the voluntary patient's or resident's 60637
legal guardian. 60638

(D)(1) The legal rights service commission is hereby created 60639

for the purposes of appointing an administrator of the legal 60640
rights service, advising the administrator, assisting the 60641
administrator in developing a budget, advising the administrator 60642
in establishing and annually reviewing a strategic plan, creating 60643
a procedure for filing and determination of grievances against the 60644
legal rights service, and establishing general policy guidelines, 60645
including guidelines for the commencement of litigation, for the 60646
legal rights service. The commission may adopt rules to carry 60647
these purposes into effect and may receive and act upon appeals of 60648
personnel decisions by the administrator. 60649

(2) The commission shall consist of seven members. One 60650
member, who shall serve as chairperson, shall be appointed by the 60651
chief justice of the supreme court, three members shall be 60652
appointed by the speaker of the house of representatives, and 60653
three members shall be appointed by the president of the senate. 60654
At least two members shall have experience in the field of 60655
developmental disabilities, and at least two members shall have 60656
experience in the field of mental health. No member shall be a 60657
provider or related to a provider of services to mentally 60658
retarded, developmentally disabled, or mentally ill persons. 60659

(3) Terms of office of the members of the commission shall be 60660
for three years, each term ending on the same day of the month of 60661
the year as did the term which it succeeds. Each member shall 60662
serve subsequent to the expiration of the member's term until a 60663
successor is appointed and qualifies, or until sixty days has 60664
elapsed, whichever occurs first. No member shall serve more than 60665
two consecutive terms. 60666

All vacancies in the membership of the commission shall be 60667
filled in the manner prescribed for regular appointments to the 60668
commission and shall be limited to the unexpired terms. 60669

(4) The commission shall meet at least four times each year. 60670
Members shall be reimbursed for their necessary and actual 60671

expenses incurred in the performance of their official duties. 60672

(5) The administrator of the legal rights service shall be 60673
~~appointed for a five year term, subject to removal for mental or~~ 60674
~~physical incapacity to perform the duties of the office,~~ 60675
~~conviction of violation of any law relating to the administrator's~~ 60676
~~powers and duties, or other good cause shown~~ serve at the pleasure 60677
of the commission. 60678

The administrator shall be a person who has had special 60679
training and experience in the type of work with which the legal 60680
rights service is charged. If the administrator is not an 60681
attorney, the administrator shall seek legal counsel when 60682
appropriate. The salary of the administrator shall be established 60683
in accordance with section 124.14 of the Revised Code. 60684

(E) The legal rights service shall be completely independent 60685
of the department of mental health and the department of mental 60686
retardation and developmental disabilities and, notwithstanding 60687
section 109.02 of the Revised Code, shall also be independent of 60688
the office of the attorney general. The administrator of the legal 60689
rights service, staff, and attorneys designated by the 60690
administrator to represent persons detained, hospitalized, or 60691
institutionalized under this chapter or Chapter 5122. of the 60692
Revised Code shall have ready access to the following: 60693

(1) During normal business hours and at other reasonable 60694
times, all records relating to expenditures of state and federal 60695
funds or to the commitment, care, treatment, and habilitation of 60696
all persons represented by the legal rights service, including 60697
those who may be represented pursuant to division (L) of this 60698
section, or persons detained, hospitalized, institutionalized, or 60699
receiving services under this chapter or Chapter 340., 5119., 60700
5122., or 5126. of the Revised Code that are records maintained by 60701
the following entities providing services for those persons: 60702
departments; institutions; hospitals; community residential 60703

facilities; boards of alcohol, drug addiction, and mental health 60704
services; county boards of mental retardation and developmental 60705
disabilities; contract agencies of those boards; and any other 60706
entity providing services to persons who may be represented by the 60707
service pursuant to division (L) of this section; 60708

(2) Any records maintained in computerized data banks of the 60709
departments or boards or, in the case of persons who may be 60710
represented by the service pursuant to division (L) of this 60711
section, any other entity that provides services to those persons; 60712

(3) During their normal working hours, personnel of the 60713
departments, facilities, boards, agencies, institutions, 60714
hospitals, and other service-providing entities; 60715

(4) At any time, all persons detained, hospitalized, or 60716
institutionalized; persons receiving services under this chapter 60717
or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and 60718
persons who may be represented by the service pursuant to division 60719
(L) of this section. 60720

(F) The administrator of the legal rights service shall do 60721
the following: 60722

(1) Administer and organize the work of the legal rights 60723
service and establish administrative or geographic divisions as 60724
the administrator considers necessary, proper, and expedient; 60725

(2) Adopt and promulgate rules that are not in conflict with 60726
rules adopted by the commission and prescribe duties for the 60727
efficient conduct of the business and general administration of 60728
the legal rights service; 60729

(3) Appoint and discharge employees, and hire experts, 60730
consultants, advisors, or other professionally qualified persons 60731
as the administrator considers necessary to carry out the duties 60732
of the legal rights service; 60733

(4) Apply for and accept grants of funds, and accept charitable gifts and bequests; 60734
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(5) Prepare and submit a budget to the general assembly for the operation of the legal rights service. At least thirty days prior to submitting the budget to the general assembly, the administrator shall provide a copy of the budget to the commission for review and comment. When submitting the budget to the general assembly, the administrator shall include a copy of any written comments returned by the commission to the administrator. 60736
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(6) Enter into contracts and make expenditures necessary for the efficient operation of the legal rights service; 60743
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(7) Annually prepare a report of activities and submit copies of the report to the governor, the chief justice of the supreme court, the president of the senate, the speaker of the house of representatives, the director of mental health, and the director of mental retardation and developmental disabilities, and make the report available to the public; 60745
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(8) Upon request of the commission or of the chairperson of the commission, report to the commission on specific litigation issues or activities. 60751
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(G)(1) The legal rights service may act directly or contract with other organizations or individuals for the provision of the services envisioned under this section. 60754
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(2) Whenever possible, the administrator shall attempt to facilitate the resolution of complaints through administrative channels. Subject to division (G)(3) of this section, if attempts at administrative resolution prove unsatisfactory, the administrator may pursue any legal, administrative, and other appropriate remedies or approaches that may be necessary to accomplish the purposes of this section. 60757
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(3) The administrator may not pursue a class action lawsuit 60764
under division (G)(2) of this section when attempts at 60765
administrative resolution of a complaint prove unsatisfactory 60766
under that division unless both of the following have first 60767
occurred: 60768

(a) At least four members of the commission, by their 60769
affirmative vote, have consented to the pursuit of the class 60770
action lawsuit; 60771

(b) At least five members of the commission are present at 60772
the meeting of the commission at which that consent is obtained. 60773

(4) ~~Relationships~~ Subject to division (G)(5) of this section, 60774
relationships between personnel and the agents of the legal rights 60775
service and its clients shall be fiduciary relationships, and all 60776
communications shall be confidential, as if between attorney and 60777
client. 60778

(5) Any person who has been represented by the legal rights 60779
service or who has applied for and been denied representation and 60780
who files a grievance with the service concerning the 60781
representation or application may appeal the decision of the 60782
service on the grievance to the commission. The person may appeal 60783
notwithstanding any objections of the person's legal guardian. The 60784
commission may examine any records relevant to the appeal and 60785
shall maintain the confidentiality of any records that are 60786
required to be kept confidential. 60787

(H) The legal rights service, on the order of the 60788
administrator, with the approval by an affirmative vote of at 60789
least four members of the commission, may compel by subpoena the 60790
appearance and sworn testimony of any person the administrator 60791
reasonably believes may be able to provide information or to 60792
produce any documents, books, records, papers, or other 60793
information necessary to carry out its duties. 60794

(I) The legal rights service may conduct public hearings. 60795

(J) The legal rights service may request from any 60796
governmental agency any cooperation, assistance, services, or data 60797
that will enable it to perform its duties. 60798

(K) In any malpractice action filed against the administrator 60799
of the legal rights service, a member of the staff of the legal 60800
rights service, or an attorney designated by the administrator to 60801
perform legal services under division (E) of this section, the 60802
state shall, when the administrator, member, or attorney has acted 60803
in good faith and in the scope of employment, indemnify the 60804
administrator, member, or attorney for any judgment awarded or 60805
amount negotiated in settlement, and for any court costs or legal 60806
fees incurred in defense of the claim. 60807

This division does not limit or waive, and shall not be 60808
construed to limit or waive, any defense that is available to the 60809
legal rights service, its administrator or employees, persons 60810
under a personal services contract with it, or persons designated 60811
under division (E) of this section, including, but not limited to, 60812
any defense available under section 9.86 of the Revised Code. 60813

(L) In addition to providing services to mentally ill, 60814
mentally retarded, or developmentally disabled persons, when a 60815
grant authorizing the provision of services to other individuals 60816
is accepted pursuant to division (F)(4) of this section, the legal 60817
rights service and its ombudsperson section may provide advocacy 60818
or ombudsperson services to those other individuals and exercise 60819
any other authority granted by this section or sections 5123.601 60820
to 5123.604 of the Revised Code on behalf of those individuals. 60821
Determinations of whether an individual is eligible for services 60822
under this division shall be made by the legal rights service. 60823

Sec. 5123.801. If neither a discharged resident, nor a 60824

resident granted trial visit, nor the persons requesting the 60825
resident's trial visit or discharge are financially able to bear 60826
the expense of the resident's trial visit or discharge, the 60827
managing officer of an institution under the control of the 60828
department of mental retardation and developmental disabilities 60829
may then provide actual traveling and escort expenses to the 60830
township of which the resident resided at the time of 60831
institutionalization. The amount payable shall be charged to the 60832
current expense fund of the institution. 60833

The expense of the return of a resident on trial visit from 60834
an institution, if it cannot be paid by the responsible relatives, 60835
shall be borne by the county of institutionalization. 60836

~~The managing officer of the institution shall take all proper 60837
measures for the apprehension of an escaped resident. The expense 60838
of the return of an escaped resident shall be borne by the 60839
institution where the resident is institutionalized. 60840~~

The managing officer of the institution shall provide 60841
sufficient and proper clothing for traveling if neither the 60842
resident nor the persons requesting the resident's trial visit or 60843
discharge are financially able to provide that clothing. 60844

Sec. 5123.851. When a resident institutionalized pursuant to 60845
this chapter is discharged from the institution, the managing 60846
officer of the institution may provide the resident with all 60847
personal items that were purchased in implementing the resident's 60848
habilitation plan established pursuant to section 5123.85 of the 60849
Revised Code. The personal items may be provided to the resident, 60850
regardless of the source of the funds that were used to purchase 60851
the items. 60852

Sec. 5126.01. As used in this chapter: 60853

(A) As used in this division, "adult" means an individual who 60854

is eighteen years of age or over and not enrolled in a program or 60855
service under Chapter 3323. of the Revised Code and an individual 60856
sixteen or seventeen years of age who is eligible for adult 60857
services under rules adopted by the director of mental retardation 60858
and developmental disabilities pursuant to Chapter 119. of the 60859
Revised Code. 60860

(1) "Adult services" means services provided to an adult 60861
outside the home, except when they are provided within the home 60862
according to an individual's assessed needs and identified in an 60863
individual service plan, that support learning and assistance in 60864
the area of self-care, sensory and motor development, 60865
socialization, daily living skills, communication, community 60866
living, social skills, or vocational skills. 60867

(2) "Adult services" includes all of the following: 60868

(a) Adult day habilitation services; 60869

(b) Adult day care; 60870

(c) Prevocational services; 60871

(d) Sheltered employment; 60872

(e) Educational experiences and training obtained through 60873
entities and activities that are not expressly intended for 60874
individuals with mental retardation and developmental 60875
disabilities, including trade schools, vocational or technical 60876
schools, adult education, job exploration and sampling, unpaid 60877
work experience in the community, volunteer activities, and 60878
spectator sports; 60879

(f) Community employment services and supported employment 60880
services. 60881

(B)(1) "Adult day habilitation services" means adult services 60882
that do the following: 60883

(a) Provide access to and participation in typical activities 60884

and functions of community life that are desired and chosen by the 60885
general population, including such activities and functions as 60886
opportunities to experience and participate in community 60887
exploration, companionship with friends and peers, leisure 60888
activities, hobbies, maintaining family contacts, community 60889
events, and activities where individuals without disabilities are 60890
involved; 60891

(b) Provide supports or a combination of training and 60892
supports that afford an individual a wide variety of opportunities 60893
to facilitate and build relationships and social supports in the 60894
community. 60895

(2) "Adult day habilitation services" includes all of the 60896
following: 60897

(a) Personal care services needed to ensure an individual's 60898
ability to experience and participate in vocational services, 60899
educational services, community activities, and any other adult 60900
day habilitation services; 60901

(b) Skilled services provided while receiving adult day 60902
habilitation services, including such skilled services as behavior 60903
management intervention, occupational therapy, speech and language 60904
therapy, physical therapy, and nursing services; 60905

(c) Training and education in self-determination designed to 60906
help the individual do one or more of the following: develop 60907
self-advocacy skills, exercise the individual's civil rights, 60908
acquire skills that enable the individual to exercise control and 60909
responsibility over the services received, and acquire skills that 60910
enable the individual to become more independent, integrated, or 60911
productive in the community; 60912

(d) Recreational and leisure activities identified in the 60913
individual's service plan as therapeutic in nature or assistive in 60914
developing or maintaining social supports; 60915

(e) Counseling and assistance provided to obtain housing, 60916
including such counseling as identifying options for either rental 60917
or purchase, identifying financial resources, assessing needs for 60918
environmental modifications, locating housing, and planning for 60919
ongoing management and maintenance of the housing selected; 60920

(f) Transportation necessary to access adult day habilitation 60921
services; 60922

(g) Habilitation management, as described in section 5126.14 60923
of the Revised Code. 60924

(3) "Adult day habilitation services" does not include 60925
activities that are components of the provision of residential 60926
services, family support services, or supported living services. 60927

(C) "Community employment services" or "supported employment 60928
services" means job training and other services related to 60929
employment outside a sheltered workshop. "Community employment 60930
services" or "supported employment services" include all of the 60931
following: 60932

(1) Job training resulting in the attainment of competitive 60933
work, supported work in a typical work environment, or 60934
self-employment; 60935

(2) Supervised work experience through an employer paid to 60936
provide the supervised work experience; 60937

(3) Ongoing work in a competitive work environment at a wage 60938
commensurate with workers without disabilities; 60939

(4) Ongoing supervision by an employer paid to provide the 60940
supervision. 60941

(D) As used in this division, "substantial functional 60942
limitation," "developmental delay," and "established risk" have 60943
the meanings established pursuant to section 5123.011 of the 60944
Revised Code. 60945

"Developmental disability" means a severe, chronic disability 60946
that is characterized by all of the following: 60947

(1) It is attributable to a mental or physical impairment or 60948
a combination of mental and physical impairments, other than a 60949
mental or physical impairment solely caused by mental illness as 60950
defined in division (A) of section 5122.01 of the Revised Code; 60951

(2) It is manifested before age twenty-two; 60952

(3) It is likely to continue indefinitely; 60953

(4) It results in one of the following: 60954

(a) In the case of a person under age three, at least one 60955
developmental delay or an established risk; 60956

(b) In the case of a person at least age three but under age 60957
six, at least two developmental delays or an established risk; 60958

(c) In the case of a person age six or older, a substantial 60959
functional limitation in at least three of the following areas of 60960
major life activity, as appropriate for the person's age: 60961
self-care, receptive and expressive language, learning, mobility, 60962
self-direction, capacity for independent living, and, if the 60963
person is at least age sixteen, capacity for economic 60964
self-sufficiency. 60965

(5) It causes the person to need a combination and sequence 60966
of special, interdisciplinary, or other type of care, treatment, 60967
or provision of services for an extended period of time that is 60968
individually planned and coordinated for the person. 60969

(E) "Early childhood services" means a planned program of 60970
habilitation designed to meet the needs of individuals with mental 60971
retardation or other developmental disabilities who have not 60972
attained compulsory school age. 60973

(F)(1) "Environmental modifications" means the physical 60974
adaptations to an individual's home, specified in the individual's 60975

service plan, that are necessary to ensure the individual's 60976
health, safety, and welfare or that enable the individual to 60977
function with greater independence in the home, and without which 60978
the individual would require institutionalization. 60979

(2) "Environmental modifications" includes such adaptations 60980
as installation of ramps and grab-bars, widening of doorways, 60981
modification of bathroom facilities, and installation of 60982
specialized electric and plumbing systems necessary to accommodate 60983
the individual's medical equipment and supplies. 60984

(3) "Environmental modifications" does not include physical 60985
adaptations or improvements to the home that are of general 60986
utility or not of direct medical or remedial benefit to the 60987
individual, including such adaptations or improvements as 60988
carpeting, roof repair, and central air conditioning. 60989

(G) "Family support services" means the services provided 60990
under a family support services program operated under section 60991
5126.11 of the Revised Code. 60992

(H) "Habilitation" means the process by which the staff of 60993
the facility or agency assists an individual with mental 60994
retardation or other developmental disability in acquiring and 60995
maintaining those life skills that enable the individual to cope 60996
more effectively with the demands of the individual's own person 60997
and environment, and in raising the level of the individual's 60998
personal, physical, mental, social, and vocational efficiency. 60999
Habilitation includes, but is not limited to, programs of formal, 61000
structured education and training. 61001

(I) "Habilitation center services" means services provided by 61002
a habilitation center certified by the department of mental 61003
retardation and developmental disabilities under section 5123.041 61004
of the Revised Code and covered by the medicaid program pursuant 61005
to rules adopted under section 5111.041 of the Revised Code. 61006

(J) "Home and community-based services" means medicaid-funded home and community-based services provided under a ~~the~~ medicaid component components the department of mental retardation and developmental disabilities administers pursuant to section 5111.871 of the Revised Code.

(K) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

(L) "Medicaid case management services" means case management services provided to an individual with mental retardation or other developmental disability that the state medicaid plan requires.

(M) "Mental retardation" means a mental impairment manifested during the developmental period characterized by significantly subaverage general intellectual functioning existing concurrently with deficiencies in the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of the individual's age and cultural group.

(N) "Residential services" means services to individuals with mental retardation or other developmental disabilities to provide housing, food, clothing, habilitation, staff support, and related support services necessary for the health, safety, and welfare of the individuals and the advancement of their quality of life. "Residential services" includes program management, as described in section 5126.14 of the Revised Code.

(O) "Resources" means available capital and other assets, including moneys received from the federal, state, and local governments, private grants, and donations; appropriately qualified personnel; and appropriate capital facilities and equipment.

(P) "Service and support administration" means the duties

performed by a service and support administrator pursuant to 61038
section 5126.15 of the Revised Code. 61039

(Q)(1) "Specialized medical, adaptive, and assistive 61040
equipment, supplies, and supports" means equipment, supplies, and 61041
supports that enable an individual to increase the ability to 61042
perform activities of daily living or to perceive, control, or 61043
communicate within the environment. 61044

(2) "Specialized medical, adaptive, and assistive equipment, 61045
supplies, and supports" includes the following: 61046

(a) Eating utensils, adaptive feeding dishes, plate guards, 61047
mylatex straps, hand splints, reaches, feeder seats, adjustable 61048
pointer sticks, interpreter services, telecommunication devices 61049
for the deaf, computerized communications boards, other 61050
communication devices, support animals, veterinary care for 61051
support animals, adaptive beds, supine boards, prone boards, 61052
wedges, sand bags, sidelayers, bolsters, adaptive electrical 61053
switches, hand-held shower heads, air conditioners, humidifiers, 61054
emergency response systems, folding shopping carts, vehicle lifts, 61055
vehicle hand controls, other adaptations of vehicles for 61056
accessibility, and repair of the equipment received. 61057

(b) Nondisposable items not covered by medicaid that are 61058
intended to assist an individual in activities of daily living or 61059
instrumental activities of daily living. 61060

(R) "Supportive home services" means a range of services to 61061
families of individuals with mental retardation or other 61062
developmental disabilities to develop and maintain increased 61063
acceptance and understanding of such persons, increased ability of 61064
family members to teach the person, better coordination between 61065
school and home, skills in performing specific therapeutic and 61066
management techniques, and ability to cope with specific 61067
situations. 61068

(S)(1) "Supported living" means services provided for as long as twenty-four hours a day to an individual with mental retardation or other developmental disability through any public or private resources, including moneys from the individual, that enhance the individual's reputation in community life and advance the individual's quality of life by doing the following:

(a) Providing the support necessary to enable an individual to live in a residence of the individual's choice, with any number of individuals who are not disabled, or with not more than three individuals with mental retardation and developmental disabilities unless the individuals are related by blood or marriage;

(b) Encouraging the individual's participation in the community;

(c) Promoting the individual's rights and autonomy;

(d) Assisting the individual in acquiring, retaining, and improving the skills and competence necessary to live successfully in the individual's residence.

(2) "Supported living" includes the provision of all of the following:

(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;

(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;

(c) Personal care services and homemaker services;

(d) Household maintenance that does not include modifications

to the physical structure of the residence;	61099
(e) Respite care services;	61100
(f) Program management, as described in section 5126.14 of the Revised Code.	61101 61102
Sec. 5126.042. (A) As used in this section:	61103
(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:	61104 61105 61106 61107 61108
(a)(1) Loss of present residence for any reason, including legal action;	61109 61110
(b)(2) Loss of present caretaker for any reason, including serious illness of the caretaker, change in the caretaker's status, or inability of the caretaker to perform effectively for the individual;	61111 61112 61113 61114
(c)(3) Abuse, neglect, or exploitation of the individual;	61115
(d)(4) Health and safety conditions that pose a serious risk to the individual or others of immediate harm or death;	61116 61117
(e)(5) Change in the emotional or physical condition of the individual that necessitates substantial accommodation that cannot be reasonably provided by the individual's existing caretaker.	61118 61119 61120
(2) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.	61121 61122
(B) If a county board of mental retardation and developmental disabilities determines that available resources are not sufficient to meet the needs of all individuals who request programs and services and may be offered the programs and services, it shall establish waiting lists for services. The board	61123 61124 61125 61126 61127

may establish priorities for making placements on its waiting 61128
lists according to an individual's emergency status and shall 61129
establish priorities in accordance with ~~division~~ divisions (D) and 61130
(E) of this section. 61131

The individuals who may be placed on a waiting list include 61132
individuals with a need for services on an emergency basis and 61133
individuals who have requested services for which resources are 61134
not available. 61135

Except for an individual who is to receive priority for 61136
services pursuant to division (D)(3) of this section, an 61137
individual who currently receives a service but would like to 61138
change to another service shall not be placed on a waiting list 61139
but shall be placed on a service substitution list. The board 61140
shall work with the individual, service providers, and all 61141
appropriate entities to facilitate the change in service as 61142
expeditiously as possible. The board may establish priorities for 61143
making placements on its service substitution lists according to 61144
an individual's emergency status. 61145

In addition to maintaining waiting lists and service 61146
substitution lists, a board shall maintain a long-term service 61147
planning registry for individuals who wish to record their 61148
intention to request in the future a service they are not 61149
currently receiving. The purpose of the registry is to enable the 61150
board to document requests and to plan appropriately. The board 61151
may not place an individual on the registry who meets the 61152
conditions for receipt of services on an emergency basis. 61153

(C) A county board shall establish a separate waiting list 61154
for each of the following categories of services, and may 61155
establish separate waiting lists within the waiting lists: 61156

(1) Early childhood services; 61157

(2) Educational programs for preschool and school age 61158

children;	61159
(3) Adult services;	61160
(4) Service and support administration;	61161
(5) Residential services and supported living;	61162
(6) Transportation services;	61163
(7) Other services determined necessary and appropriate for persons with mental retardation or a developmental disability according to their individual habilitation or service plans;	61164 61165 61166
(8) Family support services provided under section 5126.11 of the Revised Code.	61167 61168
(D) Except as provided in division (F) (G) of this section, a county board shall do, as priorities, all of the following in accordance with the assessment component, approved under section 5123.046 of the Revised Code, of the county board's plan developed under section 5126.054 of the Revised Code:	61169 61170 61171 61172 61173
(1) For the purpose of obtaining additional federal medicaid funds for home and community-based services, medicaid case management services, and habilitation center services, do both of the following:	61174 61175 61176 61177
(a) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include supported living, residential services, or family support services:	61178 61179 61180 61181 61182 61183
(i) Is twenty-two years of age or older;	61184
(ii) Receives supported living or family support services.	61185
(b) Give an individual who is eligible for home and community-based services and meets both of the following	61186 61187

requirements priority over any other individual on a waiting list	61188
established under division (C) of this section for home and	61189
community-based services that include adult services:	61190
(i) Resides in the individual's own home or the home of the	61191
individual's family and will continue to reside in that home after	61192
enrollment in home and community-based services;	61193
(ii) Receives adult services from the county board.	61194
(2) As federal medicaid funds become available pursuant to	61195
division (D)(1) of this section, give an individual who is	61196
eligible for home and community-based services and meets any of	61197
the following requirements priority for such services over any	61198
other individual on a waiting list established under division (C)	61199
of this section:	61200
(a) Does not receive residential services or supported	61201
living, either needs services in the individual's current living	61202
arrangement or will need services in a new living arrangement, and	61203
has a primary caregiver who is sixty years of age or older;	61204
(b) Is less than twenty-two years of age and has at least one	61205
of the following service needs that are unusual in scope or	61206
intensity:	61207
(i) Severe behavior problems for which a behavior support	61208
plan is needed;	61209
(ii) An emotional disorder for which anti-psychotic	61210
medication is needed;	61211
(iii) A medical condition that leaves the individual	61212
dependent on life-support medical technology;	61213
(iv) A condition affecting multiple body systems for which a	61214
combination of specialized medical, psychological, educational, or	61215
habilitation services are needed;	61216
(v) A condition the county board determines to be comparable	61217

in severity to any condition described in division (D)(2)(b)(i) to 61218
(iv) of this section and places the individual at significant risk 61219
of institutionalization. 61220

(c) Is twenty-two years of age or older, does not receive 61221
residential services or supported living, and is determined by the 61222
county board to have intensive needs for home and community-based 61223
services on an in-home or out-of-home basis. 61224

(3) In fiscal years 2002 and 2003, give an individual who is 61225
eligible for home and community-based services, resides in an 61226
intermediate care facility for the mentally retarded or nursing 61227
facility, chooses to move to another setting with the help of home 61228
and community-based services, and has been determined by the 61229
department of mental retardation and developmental disabilities to 61230
be capable of residing in the other setting, priority over any 61231
other individual on a waiting list established under division (C) 61232
of this section for home and community-based services who does not 61233
meet these criteria. The department of mental retardation and 61234
developmental disabilities shall identify the individuals to 61235
receive priority under division (D)(3) of this section, assess the 61236
needs of the individuals, and notify the county boards that are to 61237
provide the individuals priority under division (D)(3) of this 61238
section of the individuals identified by the department and the 61239
individuals' assessed needs. 61240

(E) Except as provided in division (G) of this section and 61241
for a number of years and beginning on a date specified in rules 61242
adopted under division (K) of this section, a county board shall 61243
give an individual who is eligible for home and community-based 61244
services, resides in a nursing facility, and chooses to move to 61245
another setting with the help of home and community-based 61246
services, priority over any other individual on a waiting list 61247
established under division (C) of this section for home and 61248
community-based services who does not meet these criteria. 61249

(F) If two or more individuals on a waiting list established 61250
under division (C) of this section for home and community-based 61251
services have priority for the services pursuant to division 61252
(D)(1) or (2) or (E) of this section, a county board may use, 61253
until December 31, ~~2003~~ 2005, criteria specified in rules adopted 61254
under division ~~(J)~~(K)(2) of this section in determining the order 61255
in which the individuals with priority will be offered the 61256
services. Otherwise, the county board shall offer the home and 61257
community-based services to such individuals in the order they are 61258
placed on the waiting list. 61259

~~(F)~~(G)(1) No individual may receive priority for services 61260
pursuant to division (D) or (E) of this section over an individual 61261
placed on a waiting list established under division (C) of this 61262
section on an emergency status. 61263

(2) No more than four hundred individuals in the state may 61264
receive priority for services during the ~~2002~~ 2004 and ~~2003~~ 2005 61265
biennium pursuant to division (D)(2)(b) of this section. 61266

(3) No more than a total of seventy-five individuals in the 61267
state may receive priority for services during state fiscal years 61268
2002 and 2003 pursuant to division (D)(3) of this section. 61269

~~(G)~~(4) No more than forty individuals in the state may 61270
receive priority for services pursuant to division (E) of this 61271
section for each year that priority category is in effect as 61272
specified in rules adopted under division (K) of this section. 61273

(H) Prior to establishing any waiting list under this 61274
section, a county board shall develop and implement a policy for 61275
waiting lists that complies with this section and rules adopted 61276
under division ~~(J)~~(K) of this section. 61277

Prior to placing an individual on a waiting list, the county 61278
board shall assess the service needs of the individual in 61279
accordance with all applicable state and federal laws. The county 61280

board shall place the individual on the appropriate waiting list 61281
and may place the individual on more than one waiting list. The 61282
county board shall notify the individual of the individual's 61283
placement and position on each waiting list on which the 61284
individual is placed. 61285

At least annually, the county board shall reassess the 61286
service needs of each individual on a waiting list. If it 61287
determines that an individual no longer needs a program or 61288
service, the county board shall remove the individual from the 61289
waiting list. If it determines that an individual needs a program 61290
or service other than the one for which the individual is on the 61291
waiting list, the county board shall provide the program or 61292
service to the individual or place the individual on a waiting 61293
list for the program or service in accordance with the board's 61294
policy for waiting lists. 61295

When a program or service for which there is a waiting list 61296
becomes available, the county board shall reassess the service 61297
needs of the individual next scheduled on the waiting list to 61298
receive that program or service. If the reassessment demonstrates 61299
that the individual continues to need the program or service, the 61300
board shall offer the program or service to the individual. If it 61301
determines that an individual no longer needs a program or 61302
service, the county board shall remove the individual from the 61303
waiting list. If it determines that an individual needs a program 61304
or service other than the one for which the individual is on the 61305
waiting list, the county board shall provide the program or 61306
service to the individual or place the individual on a waiting 61307
list for the program or service in accordance with the board's 61308
policy for waiting lists. The county board shall notify the 61309
individual of the individual's placement and position on the 61310
waiting list on which the individual is placed. 61311

~~(H)~~(I) A child subject to a determination made pursuant to 61312

section 121.38 of the Revised Code who requires the home and 61313
community-based services provided through ~~the~~ a medicaid component 61314
that the department of mental retardation and developmental 61315
disabilities administers under section 5111.871 of the Revised 61316
Code shall receive services through that medicaid component. For 61317
all other services, a child subject to a determination made 61318
pursuant to section 121.38 of the Revised Code shall be treated as 61319
an emergency by the county boards and shall not be subject to a 61320
waiting list. 61321

~~(I)~~(J) Not later than the fifteenth day of March of each 61322
even-numbered year, each county board shall prepare and submit to 61323
the director of mental retardation and developmental disabilities 61324
its recommendations for the funding of services for individuals 61325
with mental retardation and developmental disabilities and its 61326
proposals for reducing the waiting lists for services. 61327

~~(J)~~(K)(1) The department of mental retardation and 61328
developmental disabilities shall adopt rules in accordance with 61329
Chapter 119. of the Revised Code governing waiting lists 61330
established under this section. The rules shall include procedures 61331
to be followed to ensure that the due process rights of 61332
individuals placed on waiting lists are not violated. 61333

(2) As part of the rules adopted under this division, the 61334
department shall adopt, ~~not later than December 31, 2001,~~ rules 61335
establishing criteria a county board may use under division ~~(E)~~(F) 61336
of this section in determining the order in which individuals with 61337
priority for home and community-based services will be offered the 61338
services. The rules shall also specify conditions under which a 61339
county board, when there is no individual with priority for home 61340
and community-based services pursuant to division (D)(1) or (2) or 61341
(E) of this section available and appropriate for the services, 61342
may offer the services to an individual on a waiting list for the 61343
services but not given such priority for the services. The rules 61344

adopted under division ~~(J)~~(K)(2) of this section shall cease to 61345
have effect December 31, ~~2003~~ 2005. 61346

~~(K)~~(3) As part of the rules adopted under this division, the 61347
department shall adopt rules specifying both of the following for 61348
the priority category established under division (E) of this 61349
section: 61350

(a) The number of years, which shall not exceed five, that 61351
the priority category will be in effect; 61352

(b) The date that the priority category is to go into effect. 61353

(L) The following shall take precedence over the applicable 61354
provisions of this section: 61355

(1) Medicaid rules and regulations; 61356

(2) Any specific requirements that may be contained within a 61357
medicaid state plan amendment or waiver program that a county 61358
board has authority to administer or with respect to which it has 61359
authority to provide services, programs, or supports. 61360

Sec. 5126.058. (A) The director of job and family services 61361
shall seek federal financial participation for the administrative 61362
costs for the following that each county board of mental 61363
retardation and developmental disabilities incurs pursuant to its 61364
medicaid local administrative authority under section 5126.055 of 61365
the Revised Code and claims in accordance with rules adopted under 61366
this section: 61367

(1) Home and community-based services; 61368

(2) Habilitation center services; 61369

(3) Service and support administration provided in 61370
conjunction with any of the services listed in divisions (A)(1) 61371
and (2) of this section. 61372

(B) The administrative costs for which the director shall 61373

<u>seek federal financial participation under this section shall</u>	61374
<u>include all of the following:</u>	61375
<u>(1) Business management;</u>	61376
<u>(2) Contract management;</u>	61377
<u>(3) General administration;</u>	61378
<u>(4) Personnel management;</u>	61379
<u>(5) Contract services for legal or representational</u>	61380
<u>activities that are conducted on a county-specific, multi-county,</u>	61381
<u>or statewide basis and provided as part of initiatives to</u>	61382
<u>refinance or reform the medicaid program, to improve the</u>	61383
<u>administration of the medicaid program, or to increase the</u>	61384
<u>services covered by the medicaid program.</u>	61385
<u>(C) Except as provided in division (D) of this section,</u>	61386
<u>federal financial participation obtained pursuant to a claim made</u>	61387
<u>under this section shall be paid to the county board that makes</u>	61388
<u>the claim.</u>	61389
<u>(D) The department of mental retardation and development</u>	61390
<u>disabilities shall collect one per cent of the federal financial</u>	61391
<u>participation obtained pursuant to each claim made under this</u>	61392
<u>section. The amount the department collects under this division</u>	61393
<u>shall be deposited into the ODMR/DD administrative and oversight</u>	61394
<u>fund created under section 5123.0412 of the Revised Code.</u>	61395
<u>(E) The director of job and family services shall adopt rules</u>	61396
<u>in accordance with Chapter 119. of the Revised Code as necessary</u>	61397
<u>for the implementation of this section. The director shall adopt</u>	61398
<u>the rules in consultation with the director of mental retardation</u>	61399
<u>and developmental disabilities. The rules shall be consistent with</u>	61400
<u>federal regulations governing the medicaid program and shall</u>	61401
<u>comply with all of the following:</u>	61402
<u>(1) A county board may not claim more than fifteen per cent</u>	61403

of its administrative costs for home and community-based services 61404
and habilitation center services. 61405

(2) A county board may not claim more than fifty per cent of 61406
its administrative costs for service and support administration 61407
provided in conjunction with any of the services listed in 61408
division (A)(1) or (2) of this section. 61409

(3) A county board shall verify the administrative costs for 61410
which it seeks federal financial participation in accordance with 61411
a time study or actual billing provided for by the rules. 61412

(4) A county board may make a claim for administrative costs 61413
incurred before, on, or after the effective date of this section. 61414

Sec. 5126.11. (A) As used in this section, "respite care" 61415
means appropriate, short-term, temporary care that is provided to 61416
a mentally retarded or developmentally disabled person to sustain 61417
the family structure or to meet planned or emergency needs of the 61418
family. 61419

(B) Subject to rules adopted by the director of mental 61420
retardation and developmental disabilities, and subject to the 61421
availability of money from state and federal sources, the county 61422
board of mental retardation and developmental disabilities shall 61423
establish a family support services program. Under such a program, 61424
the board shall make payments to an individual with mental 61425
retardation or other developmental disability or the family of an 61426
individual with mental retardation or other developmental 61427
disability who desires to remain in and be supported in the family 61428
home. Payments shall be made for all or part of costs incurred or 61429
estimated to be incurred for services that would promote 61430
self-sufficiency and normalization, prevent or reduce 61431
inappropriate institutional care, and further the unity of the 61432
family by enabling the family to meet the special needs of the 61433
individual and to live as much like other families as possible. 61434

Payments may be made in the form of reimbursement for expenditures 61435
or in the form of vouchers to be used to purchase services. 61436

(C) Payment shall not be made under this section to an 61437
individual or the individual's family if the individual is living 61438
in a residential facility that is providing residential services 61439
under contract with the department of mental retardation and 61440
developmental disabilities or a county board. 61441

(D) Payments may be made for the following services: 61442

(1) Respite care, in or out of the home; 61443

(2) Counseling, supervision, training, and education of the 61444
individual, the individual's caregivers, and members of the 61445
individual's family that aid the family in providing proper care 61446
for the individual, provide for the special needs of the family, 61447
and assist in all aspects of the individual's daily living; 61448

(3) Special diets, purchase or lease of special equipment, or 61449
modifications of the home, if such diets, equipment, or 61450
modifications are necessary to improve or facilitate the care and 61451
living environment of the individual; 61452

(4) Providing support necessary for the individual's 61453
continued skill development, including such services as 61454
development of interventions to cope with unique problems that may 61455
occur within the complexity of the family, enrollment of the 61456
individual in special summer programs, provision of appropriate 61457
leisure activities, and other social skills development 61458
activities; 61459

(5) Any other services that are consistent with the purposes 61460
specified in division (B) of this section and specified in the 61461
individual's service plan. 61462

(E) In order to be eligible for payments under a family 61463
support services program, the individual or the individual's 61464

family must reside in the county served by the county board, and 61465
the individual must be in need of habilitation. Payments shall be 61466
adjusted for income in accordance with the payment schedule 61467
established in rules adopted under this section. Payments shall be 61468
made only after the county board has taken into account all other 61469
available assistance for which the individual or family is 61470
eligible. 61471

(F) Before incurring expenses for a service for which payment 61472
will be sought under a family support services program, the 61473
individual or family shall apply to the county board for a 61474
determination of eligibility and approval of the service. The 61475
service need not be provided in the county served by the county 61476
board. After being determined eligible and receiving approval for 61477
the service, the individual or family may incur expenses for the 61478
service or use the vouchers received from the county board for the 61479
purchase of the service. 61480

If the county board refuses to approve a service, an appeal 61481
may be made in accordance with rules adopted by the department 61482
under this section. 61483

(G) To be reimbursed for expenses incurred for approved 61484
services, the individual or family shall submit to the county 61485
board a statement of the expenses incurred accompanied by any 61486
evidence required by the board. To redeem vouchers used to 61487
purchase approved services, the entity that provided the service 61488
shall submit to the county board evidence that the service was 61489
provided and a statement of the charges. The county board shall 61490
make reimbursements and redeem vouchers no later than forty-five 61491
days after it receives the statements and evidence required by 61492
this division. 61493

(H) A county board shall consider the following objectives in 61494
carrying out a family support services program: 61495

(1) Enabling individuals to return to their families from an institution under the jurisdiction of the department of mental retardation and developmental disabilities;	61496 61497 61498
(2) Enabling individuals found to be subject to institutionalization by court order under section 5123.76 of the Revised Code to remain with their families with the aid of payments provided under this section;	61499 61500 61501 61502
(3) Providing services to eligible children and adults currently residing in the community;	61503 61504
(4) Providing services to individuals with developmental disabilities who are not receiving other services from the board.	61505 61506
(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:	61507 61508 61509
(1) A payment schedule adjusted for income;	61510
(2) A formula for distributing to county boards the money appropriated for family support services;	61511 61512
(3) Standards for supervision, training, and quality control in the provision of respite care services;	61513 61514
(4) Eligibility standards and procedures for providing temporary emergency respite care;	61515 61516
(5) Procedures for hearing and deciding appeals made under division (F) of this section;	61517 61518
(6) Requirements to be followed by county boards regarding reports submitted under division (K) of this section.	61519 61520
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	61521 61522 61523 61524

Code. 61525

(J) All individuals certified by the superintendent of the 61526
county board as eligible for temporary emergency respite care in 61527
accordance with rules adopted under this section shall be 61528
considered eligible for temporary emergency respite care for not 61529
more than five days to permit the determination of eligibility for 61530
family support services. The requirements of divisions (E) and (F) 61531
of this section do not apply to temporary emergency respite care. 61532

(K) ~~On the first day of July of each year, the~~ The department 61533
of mental retardation and developmental disabilities shall 61534
distribute to county boards money appropriated for family support 61535
services in quarterly installments of equal amounts. The 61536
installments shall be made not later than the thirtieth day of 61537
September, the thirty-first day of December, the thirty-first day 61538
of March, and the thirtieth day of June. A county board shall use 61539
no more than seven per cent of the funds for administrative costs. 61540
Each county board shall submit reports to the department on 61541
payments made under this section. The reports shall be submitted 61542
at those times and in the manner specified in rules adopted under 61543
this section. 61544

(L) The county board shall not be required to make payments 61545
for family support services at a level that exceeds available 61546
state and federal funds for such payments. 61547

Sec. 5126.12. (A) As used in this section: 61548

(1) "Approved school age class" means a class operated by a 61549
county board of mental retardation and developmental disabilities 61550
and funded by the department of education under section 3317.20 of 61551
the Revised Code. 61552

(2) "Approved preschool unit" means a class or unit operated 61553
by a county board of mental retardation and developmental 61554

disabilities and approved ~~by the state board of education~~ under 61555
division (B) of section 3317.05 of the Revised Code. 61556

(3) "Active treatment" means a continuous treatment program, 61557
which includes aggressive, consistent implementation of a program 61558
of specialized and generic training, treatment, health services, 61559
and related services, that is directed toward the acquisition of 61560
behaviors necessary for an individual with mental retardation or 61561
other developmental disability to function with as much 61562
self-determination and independence as possible and toward the 61563
prevention of deceleration, regression, or loss of current optimal 61564
functional status. 61565

(4) "Eligible for active treatment" means that an individual 61566
with mental retardation or other developmental disability resides 61567
in an intermediate care facility for the mentally retarded 61568
certified under Title XIX of the "Social Security Act," ~~49~~ 79 61569
Stat. ~~620~~ 286 (~~1935~~ 1965), 42 U.S.C. ~~301~~ 1396, as amended; resides 61570
in a state institution operated by the department of mental 61571
retardation and developmental disabilities; or is enrolled in a 61572
home and community-based services waiver program ~~administered by~~ 61573
~~the department of mental retardation and developmental~~ 61574
~~disabilities as part of the medical assistance program established~~ 61575
~~under section 5111.01 of the Revised Code.~~ 61576

(5) "Community alternative funding system" means the program 61577
under which habilitation center services are reimbursed under the 61578
medicaid program pursuant to section 5111.041 of the Revised Code 61579
and rules adopted under that section. 61580

(6) "Traditional adult services" means vocational and 61581
nonvocational activities conducted within a sheltered workshop or 61582
adult activity center or supportive home services. 61583

(B) Each county board of mental retardation and developmental 61584
disabilities shall certify to the director of mental retardation 61585

and developmental disabilities all of the following: 61586

(1) On or before the fifteenth day of October, the average 61587
daily membership for the first full week of programs and services 61588
during October receiving: 61589

(a) Early childhood services provided pursuant to section 61590
5126.05 of the Revised Code for children who are less than three 61591
years of age on the thirtieth day of September of the academic 61592
year; 61593

(b) Special education for handicapped children in approved 61594
school age classes; 61595

(c) Adult services for persons sixteen years of age and older 61596
operated pursuant to section 5126.05 and division (B) of section 61597
5126.051 of the Revised Code. Separate counts shall be made for 61598
the following: 61599

(i) Persons enrolled in traditional adult services who are 61600
eligible for but not enrolled in active treatment under the 61601
community alternative funding system; 61602

(ii) Persons enrolled in traditional adult services who are 61603
eligible for and enrolled in active treatment under the community 61604
alternative funding system; 61605

(iii) Persons enrolled in traditional adult services but who 61606
are not eligible for active treatment under the community 61607
alternative funding system; 61608

(iv) Persons participating in community employment services. 61609
To be counted as participating in community employment services, a 61610
person must have spent an average of no less than ten hours per 61611
week in that employment during the preceding six months. 61612

(d) Other programs in the county for individuals with mental 61613
retardation and developmental disabilities that have been approved 61614
for payment of subsidy by the department of mental retardation and 61615

developmental disabilities. 61616

The membership in each such program and service in the county 61617
shall be reported on forms prescribed by the department of mental 61618
retardation and developmental disabilities. 61619

The department of mental retardation and developmental 61620
disabilities shall adopt rules defining full-time equivalent 61621
enrollees and for determining the average daily membership 61622
therefrom, except that certification of average daily membership 61623
in approved school age classes shall be in accordance with rules 61624
adopted by the state board of education. The average daily 61625
membership figure shall be determined by dividing the amount 61626
representing the sum of the number of enrollees in each program or 61627
service in the week for which the certification is made by the 61628
number of days the program or service was offered in that week. No 61629
enrollee may be counted in average daily membership for more than 61630
one program or service. 61631

(2) By the fifteenth day of December, the number of children 61632
enrolled in approved preschool units on the first day of December; 61633

(3) On or before the thirtieth day of March, an itemized 61634
report of all income and operating expenditures for the 61635
immediately preceding calendar year, in the format specified by 61636
the department of mental retardation and developmental 61637
disabilities; 61638

(4) By the fifteenth day of February, a report of the total 61639
annual cost per enrollee for operation of programs and services in 61640
the preceding calendar year. The report shall include a grand 61641
total of all programs operated, the cost of the individual 61642
programs, and the sources of funds applied to each program. 61643

(5) That each required certification and report is in 61644
accordance with rules established by the department of mental 61645
retardation and developmental disabilities and the state board of 61646

education for the operation and subsidization of the programs and 61647
services. 61648

(C) To compute payments under this section to the board for 61649
the fiscal year, the department of mental retardation and 61650
developmental disabilities shall use the certification of average 61651
daily membership required by division (B)(1) of this section 61652
exclusive of the average daily membership in any approved school 61653
age class and the number in any approved preschool unit. 61654

(D) The department shall pay each county board for each 61655
fiscal year an amount equal to nine hundred fifty dollars times 61656
the certified number of persons who on the first day of December 61657
of the academic year are under three years of age and are not in 61658
an approved preschool unit. For persons who are at least age 61659
sixteen and are not in an approved school age class, the 61660
department shall pay each county board for each fiscal year the 61661
following amounts: 61662

(1) One thousand dollars times the certified average daily 61663
membership of persons enrolled in traditional adult services who 61664
are eligible for but not enrolled in active treatment under the 61665
community alternative funding system; 61666

(2) One thousand two hundred dollars times the certified 61667
average daily membership of persons enrolled in traditional adult 61668
services who are eligible for and enrolled in active treatment 61669
under the community alternative funding system; 61670

(3) No less than one thousand five hundred dollars times the 61671
certified average daily membership of persons enrolled in 61672
traditional adult services but who are not eligible for active 61673
treatment under the community alternative funding system; 61674

(4) No less than one thousand five hundred dollars times the 61675
certified average daily membership of persons participating in 61676
community employment services. 61677

(E) The department shall distribute this subsidy to county boards in ~~semiannual~~ quarterly installments of equal amounts. The installments shall be made not later than the thirtieth day of September, the thirty-first day of ~~August and December,~~ the thirty-first day of ~~January~~ March, and the thirtieth day of June.

(F) The director of mental retardation and developmental disabilities shall make efforts to obtain increases in the subsidies for early childhood services and adult services so that the amount of the subsidies is equal to at least fifty per cent of the statewide average cost of those services minus any applicable federal reimbursements for those services. The director shall advise the director of budget and management of the need for any such increases when submitting the biennial appropriations request for the department.

(G) In determining the reimbursement of a county board for the provision of service and support administration, family support services, and other services required or approved by the director for which children three through twenty-one years of age are eligible, the department shall include the average daily membership in approved school age or preschool units. The department, in accordance with this section and upon receipt and approval of the certification required by this section and any other information it requires to enable it to determine a board's payments, shall pay the agency providing the specialized training the amounts payable under this section.

Sec. 5126.121. Each county board of mental retardation and developmental disabilities may be eligible to receive a subsidy from the department of mental retardation and developmental disabilities for the employment of a business manager as provided in this section. The department shall adopt rules in accordance with Chapter 119. of the Revised Code specifying standards for the

employment of such a business manager. The rules shall include the 61709
minimum education and experience requirements for the position of 61710
business manager and shall specify requirements for courses in 61711
fiscal and business management that are annually sponsored or 61712
certified by the department and that are applicable to the 61713
position and designed to teach effective business practices. Each 61714
county board of mental retardation and developmental disabilities 61715
that employs a business manager in accordance with the standards 61716
adopted under this section may receive a subsidy from the 61717
department. 61718

The department shall distribute this subsidy to eligible 61719
county boards in quarterly installments of equal amounts. The 61720
installments shall be made not later than the thirtieth day of 61721
September, the thirty-first day of December, the thirty-first day 61722
of March, and the thirtieth day of June. 61723

Sec. 5126.15. (A) A county board of mental retardation and 61724
developmental disabilities shall provide service and support 61725
administration to each individual three years of age or older who 61726
is eligible for service and support administration if the 61727
individual requests, or a person on the individual's behalf 61728
requests, service and support administration. A board shall 61729
provide service and support administration to each individual 61730
receiving home and community-based services. A board may provide, 61731
in accordance with the service coordination requirements of 34 61732
C.F.R. 303.23, service and support administration to an individual 61733
under three years of age eligible for early intervention services 61734
under 34 C.F.R. part 303. A board may provide service and support 61735
administration to an individual who is not eligible for other 61736
services of the board. Service and support administration shall be 61737
provided in accordance with rules adopted under section 5126.08 of 61738
the Revised Code. 61739

A board may provide service and support administration by 61740
directly employing service and support administrators or by 61741
contracting with entities for the performance of service and 61742
support administration. Individuals employed or under contract as 61743
service and support administrators shall not be in the same 61744
collective bargaining unit as employees who perform duties that 61745
are not administrative. 61746

Individuals employed by a board as service and support 61747
administrators shall not be assigned responsibilities for 61748
implementing other services for individuals and shall not be 61749
employed by or serve in a decision-making or policy-making 61750
capacity for any other entity that provides programs or services 61751
to individuals with mental retardation or developmental 61752
disabilities. An individual employed as a conditional status 61753
service and support administrator shall perform the duties of 61754
service and support administration only under the supervision of a 61755
management employee who is a service and support administration 61756
supervisor or a professional employee who is a service and support 61757
administrator. 61758

(B) The individuals employed by or under contract with a 61759
board to provide service and support administration shall do all 61760
of the following: 61761

(1) Establish an individual's eligibility for the services of 61762
the county board of mental retardation and developmental 61763
disabilities; 61764

(2) Assess individual needs for services; 61765

(3) Develop individual service plans with the active 61766
participation of the individual to be served, other persons 61767
selected by the individual, and, when applicable, the provider 61768
selected by the individual, and recommend the plans for approval 61769
by the department of mental retardation and developmental 61770

disabilities when services included in the plans are funded	61771
through medicaid;	61772
(4) Establish budgets for services based on the individual's	61773
assessed needs and preferred ways of meeting those needs;	61774
(5) Assist individuals in making selections from among the	61775
providers they have chosen;	61776
(6) Ensure that services are effectively coordinated and	61777
provided by appropriate providers;	61778
(7) Establish and implement an ongoing system of monitoring	61779
the implementation of individual service plans to achieve	61780
consistent implementation and the desired outcomes for the	61781
individual;	61782
(8) Perform quality assurance reviews as a distinct function	61783
of service and support administration;	61784
(9) Incorporate the results of quality assurance reviews and	61785
identified trends and patterns of unusual incidents and major	61786
unusual incidents into amendments of an individual's service plan	61787
for the purpose of improving and enhancing the quality and	61788
appropriateness of services rendered to the individual;	61789
(10) Ensure that each individual receiving services has a	61790
designated person who is responsible on a continuing basis for	61791
providing the individual with representation, advocacy, advice,	61792
and assistance related to the day-to-day coordination of services	61793
in accordance with the individual's service plan. The service and	61794
support administrator shall give the individual receiving services	61795
an opportunity to designate the person to provide daily	61796
representation. If the individual declines to make a designation,	61797
the administrator shall make the designation. In either case, the	61798
individual receiving services may change at any time the person	61799
designated to provide daily representation.	61800

(C) Subject to available funds, the department of mental 61801
retardation and developmental disabilities shall pay a county 61802
board an annual subsidy for service and support administration. 61803
The amount of the subsidy shall be equal to the greater of twenty 61804
thousand dollars or two hundred dollars times the board's 61805
certified average daily membership. The payments shall be made in 61806
~~semiannual~~ quarterly installments of equal amounts, which shall be 61807
made no later than the thirtieth day of September, the 61808
thirty-first day of ~~August and December,~~ the thirty-first day of 61809
~~January March, and the thirtieth day of June.~~ Funds received shall 61810
be used solely for service and support administration. 61811

Sec. 5126.18. (A) As used in this section: 61812

(1) "County board" means a county board of mental retardation 61813
and developmental disabilities. 61814

(2) Notwithstanding section 5126.01 of the Revised Code, 61815
"adult services" means the following services, as they are 61816
identified on individual information forms submitted by county 61817
boards to the department of mental retardation and developmental 61818
disabilities for the purpose of subsidies paid to county boards 61819
under section 5126.12 of the Revised Code, provided to an 61820
individual with mental retardation or other developmental 61821
disability who is at least twenty-two years of age: 61822

(a) Assessment; 61823

(b) Home service; 61824

(c) Adult program; 61825

(d) Community employment services; 61826

(e) Retirement. 61827

(3) "Adult services enrollment" means a county board's 61828
average daily membership in adult services, exclusive of such 61829

services provided to individuals served solely through service and 61830
support administration provided pursuant to section 5126.15 of the 61831
Revised Code or family support services provided pursuant to 61832
section 5126.11 of the Revised Code. 61833

(4) "Taxable value" means the taxable value of a county board 61834
certified under division (B)(1) of this section. 61835

(5) "Per-mill yield" of a county board means the quotient 61836
obtained by dividing (a) the taxable value of the county board by 61837
(b) one thousand. 61838

(6) "Local adult services cost" means a county board's 61839
expenditures for adult services, excluding all federal and state 61840
reimbursements and subsidy allocations received by such boards and 61841
expended for such services, as certified under section 5126.12 of 61842
the Revised Code. 61843

(7) "Statewide average millage" means one thousand multiplied 61844
by the quotient obtained by dividing (a) the total of the local 61845
adult services costs of all county boards by (b) the total of the 61846
taxable values of all county boards. 61847

(8) "County yield" of a county board means the product 61848
obtained by multiplying (a) the statewide average millage by (b) 61849
the per-mill yield of the county board. 61850

(9) "County yield per enrollee" of a county board means the 61851
quotient obtained by dividing (a) the county yield of the county 61852
board by (b) the adult enrollment of the county board. 61853

(10) "Statewide yield per enrollee" means the quotient 61854
obtained by dividing (a) the sum of the county yields of all 61855
county boards by (b) the sum of the adult enrollments of all 61856
county boards. 61857

(11) "Local tax effort for adult services" of a county board 61858
means one thousand multiplied by the quotient obtained by dividing 61859

(a) the local adult services cost of the county board by (b) the taxable value of the county board. 61860
61861

(12) "Funding percentage" for a fiscal year means the percentage that the amount appropriated to the department for the purpose of making payments under this section in the fiscal year is of the amount computed under division (C)(3) of this section for the fiscal year. 61862
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(13) "Funding-adjusted required millage" for a fiscal year means the statewide average millage multiplied by the funding percentage for that fiscal year. 61867
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(B)(1) On the request of the director of mental retardation and developmental disabilities, the tax commissioner shall provide to the department of mental retardation and developmental disabilities information specifying the taxable value of property on each county's tax list of real and public utility property and tax list of personal property for the most recent tax year for which such information is available. The director may request any other tax information necessary for the purposes of this section. 61870
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(2) On the request of the director, each county board shall report the county board's adult services enrollment and local adult services cost. 61878
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(C) Each year, the department of mental retardation and developmental disabilities shall compute the following: 61881
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(1) For each county board, the amount, if any, by which the statewide yield per enrollee exceeds the county yield per enrollee; 61883
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(2) For each county board, the amount of any excess computed under division (C)(1) of this section multiplied by the adult services enrollment of the county board; 61886
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(3) The sum of the amounts computed under division (C)(2) of 61889

this section for all county boards. 61890

(D) From money appropriated for the purpose, the department, 61891
~~on or before the thirtieth day of September of each year,~~ shall 61892
provide for payment to each county board of the amount computed 61893
for that county board under division (C)(2) of this section, 61894
subject to any reduction or adjustment under division (E), (F), or 61895
(G) of this section. The department shall make the payments in 61896
quarterly installments of equal amounts. The installments shall be 61897
made not later than the thirtieth day of September, thirty-first 61898
day of December, thirty-first day of March, and thirtieth day of 61899
June. 61900

(E) If a county board's local tax effort for adult services 61901
is less than the funding-adjusted required millage, the director 61902
shall reduce the amount of payment otherwise computed under 61903
division (C)(2) of this section so that the amount paid, after the 61904
reduction, is the same percentage of the amount computed under 61905
division (C)(2) of this section as the county board's local tax 61906
effort for adult services is of the funding-adjusted required 61907
millage. 61908

If the director reduces the amount of a county board's 61909
payment under this division, the department, not later than the 61910
fifteenth day of July, shall notify the county board of the 61911
reduction and the amount of the reduction. The notice shall 61912
include a statement that the county board may request to be 61913
exempted from the reduction by filing a request with the director, 61914
in the manner and form prescribed by the director, within 61915
twenty-one days after such notification is issued. The board may 61916
present evidence of its attempt to obtain passage of levies or any 61917
other extenuating circumstances the board considers relevant. If 61918
the county board requests a hearing before the director to present 61919
such evidence, the director shall conduct a hearing on the request 61920
unless the director exempts the board from the reduction on the 61921

basis of the evidence presented in the request filed by the board. 61922
Upon receiving a properly and timely filed request for exemption, 61923
but not later than the thirty-first day of August, the director 61924
shall determine whether the county board shall be exempted from 61925
all or a part of the reduction. The director may exempt the board 61926
from all or part of the reduction if the director finds that the 61927
board has made good faith efforts to obtain passage of tax levies 61928
or that there are extenuating circumstances. 61929

(F) If a payment is reduced under division (E) of this 61930
section and the director does not exempt the county board from the 61931
reduction, the amount of the reduction shall be apportioned among 61932
all county boards entitled to payments under this section for 61933
which payments were not so reduced. The amount apportioned to each 61934
county board shall be proportionate to the amount of the board's 61935
payment as computed under division (C)(2) of this section. 61936

(G) If, for any fiscal year, the amount appropriated to the 61937
department for the purpose of this section is less than the amount 61938
computed under division (C)(3) of this section for the fiscal 61939
year, the department shall adjust the amount of each payment as 61940
computed under divisions (C)(2), (E), and (F) of this section by 61941
multiplying that amount by the funding percentage. 61942

(H) The payments authorized by this section are supplemental 61943
to all other funds that may be received by a county board. A 61944
county board shall use the payments solely to pay the nonfederal 61945
share of medicaid expenditures that division (A) of section 61946
5126.057 of the Revised Code requires the county board to pay. 61947

Sec. 5126.44. (A) The department of mental retardation and 61948
developmental disabilities, in accordance with Chapter 119. of the 61949
Revised Code, shall adopt rules for making allocations for 61950
counties and distributing to county boards of mental retardation 61951
and developmental disabilities money to be used for planning, 61952

development, contracting for, and providing supported living. The 61953
rules shall provide for an allocation to be made for each county 61954
on an equitable basis, taking into account any factors that 61955
indicate need for supported living for residents of the county. 61956

(B) The department shall annually allocate for each county an 61957
amount determined in accordance with the rules adopted under this 61958
section. Except as provided in division (C) of this section, the 61959
department shall distribute the amount allocated for the county to 61960
each county board. Money shall be distributed to county boards in 61961
~~two quarterly~~ installments ~~annually~~, which shall be paid no later 61962
than the ~~last day of July and the last day of December~~ thirtieth 61963
day of September, the thirty-first day of December, the 61964
thirty-first day of March, and the thirtieth day of June. In the 61965
case of a county that has not adopted a resolution under division 61966
(B) of section 5126.40 of the Revised Code, the department shall 61967
use the money allocated for the county to provide supported living 61968
under section 5123.182 of the Revised Code. 61969

(C) The department shall not distribute money to a county 61970
board for residential services that are being provided by a 61971
provider under contract with the department on the effective date 61972
of this amendment unless the provider and the county board agree 61973
to enter into a contract between the provider and the county board 61974
under which the provider will provide the services as supported 61975
living. If the conversion of a contract occurs under this 61976
division, the provisions of section 5126.451 shall apply as though 61977
the contract was transferred under that section. 61978

(D) Pursuant to section 5126.05 of the Revised Code, the 61979
county board shall annually adopt a separate budget for money 61980
distributed to it under this section. The board shall cause the 61981
money to be deposited in a fund created pursuant to division (F) 61982
of section 5705.09 of the Revised Code which shall be known as the 61983
"community mental retardation and developmental disabilities 61984

residential services and supported living fund." The fund shall 61985
consist of this money and any other money for residential services 61986
or supported living that the board causes to be deposited in the 61987
fund. A county board is not required to use any other money for 61988
residential services or supported living. A county board may 61989
establish a reserve balance account within this fund pursuant to 61990
division (C)(2) of section 5705.28 of the Revised Code. 61991

(E) The department of mental retardation and developmental 61992
disabilities may adopt rules under Chapter 119. of the Revised 61993
Code establishing procedures for an annual reconciliation of state 61994
funds that have been deposited in the reserve balance account. The 61995
rules may provide for the return of state funds to the appropriate 61996
department account when the funds have been unexpended for a 61997
period of two years. 61998

(F) A county board may use up to ten per cent of the amount 61999
distributed to it under this section for the administrative costs 62000
of developing, arranging, and contracting for supported living and 62001
for costs of staff training and support. Annually, each county 62002
board shall report to the department all revenue and expenditures 62003
pertaining to supported living. The report shall be made in 62004
conjunction with the annual report of expenditures submitted 62005
pursuant to section 5126.12 of the Revised Code. The report shall 62006
list the names of the individuals served, the total number of 62007
individuals served on a monthly basis in the preceding calendar 62008
year, the types of services provided, the total cost of the 62009
services, and the sources of revenue used to cover the cost. 62010

Sec. 5139.01. (A) As used in this chapter: 62011

(1) "Commitment" means the transfer of the physical custody 62012
of a child or youth from the court to the department of youth 62013
services. 62014

(2) "Permanent commitment" means a commitment that vests 62015

legal custody of a child in the department of youth services. 62016

(3) "Legal custody," insofar as it pertains to the status 62017
that is created when a child is permanently committed to the 62018
department of youth services, means a legal status in which the 62019
department has the following rights and responsibilities: the 62020
right to have physical possession of the child; the right and duty 62021
to train, protect, and control the child; the responsibility to 62022
provide the child with food, clothing, shelter, education, and 62023
medical care; and the right to determine where and with whom the 62024
child shall live, subject to the minimum periods of, or periods 62025
of, institutional care prescribed in sections 2152.13 to 2152.18 62026
of the Revised Code; provided, that these rights and 62027
responsibilities are exercised subject to the powers, rights, 62028
duties, and responsibilities of the guardian of the person of the 62029
child, and subject to any residual parental rights and 62030
responsibilities. 62031

(4) Unless the context requires a different meaning, 62032
"institution" means a state facility that is created by the 62033
general assembly and that is under the management and control of 62034
the department of youth services or a private entity with which 62035
the department has contracted for the institutional care and 62036
custody of felony delinquents. 62037

(5) "Full-time care" means care for twenty-four hours a day 62038
for over a period of at least two consecutive weeks. 62039

(6) "Placement" means the conditional release of a child 62040
under the terms and conditions that are specified by the 62041
department of youth services. The department shall retain legal 62042
custody of a child released pursuant to division (C) of section 62043
2152.22 of the Revised Code or division (C) of section 5139.06 of 62044
the Revised Code until the time that it discharges the child or 62045
until the legal custody is terminated as otherwise provided by 62046
law. 62047

(7) "Home placement" means the placement of a child in the home of the child's parent or parents or in the home of the guardian of the child's person.

(8) "Discharge" means that the department of youth services' legal custody of a child is terminated.

(9) "Release" means the termination of a child's stay in an institution and the subsequent period during which the child returns to the community under the terms and conditions of supervised release.

(10) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code.

(11) "Felony delinquent" means any child who is at least ~~twelve~~ ten years of age but less than eighteen years of age and who is adjudicated a delinquent child for having committed an act that if committed by an adult would be a felony. "Felony delinquent" includes any adult who is between the ages of eighteen and twenty-one and who is in the legal custody of the department of youth services for having committed an act that if committed by an adult would be a felony.

(12) "Juvenile traffic offender" has the same meaning as in section 2152.02 of the Revised Code.

(13) "Public safety beds" means all of the following:

(a) Felony delinquents who have been committed to the department of youth services for the commission of an act, other than a violation of section 2911.01 or 2911.11 of the Revised Code, that is a category one offense or a category two offense and who are in the care and custody of an institution or have been diverted from care and custody in an institution and placed in a community corrections facility;

(b) Felony delinquents who, while committed to the department

of youth services and in the care and custody of an institution or 62078
a community corrections facility, are adjudicated delinquent 62079
children for having committed in that institution or community 62080
corrections facility an act that if committed by an adult would be 62081
a misdemeanor or a felony; 62082

(c) Children who satisfy all of the following: 62083

(i) They are at least ~~twelve~~ ten years of age but less than 62084
eighteen years of age. 62085

(ii) They are adjudicated delinquent children for having 62086
committed acts that if committed by an adult would be a felony. 62087

(iii) They are committed to the department of youth services 62088
by the juvenile court of a county that has had one-tenth of one 62089
per cent or less of the statewide adjudications for felony 62090
delinquents as averaged for the past four fiscal years. 62091

(iv) They are in the care and custody of an institution or a 62092
community corrections facility. 62093

(d) Felony delinquents who, while committed to the department 62094
of youth services and in the care and custody of an institution, ~~7~~ 62095
~~commit in that institution an act that if committed by an adult~~ 62096
~~would be a felony, who~~ are serving disciplinary time for having 62097
committed ~~that~~ an act described in division (A)(19)(a), (b), or 62098
(c) of this section, and who have been institutionalized or 62099
institutionalized in a secure facility for the minimum period of 62100
time specified in divisions (A)(1)(b) to (e) of section 2152.16 of 62101
the Revised Code. 62102

(e) Felony delinquents who are subject to and serving a 62103
three-year period of commitment order imposed by a juvenile court 62104
pursuant to divisions (A) and (B) of section 2152.17 of the 62105
Revised Code for an act, other than a violation of section 2911.11 62106
of the Revised Code, that would be a category one offense or 62107
category two offense if committed by an adult. 62108

(f) Felony delinquents who are described in divisions 62109
(A)(13)(a) to (e) of this section, who have been granted a 62110
judicial release to court supervision under division (B) of 62111
section 2152.22 of the Revised Code or a judicial release to the 62112
department of youth services supervision under division (C) of 62113
that section from the commitment to the department of youth 62114
services for the act described in divisions (A)(13)(a) to (e) of 62115
this section, who have violated the terms and conditions of that 62116
release, and who, pursuant to an order of the court of the county 62117
in which the particular felony delinquent was placed on release 62118
that is issued pursuant to division (D) of section 2152.22 of the 62119
Revised Code, have been returned to the department for 62120
institutionalization or institutionalization in a secure facility. 62121

(g) Felony delinquents who have been committed to the custody 62122
of the department of youth services, who have been granted 62123
supervised release from the commitment pursuant to section 5139.51 62124
of the Revised Code, who have violated the terms and conditions of 62125
that supervised release, and who, pursuant to an order of the 62126
court of the county in which the particular child was placed on 62127
supervised release issued pursuant to division (F) of section 62128
5139.52 of the Revised Code, have had the supervised release 62129
revoked and have been returned to the department for 62130
institutionalization. A felony delinquent described in this 62131
division shall be a public safety bed only for the time during 62132
which the felony delinquent is institutionalized as a result of 62133
the revocation subsequent to the initial thirty-day period of 62134
institutionalization required by division (F) of section 5139.52 62135
of the Revised Code. 62136

~~(14) "State target youth" means twenty five per cent of the 62137
projected total number of felony delinquents for each year of a 62138
biennium, factoring in revocations and recommitments. 62139~~

~~(15)~~ Unless the context requires a different meaning, 62140

"community corrections facility" means a county or multicounty rehabilitation center for felony delinquents who have been committed to the department of youth services and diverted from care and custody in an institution and placed in the rehabilitation center pursuant to division (E) of section 5139.36 of the Revised Code.

~~(16)~~(15) "Secure facility" means any facility that is designed and operated to ensure that all of its entrances and exits are under the exclusive control of its staff and to ensure that, because of that exclusive control, no child who has been institutionalized in the facility may leave the facility without permission or supervision.

~~(17)~~(16) "Community residential program" means a program that satisfies both of the following:

(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.

(b) It provides twenty-four-hour care, supervision, and programs for felony delinquents who are in residence.

~~(18)~~(17) "Category one offense" and "category two offense" have the same meanings as in section 2151.26 of the Revised Code.

~~(19)~~(18) "Disciplinary time" means additional time that the department of youth services requires a felony delinquent to serve in an institution, that delays the ~~person's~~ or felony delinquent's planned release, and that the department imposes upon the ~~person~~ or 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:

(a) An act that if committed by an adult would be a felony;

(b) An act that if committed by an adult would be a 62171
misdemeanor; 62172

(c) An act that is not described in division (A)~~(19)~~(18)(a) 62173
or (b) of this section and that violates an institutional rule of 62174
conduct of the department. 62175

~~(20)~~(19) "Unruly child" has the same meaning as in section 62176
2151.022 of the Revised Code. 62177

~~(21)~~(20) "Revocation" means the act of revoking a child's 62178
supervised release for a violation of a term or condition of the 62179
child's supervised release in accordance with section 5139.52 of 62180
the Revised Code. 62181

~~(22)~~(21) "Release authority" means the release authority of 62182
the department of youth services that is established by section 62183
5139.50 of the Revised Code. 62184

~~(23)~~(22) "Supervised release" means the event of the release 62185
of a child under this chapter from an institution and the period 62186
after that release during which the child is supervised and 62187
assisted by an employee of the department of youth services under 62188
specific terms and conditions for reintegration of the child into 62189
the community. 62190

~~(24)~~(23) "Victim" means the person identified in a police 62191
report, complaint, or information as the victim of an act that 62192
would have been a criminal offense if committed by an adult and 62193
that provided the basis for adjudication proceedings resulting in 62194
a child's commitment to the legal custody of the department of 62195
youth services. 62196

~~(25)~~(24) "Victim's representative" means a member of the 62197
victim's family or another person whom the victim or another 62198
authorized person designates in writing, pursuant to section 62199
5139.56 of the Revised Code, to represent the victim with respect 62200

to proceedings of the release authority of the department of youth 62201
services and with respect to other matters specified in that 62202
section. 62203

~~(26)~~(25) "Member of the victim's family" means a spouse, 62204
child, stepchild, sibling, parent, stepparent, grandparent, other 62205
relative, or legal guardian of a child but does not include a 62206
person charged with, convicted of, or adjudicated a delinquent 62207
child for committing a criminal or delinquent act against the 62208
victim or another criminal or delinquent act arising out of the 62209
same conduct, criminal or delinquent episode, or plan as the 62210
criminal or delinquent act committed against the victim. 62211

~~(27)~~(26) "Judicial release to court supervision" means a 62212
release of a child from institutional care or institutional care 62213
in a secure facility that is granted by a court pursuant to 62214
division (B) of section 2152.22 of the Revised Code during the 62215
period specified in that division. 62216

~~(28)~~(27) "Judicial release to department of youth services 62217
supervision" means a release of a child from institutional care or 62218
institutional care in a secure facility that is granted by a court 62219
pursuant to division (C) of section 2152.22 of the Revised Code 62220
during the period specified in that division. 62221

~~(29)~~(28) "Juvenile justice system" includes all of the 62222
functions of the juvenile courts, the department of youth 62223
services, any public or private agency whose purposes include the 62224
prevention of delinquency or the diversion, adjudication, 62225
detention, or rehabilitation of delinquent children, and any of 62226
the functions of the criminal justice system that are applicable 62227
to children. 62228

~~(30)~~(29) "Metropolitan county criminal justice services 62229
agency" means an agency that is established pursuant to division 62230
(A) of section 181.54 of the Revised Code. 62231

~~(31)~~(30) "Administrative planning district" means a district 62232
that is established pursuant to division (A) or (B) of section 62233
181.56 of the Revised Code. 62234

~~(32)~~(31) "Criminal justice coordinating council" means a 62235
criminal justice services agency that is established pursuant to 62236
division (D) of section 181.56 of the Revised Code. 62237

~~(33)~~(32) "Comprehensive plan" means a document that 62238
coordinates, evaluates, and otherwise assists, on an annual or 62239
multi-year basis, all of the functions of the juvenile justice 62240
systems of the state or a specified area of the state, that 62241
conforms to the priorities of the state with respect to juvenile 62242
justice systems, and that conforms with the requirements of all 62243
federal criminal justice acts. These functions include, but are 62244
not limited to, all of the following: 62245

(a) Delinquency; 62246

(b) Identification, detection, apprehension, and detention of 62247
persons charged with delinquent acts; 62248

(c) Assistance to crime victims or witnesses, except that the 62249
comprehensive plan does not include the functions of the attorney 62250
general pursuant to sections 109.91 and 109.92 of the Revised 62251
Code; 62252

(d) Adjudication or diversion of persons charged with 62253
delinquent acts; 62254

(e) Custodial treatment of delinquent children; 62255

(f) Institutional and noninstitutional rehabilitation of 62256
delinquent children. 62257

(B) There is hereby created the department of youth services. 62258
The governor shall appoint the director of the department with the 62259
advice and consent of the senate. The director shall hold office 62260
during the term of the appointing governor but subject to removal 62261

at the pleasure of the governor. Except as otherwise authorized in 62262
section 108.05 of the Revised Code, the director shall devote the 62263
director's entire time to the duties of the director's office and 62264
shall hold no other office or position of trust or profit during 62265
the director's term of office. 62266

The director is the chief executive and administrative 62267
officer of the department and has all the powers of a department 62268
head set forth in Chapter 121. of the Revised Code. The director 62269
may adopt rules for the government of the department, the conduct 62270
of its officers and employees, the performance of its business, 62271
and the custody, use, and preservation of the department's 62272
records, papers, books, documents, and property. The director 62273
shall be an appointing authority within the meaning of Chapter 62274
124. of the Revised Code. Whenever this or any other chapter or 62275
section of the Revised Code imposes a duty on or requires an 62276
action of the department, the duty or action shall be performed by 62277
the director or, upon the director's order, in the name of the 62278
department. 62279

Sec. 5139.04. The department of youth services shall do all 62280
of the following: 62281

(A) Support service districts through a central 62282
administrative office that shall have as its administrative head a 62283
deputy director who shall be appointed by the director of the 62284
department. When a vacancy occurs in the office of that deputy 62285
director, an assistant deputy director shall act as that deputy 62286
director until the vacancy is filled. The position of deputy 62287
director and assistant deputy director described in this division 62288
shall be in the unclassified civil service of the state. 62289

(B) Receive custody of all children committed to it under 62290
Chapter 2152. of the Revised Code, cause a study to be made of 62291
those children, and issue any orders, as it considers best suited 62292

to the needs of any of those children and the interest of the public, for the treatment of each of those children;	62293 62294
(C) Obtain personnel necessary for the performance of its duties;	62295 62296
(D) Train or provide for training of probation and youth correction workers;	62297 62298
(E) Adopt rules that regulate its organization and operation, that implement sections 5139.34 and 5139.41 to 5139.45 <u>5139.43</u> of the Revised Code, and that pertain to the administration of other sections of this chapter;	62299 62300 62301 62302
(F) <u>(E)</u> Submit reports of its operations to the governor and the general assembly by the thirty-first day of January of each odd-numbered year;	62303 62304 62305
(G) <u>(F)</u> Conduct a program of research in diagnosis, training, and treatment of delinquent children to evaluate the effectiveness of the department's services and to develop more adequate methods;	62306 62307 62308
(H) Receive reports from the juvenile courts under division (C)(3)(b) of section 5139.43 of the Revised Code and prepare an annual report of state juvenile court statistics and information based upon those reports. The department shall make available a copy of the annual report to the governor and members of the general assembly upon request.	62309 62310 62311 62312 62313 62314
(I) <u>(G)</u> Develop a standard form for the disposition investigation report that a juvenile court is required pursuant to section 2152.18 of the Revised Code to complete and provide to the department when the court commits a child to the legal custody of the department;	62315 62316 62317 62318 62319
(J) <u>(H)</u> Do all other acts necessary or desirable to carry out this chapter.	62320 62321
Sec. 5139.33. (A) The department of youth services shall make	62322

grants in accordance with this section to encourage counties to 62323
use community-based programs and services for juveniles who are 62324
adjudicated delinquent children for the commission of acts that 62325
would be felonies if committed by an adult. 62326

(B) Each county seeking a grant under this section shall file 62327
an application with the department of youth services. The 62328
application shall be filed at the time and in accordance with 62329
procedures established by the department in rules adopted under 62330
this section. Each application shall be accompanied by a plan 62331
designed to reduce the county's commitment percentage, or to 62332
enable it to maintain or attain a commitment percentage that is 62333
equal to or below the statewide average commitment percentage. A 62334
county's commitment percentage is the percentage determined by 62335
dividing the number of juveniles the county committed to the 62336
department during the year by the number of juveniles who were 62337
eligible to be committed. The statewide average commitment 62338
percentage is the percentage determined by dividing the number of 62339
juveniles in the state committed to the department during the year 62340
by the number of juveniles who were eligible to be committed. 62341
These percentages shall be determined by the department using the 62342
most reliable data available to it. 62343

Each plan shall include a method of ensuring equal access for 62344
minority youth to the programs and services for which the grant 62345
will be used. 62346

The department shall review each application and plan to 62347
ensure that the requirements of this division are satisfied. Any 62348
county applying for a grant under this section that received a 62349
grant under this section during the preceding year and that failed 62350
to meet its commitment goals for that year shall make the changes 62351
in its plan that the department requires in order to continue to 62352
be eligible for grants under this section. 62353

(C) Subject to division (E) of this section, the amounts 62354

appropriated for the purpose of making grants under this section 62355
shall be distributed annually on a per capita basis among the 62356
counties that have complied with division (B) of this section. 62357

(D) The department shall adopt rules to implement this 62358
section. The rules shall include, but are not limited to, 62359
procedures and schedules for submitting applications and plans 62360
under this section, including procedures allowing joint-county 62361
applications and plans; and procedures for monitoring and 62362
evaluating the effectiveness of the programs and services financed 62363
with grant money, the enhancement of the use of local facilities 62364
and services, and the adequacy of the supervision and treatment 62365
provided to juveniles by those programs and services. 62366

(E)(1) Three months prior to the implementation of the felony 62367
delinquent care and custody program described in section 5139.43 62368
of the Revised Code, each county that is entitled to a grant under 62369
this section shall receive its grant money for the fiscal year or 62370
the remainder of its grant money for the fiscal year, other than 62371
any grant money to which it is entitled and that is set aside by 62372
the department of youth services for purposes of division (E)(2) 62373
of this section. The grant money so distributed shall be paid in a 62374
lump sum. 62375

(2) During the first twelve months that the felony delinquent 62376
care and custody program described in section 5139.43 of the 62377
Revised Code is implemented in a county, any grant or the 62378
remainder of any grant to which a county is entitled and that is 62379
payable from the appropriation made to the department of youth 62380
services for community sanctions shall be distributed as follows: 62381

(a) In the first quarter of the twelve-month period, the 62382
county shall receive one hundred per cent of the quarterly 62383
distribution. 62384

(b) In the second quarter of the twelve-month period, the 62385

county shall receive seventy-five per cent of the quarterly
distribution. 62386
62387

(c) In the third quarter of the twelve-month period, the
county shall receive fifty per cent of the quarterly distribution. 62388
62389

(d) In the fourth quarter of the twelve-month period, the
county shall receive twenty-five per cent of the quarterly
distribution. 62390
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(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. 62393
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(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. 62406
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62409

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
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division ~~(E)~~(D) of section 5139.04 of the Revised Code. The 62417
department shall not grant financial assistance pursuant to this 62418
section for the provision of care and services for children in a 62419
~~foster care~~ placement facility unless the facility has been 62420
certified, licensed, or approved by a state or national agency 62421
with certification, licensure, or approval authority, including, 62422
but not limited to, the department of job and family services, 62423
department of education, department of mental health, ~~or~~ 62424
department of mental retardation and developmental disabilities, 62425
or American Correctional Association. For the purposes of this 62426
section, ~~foster care~~ placement facilities do not include a state 62427
institution or a county or district children's home. 62428

The department also shall not grant financial assistance 62429
pursuant to this section for the provision of care and services 62430
for children, including, but not limited to, care and services in 62431
a detention facility, in another facility, or in out-of-home 62432
placement, unless the minimum standards applicable to the care and 62433
services that the department prescribes in rules adopted pursuant 62434
to division ~~(E)~~(D) of section 5139.04 of the Revised Code have 62435
been satisfied. 62436

(B) The department of youth services shall apply the 62437
following formula to determine the amount of the annual grant that 62438
each county is to receive pursuant to division (A) of this 62439
section, subject to the appropriation for this purpose to the 62440
department made by the general assembly: 62441

(1) Each county shall receive a basic annual grant of fifty 62442
thousand dollars. 62443

(2) The sum of the basic annual grants provided under 62444
division (B)(1) of this section shall be subtracted from the total 62445
amount of funds appropriated to the department of youth services 62446
for the purpose of making grants pursuant to division (A) of this 62447
section to determine the remaining portion of the funds 62448

appropriated. The remaining portion of the funds appropriated 62449
shall be distributed on a per capita basis to each county that has 62450
a population of more than twenty-five thousand for that portion of 62451
the population of the county that exceeds twenty-five thousand. 62452

(C)(1) Prior to a county's receipt of an annual grant 62453
pursuant to this section, the juvenile court that serves the 62454
county shall prepare, submit, and file in accordance with division 62455
~~(C)~~(B)(3)(a) of section 5139.43 of the Revised Code an annual 62456
grant agreement and application for funding that is for the 62457
combined purposes of, and that satisfies the requirements of, this 62458
section and section 5139.43 of the Revised Code. In addition to 62459
the subject matters described in division ~~(C)~~(B)(3)(a) of section 62460
5139.43 of the Revised Code or in the rules that the department 62461
adopts to implement that division, the annual grant agreement and 62462
application for funding shall address fiscal accountability and 62463
performance matters pertaining to the programs, care, and services 62464
that are specified in the agreement and application and for which 62465
state subsidy funds granted pursuant to this section will be used. 62466

(2) The county treasurer of each county that receives an 62467
annual grant pursuant to this section shall deposit the state 62468
subsidy funds so received into the county's felony delinquent care 62469
and custody fund created pursuant to division ~~(C)~~(B)(1) of section 62470
5139.43 of the Revised Code. Subject to exceptions prescribed in 62471
section 5139.43 of the Revised Code that may apply to the 62472
disbursement, the department shall disburse the state subsidy 62473
funds to which ~~each county is entitled as follows:~~ 62474

~~(a) Except as provided in division (C)(2)(b) of this section,~~ 62475
~~the department shall disburse the state subsidy funds to which a~~ 62476
county is entitled in a lump sum payment that shall be made in 62477
July of each calendar year. 62478

~~(b) In the case of state subsidy funds to which a county is~~ 62479
~~entitled for fiscal year 1998, the department shall disburse the~~ 62480

~~state subsidy funds to the county in two distinct payments in 62481
accordance with this division. The department shall disburse 62482
seventy five per cent of those state subsidy funds to the county 62483
in July 1997. After the department reviews and reconciles the 62484
applicable reports that the juvenile court of the county is 62485
required to prepare and submit to the department pursuant to 62486
section 5139.43 of the Revised Code, the department shall disburse 62487
to the county in October 1997, the remainder of the state subsidy 62488
funds to which the county is entitled. 62489~~

(3) Upon an order of the juvenile court that serves a county 62490
and subject to appropriation by the board of county commissioners 62491
of that county, a county treasurer shall disburse from the 62492
county's felony delinquent care and custody fund the state subsidy 62493
funds granted to the county pursuant to this section for use only 62494
in accordance with this section, the applicable provisions of 62495
section 5139.43 of the Revised Code, and the county's approved 62496
annual grant agreement and application for funding. 62497

(4) The moneys in a county's felony delinquent care and 62498
custody fund that represent state subsidy funds granted pursuant 62499
to this section are subject to appropriation by the board of 62500
county commissioners of the county; shall be disbursed by the 62501
county treasurer as required by division (C)(3) of this section; 62502
shall be used in the manners referred to in division (C)(3) of 62503
this section; shall not revert to the county general fund at the 62504
end of any fiscal year; shall carry over in the felony delinquent 62505
care and custody fund from the end of any fiscal year to the next 62506
fiscal year; shall be in addition to, and shall not be used to 62507
reduce, any usual annual increase in county funding that the 62508
juvenile court is eligible to receive or the current level of 62509
county funding of the juvenile court and of any programs, care, or 62510
services for alleged or adjudicated delinquent children, unruly 62511
children, or juvenile traffic offenders or for children who are at 62512

risk of becoming delinquent children, unruly children, or juvenile traffic offenders; and shall not be used to pay for the care and custody of felony delinquents who are in the care and custody of an institution pursuant to a commitment, recommitment, or revocation of a release on parole by the juvenile court of that county or who are in the care and custody of a community corrections facility pursuant to a placement by the department with the consent of the juvenile court as described in division (E) of section 5139.36 of the Revised Code.

(5) As a condition of the continued receipt of state subsidy funds pursuant to this section, each county and the juvenile court that serves each county that receives an annual grant pursuant to this section shall comply with divisions ~~(C)~~(B)(3)(b), (c), and (d) of section 5139.43 of the Revised Code.

Sec. 5139.36. (A) In accordance with this section and the rules adopted under it and from funds appropriated to the department of youth services for the purposes of this section, the department shall make grants that provide financial resources to operate community corrections facilities for felony delinquents.

(B)(1) Each community corrections facility that intends to seek a grant under this section shall file an application with the department of youth services at the time and in accordance with the procedures that the department shall establish by rules adopted in accordance with Chapter 119. of the Revised Code. In addition to other items required to be included in the application, a plan that satisfies both of the following shall be included:

(a) It reduces the number of felony delinquents committed to the department from the county or counties associated with the community corrections facility.

(b) It ensures equal access for minority felony delinquents

to the programs and services for which a potential grant would be used. 62544
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(2) The department of youth services shall review each application submitted pursuant to division (B)(1) of this section to determine whether the plan described in that division, the community corrections facility, and the application comply with this section and the rules adopted under it. 62546
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(C) To be eligible for a grant under this section and for continued receipt of moneys comprising a grant under this section, a community corrections facility shall satisfy at least all of the following requirements: 62551
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(1) Be constructed, reconstructed, improved, or financed by the Ohio building authority pursuant to section 307.021 of the Revised Code and Chapter 152. of the Revised Code for the use of the department of youth services and be designated as a community corrections facility; 62555
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(2) Have written standardized criteria governing the types of felony delinquents that are eligible for the programs and services provided by the facility; 62560
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(3) Have a written standardized intake screening process and an intake committee that at least performs both of the following tasks: 62563
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(a) Screens all eligible felony delinquents who are being considered for admission to the facility in lieu of commitment to the department; 62566
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(b) Notifies, within ten days after the date of the referral of a felony delinquent to the facility, the committing court whether the felony delinquent will be admitted to the facility. 62569
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(4) Comply with all applicable fiscal and program rules that the department adopts in accordance with Chapter 119. of the 62572
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Revised Code and demonstrate that felony delinquents served by the 62574
facility have been or will be diverted from a commitment to the 62575
department. 62576

(D) The department of youth services shall determine the 62577
method of distribution of the funds appropriated for grants under 62578
this section to community corrections facilities. 62579

~~(E) With the consent of a committing court and of a community 62580
corrections facility that has received a grant under this section, 62581
the department of youth services may place in that facility a 62582
felony delinquent who has been committed to the department. During 62583
the period in which the felony delinquent is in that facility, the 62584
felony delinquent~~ (1) The department of youth services shall adopt 62585
rules in accordance with Chapter 119. of the Revised Code to 62586
establish the minimum occupancy threshold of community corrections 62587
facilities. 62588

(2) The department may make referrals for the placement of 62589
children in its custody to a community corrections facility if the 62590
community corrections facility is not meeting the minimum 62591
occupancy threshold established by the department. At least 62592
forty-five days prior to the referral of a child, the department 62593
shall notify the committing court of its intent to place the child 62594
in a community corrections facility. The court shall have thirty 62595
days after the receipt of the notice to approve or disapprove the 62596
placement. If the court does not respond to the notice of the 62597
placement within that thirty-day period, the department shall 62598
proceed with the placement and debit the county in accordance with 62599
sections 5139.41 to 5139.45 of the Revised Code. A child placed in 62600
a community corrections facility pursuant to this division shall 62601
remain in the legal custody of the department of youth services 62602
during the period in which the child is in the community 62603
corrections facility. 62604

(3) Counties that are not associated with a community 62605

corrections facility may refer children to a community corrections 62606
facility with the consent of the facility. The department of youth 62607
services shall debit the county that makes the referral in 62608
accordance with sections 5139.41 to 5139.45 of the Revised Code. 62609

(F) If the board or other governing body of a community 62610
corrections facility establishes an advisory board, the board or 62611
other governing authority of the community corrections facility 62612
shall reimburse the members of the advisory board for their actual 62613
and necessary expenses incurred in the performance of their 62614
official duties on the advisory board. The members of advisory 62615
boards shall serve without compensation. 62616

Sec. 5139.41. ~~On and after January 1, 1995, the~~ The 62617
appropriation made to the department of youth services for care 62618
and custody of felony delinquents shall be expended in accordance 62619
with ~~a formula~~ the following procedure that the department shall 62620
~~develop~~ use for each year of a biennium. The ~~formula~~ procedure 62621
shall be consistent with sections 5139.41 to ~~5139.45~~ 5139.43 of 62622
the Revised Code and shall be developed in accordance with the 62623
following guidelines: 62624

(A) ~~The department shall set aside at least three per cent~~ 62625
~~but not more than five per cent of the appropriation for purposes~~ 62626
~~of funding the contingency program described in section 5139.45 of~~ 62627
~~the Revised Code and of use in accordance with that section.~~ 62628

~~(B)(1) After setting aside the amount described in division~~ 62629
~~(A) of this section, the department shall set aside twenty five~~ 62630
~~per cent of the remainder of the appropriation and use that amount~~ 62631
~~for the purpose described in division (B)(2) of this section and~~ 62632
~~to pay certain of the operational costs associated with, and to~~ 62633
~~provide cash flow for, the following:~~ 62634

~~(a) Institutions;~~ 62635

~~(b) The diagnosis, care, or treatment of felony delinquents at institutions, facilities, or centers pursuant to contracts entered into under section 5139.08 of the Revised Code:~~ 62636
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~~(c) Community corrections facilities constructed, reconstructed, improved, or financed as described in section 5139.36 of the Revised Code for the purpose of providing alternative placement and services for felony delinquents who have been diverted from care and custody in institutions.~~ 62639
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~~(2) The department may use a portion of the twenty five per cent of the remainder of the appropriation set aside pursuant to division (B)(1) of this section for administrative expenses incurred by the department in connection with the felony delinquent care and custody program described in section 5139.43 of the Revised Code and the associated contingency program described in section 5139.45 of the Revised Code.~~ 62644
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~~(C) After setting aside the amounts described in divisions (A) and (B)(1) of this section, the department shall set aside the amount of the appropriation that is equal to twenty five per cent of the amount that is calculated by multiplying the per diem cost for the care and custody of felony delinquents, as determined pursuant to division (D) of section 5139.42 of the Revised Code, by the number of bed days that the department projects for occupancy in community corrections facilities described in division (B)(1)(c) of this section. The department shall use the amount of the appropriation that is set aside pursuant to this division to pay the percentage of the per diem cost for the care and custody of felony delinquents who are in the care and custody of community corrections facilities described in division (B)(1)(c) of this section for which the department is responsible under sections 5139.41 to 5139.45 of the Revised Code.~~ 62651
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~~(D) After setting aside the amounts described in divisions~~ 62666

~~(A) to (C) of this section, the department shall set aside the amount of the appropriation that is necessary to pay seventy five per cent of the per diem cost of public safety beds and shall use that amount for the purpose of paying that per diem cost.~~

~~(E) After setting aside the amounts described in divisions (A) to (D) of this section, the department shall use the remainder of the appropriation in connection with the felony delinquent care and custody program described in section 5139.43 of the Revised Code, except that, for fiscal year 2002 and fiscal year 2003 and only for those two fiscal years, the total number of beds available to all counties via public safety beds and county allocations shall not be less than the total beds used by all the counties during fiscal year 2000 funded by care and custody chargebacks (Line Item 401) and as public safety beds.~~

~~(F) If the department's appropriation for a fiscal year is subsequently revised by law or its expenditures ordered to be reduced by executive order under section 126.05 of the Revised Code, the department may adjust the amounts described in divisions (A) to (E) of this section in a manner consistent with the revision or reduction. The line item appropriation for the care and custody of felony delinquents shall provide funding for operational costs for the following:~~

~~(1) Institutions and the diagnosis, care, or treatment of felony delinquents at facilities pursuant to contracts entered into under section 5139.08 of the Revised Code;~~

~~(2) Community corrections facilities constructed, reconstructed, improved, or financed as described in section 5139.36 of the Revised Code for the purpose of providing alternative placement and services for felony delinquents who have been diverted from care and custody in institutions;~~

~~(3) County juvenile courts that administer programs and~~

services for prevention, early intervention, diversion, treatment, 62698
and rehabilitation services and programs that are provided for 62699
alleged or adjudicated unruly or delinquent children or for 62700
children who are at risk of becoming unruly or delinquent 62701
children; 62702

(4) Administrative expenses the department incurs in 62703
connection with the felony delinquent care and custody programs 62704
described in section 5139.43 of the Revised Code. 62705

(B) From the appropriated line item for the care and custody 62706
of felony delinquents, the department, with the advice of the 62707
RECLAIM advisory committee established under section 5139.44 of 62708
the Revised Code, shall allocate annual operational funds for 62709
county juvenile programs, institutional care and custody, 62710
community corrections facilities care and custody, and 62711
administrative expenses incurred by the department associated with 62712
felony delinquent care and custody programs. The department, with 62713
the advice of the RECLAIM advisory committee, shall adjust these 62714
allocations, when modifications to this line item are made by 62715
legislative or executive action. 62716

(C) The department shall divide county juvenile program 62717
allocations among county juvenile courts that administer programs 62718
and services for prevention, early intervention, diversion, 62719
treatment, and rehabilitation that are provided for alleged or 62720
adjudicated unruly or delinquent children or for children who are 62721
at risk of becoming unruly or delinquent children. The department 62722
shall base funding on the county's previous year's ratio of the 62723
department's institutional and community correctional facilities 62724
commitments to that county's four year average of felony 62725
adjudications, divided by statewide ratios of commitments to 62726
felony adjudications, as specified in the following formula: 62727

(1) The department shall give to each county a proportional 62728
allocation of commitment credits. The proportional allocation of 62729

commitment credits shall be calculated by the following 62730
procedures: 62731

(a) The department shall determine for each county and for 62732
the state a four year average of felony adjudications. 62733

(b) The department shall determine for each county and for 62734
the state the number of charged bed days, for both the department 62735
and community correctional facilities, from the previous year. 62736

(c) The department shall divide the statewide total number of 62737
charged bed days by the statewide total number of felony 62738
adjudications, which quotient shall then be multiplied by a factor 62739
determined by the department. 62740

(d) The department shall calculate the county's allocation of 62741
credits by multiplying the number of adjudications for each court 62742
by the result determined pursuant to division (C)(1)(c) of this 62743
section. 62744

(2) The department shall subtract from the allocation 62745
determined pursuant to division (C)(1) of this section a credit 62746
for every chargeable bed day a youth stays in a department 62747
institution and two-thirds of credit for every chargeable bed day 62748
a youth stays in a community correctional facility. At the end of 62749
the year, the department shall divide the amount of remaining 62750
credits of that county's allocation by the total number of 62751
remaining credits to all counties, to determine the county's 62752
percentage, which shall then be applied to the total county 62753
allocation to determine the county's payment for the fiscal year. 62754

(3) The department shall pay counties three times during the 62755
fiscal year to allow for credit reporting and audit adjustments, 62756
and modifications to the appropriated line item for the care and 62757
custody of felony delinquents, as described in this section. The 62758
department shall pay fifty per cent of the payment by the 62759
fifteenth of July of each fiscal year, twenty-five per cent by the 62760

fifteenth of January of that fiscal year, and twenty-five per cent 62761
of the payment by the fifteenth of June of that fiscal year. 62762

(D) In fiscal year 2004, the payment of county juvenile 62763
programs shall be based on the following procedure: 62764

(1) The department shall divide the funding earned by each 62765
court in fiscal year 2003 by the aggregate funding of all courts, 62766
resulting in a percentage. 62767

(2) The department shall apply the percentage determined 62768
under division (D)(1) of this section to the total county juvenile 62769
program allocation for fiscal year 2004 to determine each court's 62770
total payment. 62771

(3) The department shall make payments in accordance with the 62772
schedule established in division (C)(3) of this section. 62773

Sec. 5139.43. (A) The department of youth services shall 62774
operate a felony delinquent care and custody program ~~with the~~ 62775
~~remainder of the appropriation described in division (E) of~~ 62776
~~section 5139.41 of the Revised Code. The program that shall be~~ 62777
operated in accordance with the formula developed pursuant to 62778
~~sections~~ section 5139.41 and ~~5139.42~~ of the Revised Code, subject 62779
to the conditions specified in this section, ~~and in conjunction~~ 62780
~~with the contingency program described in section 5139.45 of the~~ 62781
~~Revised Code.~~ 62782

(B)(1) ~~The department of youth services annually shall~~ 62783
~~allocate to each county a portion of the remainder of the~~ 62784
~~appropriation described in division (E) of section 5139.41 of the~~ 62785
~~Revised Code. The portion to be allocated to each county shall be~~ 62786
~~determined by multiplying the county's percentage determined under~~ 62787
~~division (E) of section 5139.42 of the Revised Code by the amount~~ 62788
~~of that remainder. The department shall divide the portion to be~~ 62789
~~allocated to each county by twelve or, if in a particular fiscal~~ 62790

~~year the felony delinquent care and custody program is in effect 62791
in a county less than twelve months, by the number of months the 62792
program is in effect in that county to determine the monthly 62793
allocation to that county. 62794~~

~~(2)(a) Except as provided in divisions (B)(2)(b) and (E) of 62795
this section, the department shall reduce the monthly allocation 62796
for each fiscal year to each county as determined under division 62797
(B)(1) of this section by both of the following: 62798~~

~~(i) Seventy five per cent of the amount determined by 62799
multiplying the per diem cost for the care and custody of felony 62800
delinquents, as determined pursuant to division (D) of section 62801
5139.42 of the Revised Code, by the number of felony delinquents 62802
who have been adjudicated delinquent children and, except as 62803
otherwise provided in divisions (B)(2)(a) and (3) of this section, 62804
who are in the care and custody of an institution pursuant to a 62805
commitment, recommitment, or revocation of a release by the 62806
juvenile court of that county; 62807~~

~~(ii) Fifty per cent of the amount determined by multiplying 62808
the per diem cost for the care and custody of felony delinquents, 62809
as determined pursuant to division (D) of section 5139.42 of the 62810
Revised Code, by the number of felony delinquents who have been 62811
adjudicated delinquent children and, except as otherwise provided 62812
in division (B)(3) of this section, who are in the care and 62813
custody of a community corrections facility pursuant to a 62814
placement by the department with the consent of the juvenile court 62815
of that county as described in division (E) of section 5139.36 of 62816
the Revised Code. 62817~~

~~Public safety beds shall not be included in the number of 62818
felony delinquents who have been adjudicated delinquent children 62819
by a juvenile court in making the seventy five per cent reduction 62820
described in division (B)(2)(a)(i) of this section. The department 62821
shall bear the care and custody costs associated with public 62822~~

~~safety beds.~~ 62823

~~(b) If a county has exhausted its current and future monthly allocations for the current fiscal year as determined under division (B)(1) of this section, the department shall bear the remainder of the amounts calculated under divisions (B)(2)(a)(i) and (ii) of this section for the care and custody of felony delinquents who are in the care and custody of an institution pursuant to a commitment, recommitment, or revocation of a release or in the care and custody of a community corrections facility by debiting, in accordance with division (C)(2) of section 5139.45 of the Revised Code, the amount of the appropriation for care and custody of felony delinquents that was set aside for the contingency program pursuant to division (A) of section 5139.41 of the Revised Code.~~ 62824
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~~(3)(a) Subject to divisions (B)(2)(b) and (4) and (C)(3)(b) and (c) of this section and subject to the special provisions of division (B)(3)(b) of this section pertaining to monthly allocations under divisions (B)(1) and (2)(a) of this section for the month of June, after the application of division (B)(2)(a) of this section and on or before the fifteenth day of the following month, the department shall disburse to the juvenile court of each county the remainder of the monthly allocation of that county as determined pursuant to divisions (B)(1) and (2)(a) of this section.~~ 62837
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~~(b)(i) For the monthly allocation for the month of June of each fiscal year, the department shall estimate for each county the number of felony delinquents described in divisions (B)(2)(a)(i) and (ii) of this section rather than use the actual number of those felony delinquents, shall use the estimated number of those felony delinquents in making the seventy five per cent and fifty per cent reductions described in those divisions, and shall encumber the remainder of the estimated monthly allocation~~ 62847
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~~of each county for the month of June, as determined pursuant to 62855
divisions (B)(1), (2)(a), and (3)(b)(i) of this section, for 62856
disbursement in the month of July of the next fiscal year in 62857
accordance with division (B)(3)(b)(ii) of this section. If the 62858
total of the seventy five per cent and fifty per cent reductions 62859
described in division (B)(2)(a) of this section exceeds the 62860
estimated monthly allocation of a county for the month of June as 62861
so determined, the department may cover the amount of the excess 62862
by debiting, in accordance with division (C)(2) of section 5139.45 62863
of the Revised Code, the amount of the appropriation for care and 62864
custody of felony delinquents that was set aside for the 62865
contingency program pursuant to division (A) of section 5139.41 of 62866
the Revised Code. 62867~~

~~(ii) In the month of July of each new fiscal year, the 62868
department shall reconcile for each county the estimated 62869
reductions that occurred pursuant to divisions (B)(2)(a) and 62870
(3)(b)(i) of this section and the reductions that should have 62871
occurred pursuant to division (B)(2)(a) of this section by using 62872
the actual number of felony delinquents described in divisions 62873
(B)(2)(a)(i) and (ii) of this section for the month of June of the 62874
prior fiscal year. After that reconciliation occurs, subject to 62875
divisions (B)(2)(b) and (4) and (C)(3)(b) and (c) of this section, 62876
the department shall disburse to each county the remainder of its 62877
monthly allocation for the month of June of the prior fiscal year 62878
as adjusted pursuant to the reconciliation and division 62879
(B)(3)(b)(ii) of this section. 62880~~

~~In connection with the adjustments in the monthly allocations 62881
for the month of June of the prior fiscal year, if the encumbered 62882
monthly allocations of one or more counties for that month exceed 62883
or are less than the monthly allocations for that month to which 62884
those counties are entitled under divisions (B)(1) and (2)(a) of 62885
this section by using the actual number of felony delinquents 62886~~

~~described in divisions (B)(2)(a)(i) and (ii) of this section 62887
rather than the estimated number of those felony delinquents, the 62888
department may make the necessary adjustments in the monthly 62889
allocations of those counties for the month of June of the prior 62890
fiscal year within the total of the moneys for monthly allocations 62891
for that month that were encumbered for all of the counties. If 62892
that total amount is insufficient to make the requisite monthly 62893
allocations for that month to all counties in accordance with 62894
divisions (B)(1) and (2)(a) of this section, the department shall 62895
cover the insufficiency by debiting, in accordance with division 62896
(C)(2) of section 5139.45 of the Revised Code, the amount of the 62897
appropriation for care and custody of felony delinquents that was 62898
set aside for the contingency program pursuant to division (A) of 62899
section 5139.41 of the Revised Code. 62900~~

~~(4) Notwithstanding the general disbursement requirements of 62901
division (B)(3)(a) and (b)(ii) of this section, if a juvenile 62902
court fails to comply with division (C)(3)(d) of this section and 62903
the department is not able to reconcile fiscal accounting as a 62904
consequence of that failure, the department is not required to 62905
make any disbursement in accordance with division (B)(3)(a) or 62906
(b)(ii) of this section to the juvenile court until it complies 62907
with division (C)(3)(d) of this section. 62908~~

~~(C)(1) Each juvenile court shall use the moneys disbursed to 62909
it by the department of youth services pursuant to division (B) of 62910
this section 5139.41 of the Revised Code in accordance with the 62911
applicable provisions of division (C)(B)(2) of this section and 62912
shall transmit the moneys to the county treasurer for deposit in 62913
accordance with this division. The county treasurer shall create 62914
in the county treasury a fund that shall be known as the felony 62915
delinquent care and custody fund and shall deposit in that fund 62916
the moneys disbursed to the juvenile court pursuant to division 62917
(B) of ~~this~~ section 5139.41 of the Revised Code. The county 62918~~

treasurer also shall deposit into that fund the state subsidy 62919
funds granted to the county pursuant to section 5139.34 of the 62920
Revised Code. The moneys disbursed to the juvenile court pursuant 62921
to division (B) of ~~this~~ section 5139.41 of the Revised Code and 62922
deposited pursuant to this division in the felony delinquent care 62923
and custody fund shall not be commingled with any other county 62924
funds except state subsidy funds granted to the county pursuant to 62925
section 5139.34 of the Revised Code; shall not be used for any 62926
capital construction projects; upon an order of the juvenile court 62927
and subject to appropriation by the board of county commissioners, 62928
shall be disbursed to the juvenile court for use in accordance 62929
with the applicable provisions of division ~~(C)~~(B)(2) of this 62930
section; shall not revert to the county general fund at the end of 62931
any fiscal year; and shall carry over in the felony delinquent 62932
care and custody fund from the end of any fiscal year to the next 62933
fiscal year. The moneys disbursed to the juvenile court pursuant 62934
to division (B) of ~~this~~ section 5139.41 of the Revised Code and 62935
deposited pursuant to this division in the felony delinquent care 62936
and custody fund shall be in addition to, and shall not be used to 62937
reduce, any usual annual increase in county funding that the 62938
juvenile court is eligible to receive or the current level of 62939
county funding of the juvenile court and of any programs or 62940
services for delinquent children, unruly children, or juvenile 62941
traffic offenders. 62942

(2)(a) A county and the juvenile court that serves the county 62943
shall use the moneys in its felony delinquent care and custody 62944
fund in accordance with rules that the department of youth 62945
services adopts pursuant to division ~~(E)~~(D) of section 5139.04 of 62946
the Revised Code and as follows: 62947

(i) The moneys in the fund that represent state subsidy funds 62948
granted to the county pursuant to section 5139.34 of the Revised 62949
Code shall be used to aid in the support of prevention, early 62950

intervention, diversion, treatment, and rehabilitation programs 62951
that are provided for alleged or adjudicated unruly children or 62952
delinquent children or for children who are at risk of becoming 62953
unruly children or delinquent children. The county shall not use 62954
for capital improvements more than fifteen per cent of the moneys 62955
in the fund that represent the applicable annual grant of those 62956
state subsidy funds. 62957

(ii) The moneys in the fund that were disbursed to the 62958
juvenile court pursuant to division (B) of ~~this~~ section 5139.41 of 62959
the Revised Code and deposited pursuant to division ~~(C)~~(B)(1) of 62960
this section in the fund shall be used to provide programs and 62961
services for the training, treatment, or rehabilitation of felony 62962
delinquents that are alternatives to their commitment to the 62963
department, including, but not limited to, community residential 62964
programs, day treatment centers, services within the home, and 62965
electronic monitoring, and shall be used in connection with 62966
training, treatment, rehabilitation, early intervention, or other 62967
programs or services for any delinquent child, unruly child, or 62968
juvenile traffic offender who is under the jurisdiction of the 62969
juvenile court. ~~For purposes of division (C)(2)(a)(ii) of this~~ 62970
~~section, a delinquent child includes a child who is so adjudicated~~ 62971
~~for the commission of an act that if committed by an adult would~~ 62972
~~be a misdemeanor or felony.~~ 62973

~~If, during the previous state fiscal year, the county did not~~ 62974
~~exceed in any month its monthly allocation as determined pursuant~~ 62975
~~to division (B)(1) of this section in connection with felony~~ 62976
~~delinquents described in divisions (B)(2)(a)(i) and (ii) of this~~ 62977
~~section, the moneys in the fund that were disbursed to the~~ 62978
~~juvenile court pursuant to division (B) of this section and~~ 62979
~~deposited pursuant to division (C)(1) of this section in the~~ The 62980
fund also may be used for prevention, early intervention, 62981
diversion, treatment, and rehabilitation programs that are 62982

provided for alleged or adjudicated unruly children, delinquent 62983
children, or juvenile traffic offenders or for children who are at 62984
risk of becoming unruly children, delinquent children, or juvenile 62985
traffic offenders. Consistent with division ~~(C)~~(B)(1) of this 62986
section, a county and the juvenile court of a county shall not use 62987
any of those moneys for capital construction projects. 62988

(iii) The county and the juvenile court that serves the 62989
county may not use moneys in the fund for the provision of care 62990
and services for children, including, but not limited to, care and 62991
services in a detention facility, in another facility, or in 62992
out-of-home placement, unless the minimum standards that apply to 62993
the care and services and that the department prescribes in rules 62994
adopted pursuant to division ~~(E)~~(D) of section 5139.04 of the 62995
Revised Code have been satisfied. 62996

(b) Each juvenile court shall comply with division 62997
~~(C)~~(B)(3)(d) of this section as implemented by the department. ~~If~~ 62998
~~a juvenile court fails to comply with that division and the~~ 62999
~~department is not able to reconcile fiscal accounting as a~~ 63000
~~consequence of the failure, the provisions of division (B)(4) of~~ 63001
~~this section shall apply.~~ 63002

(3) In accordance with rules adopted by the department 63003
pursuant to division ~~(E)~~(D) of section 5139.04 of the Revised 63004
Code, each juvenile court and the county served by that juvenile 63005
court shall do all of the following that apply: 63006

(a) The juvenile court shall prepare an annual grant 63007
agreement and application for funding that satisfies the 63008
requirements of this section and section 5139.34 of the Revised 63009
Code and that pertains to the use, upon an order of the juvenile 63010
court and subject to appropriation by the board of county 63011
commissioners, of the moneys in its felony delinquent care and 63012
custody fund for specified programs, care, and services as 63013
described in division ~~(C)~~(B)(2)(a) of this section, shall submit 63014

that agreement and application to the county family and children 63015
first council, the regional family and children first council, or 63016
the local intersystem services to children cluster as described in 63017
sections 121.37 and 121.38 of the Revised Code, whichever is 63018
applicable, and shall file that agreement and application with the 63019
department for its approval. The annual grant agreement and 63020
application for funding shall include a method of ensuring equal 63021
access for minority youth to the programs, care, and services 63022
specified in it. 63023

The department may approve an annual grant agreement and 63024
application for funding only if the juvenile court involved has 63025
complied with the preparation, submission, and filing requirements 63026
described in division ~~(C)~~(B)(3)(a) of this section. If the 63027
juvenile court complies with those requirements and the department 63028
approves that agreement and application, the juvenile court and 63029
the county served by the juvenile court may expend the state 63030
subsidy funds granted to the county pursuant to section 5139.34 of 63031
the Revised Code only in accordance with division ~~(C)~~(B)(2)(a) of 63032
this section, the rules pertaining to state subsidy funds that the 63033
department adopts pursuant to division ~~(E)~~(D) of section 5139.04 63034
of the Revised Code, and the approved agreement and application. 63035

(b) By the thirty-first day of August of each year, the 63036
juvenile court shall file with the department a report that 63037
contains all of the statistical and other information for each 63038
month of the prior state fiscal year ~~that will permit the~~ 63039
~~department to prepare the report described in division (D) of this~~ 63040
~~section and the annual report described in division (H) of section~~ 63041
~~5139.04 of the Revised Code.~~ If the juvenile court fails to file 63042
the report required by division ~~(C)~~(B)(3)(b) of this section by 63043
the thirty-first day of August of any year, the department shall 63044
not disburse any payment of state subsidy funds to which the 63045
county otherwise is entitled pursuant to section 5139.34 of the 63046

Revised Code and shall not disburse pursuant to division (B)~~(3)(a)~~ 63047
~~or (b)(ii)~~ of ~~this section the remainder of 5139.41 of the Revised~~ 63048
Code the applicable ~~monthly~~ allocation of ~~the county~~ until the 63049
juvenile court fully complies with division ~~(C)~~(B)(3)(b) of this 63050
section. 63051

(c) If the department requires the juvenile court to prepare 63052
monthly statistical reports ~~for use under section 5139.42 of the~~ 63053
~~Revised Code~~ and to submit the reports on forms provided by the 63054
department, the juvenile court shall file those reports with the 63055
department on the forms so provided. If the juvenile court fails 63056
to prepare and submit those monthly statistical reports within the 63057
department's timelines, the department shall not disburse any 63058
payment of state subsidy funds to which the county otherwise is 63059
entitled pursuant to section 5139.34 of the Revised Code and shall 63060
not disburse pursuant to division (B)~~(3)(a)~~ ~~or (b)(ii)~~ of ~~this~~ 63061
~~section the remainder of 5139.41 of the Revised Code~~ the 63062
applicable ~~monthly~~ allocation of ~~the county~~ until the juvenile 63063
court fully complies with division ~~(C)~~(B)(3)(c) of this section. 63064
If the juvenile court fails to prepare and submit those monthly 63065
statistical reports within one hundred eighty days of the date the 63066
department establishes for their submission, the department shall 63067
not disburse any payment of state subsidy funds to which the 63068
county otherwise is entitled pursuant to section 5139.34 of the 63069
Revised Code and shall not disburse pursuant to division (B)~~(3)(a)~~ 63070
~~or (b)(ii)~~ of ~~this section the remainder of 5139.41 of the Revised~~ 63071
Code the applicable ~~monthly~~ allocation of ~~the county~~, and the 63072
state subsidy funds and the remainder of the applicable ~~monthly~~ 63073
allocation shall revert to the department. If a juvenile court 63074
states in a monthly statistical report that the juvenile court 63075
adjudicated within a state fiscal year five hundred or more 63076
children to be delinquent children for committing acts that would 63077
be felonies if committed by adults and if the department 63078
determines that the data in the report may be inaccurate, the 63079

juvenile court shall have an independent auditor or other 63080
qualified entity certify the accuracy of the data on a date 63081
determined by the department. 63082

(d) If the department requires the juvenile court and the 63083
county to participate in a fiscal monitoring program or another 63084
monitoring program that is conducted by the department to ensure 63085
compliance by the juvenile court and the county with division 63086
~~(C)~~(B) of this section, the juvenile court and the county shall 63087
participate in the program and fully comply with any guidelines 63088
for the performance of audits adopted by the department pursuant 63089
to that program and all requests made by the department pursuant 63090
to that program for information necessary to reconcile fiscal 63091
accounting. If an audit that is performed pursuant to a fiscal 63092
monitoring program or another monitoring program described in this 63093
division determines that the juvenile court or the county used 63094
moneys in the county's felony delinquent care and custody fund for 63095
expenses that are not authorized under division ~~(C)~~(B) of this 63096
section, within forty-five days after the department notifies the 63097
county of the unauthorized expenditures, the county either shall 63098
repay the amount of the unauthorized expenditures from the county 63099
general revenue fund to the state's general revenue fund or shall 63100
file a written appeal with the department. If an appeal is timely 63101
filed, the director of the department shall render a decision on 63102
the appeal and shall notify the appellant county or its juvenile 63103
court of that decision within forty-five days after the date that 63104
the appeal is filed. If the director denies an appeal, the 63105
county's fiscal agent shall repay the amount of the unauthorized 63106
expenditures from the county general revenue fund to the state's 63107
general revenue fund within thirty days after receiving the 63108
director's notification of the appeal decision. If the county 63109
fails to make the repayment within that thirty-day period and if 63110
the unauthorized expenditures pertain to moneys allocated under 63111
sections 5139.41 to ~~5139.45~~ 5139.43 of the Revised Code, the 63112

department shall deduct the amount of the unauthorized 63113
expenditures from the next ~~monthly~~ allocation of those moneys to 63114
the county in accordance with this section or from the allocations 63115
that otherwise would be made under those sections to the county 63116
during the next state fiscal year in accordance with this section 63117
and shall return that deducted amount to the state's general 63118
revenue fund. If the county fails to make the repayment within 63119
that thirty-day period and if the unauthorized expenditures 63120
pertain to moneys granted pursuant to section 5139.34 of the 63121
Revised Code, the department shall deduct the amount of the 63122
unauthorized expenditures from the next annual grant to the county 63123
pursuant to that section and shall return ~~than~~ that deducted 63124
amount to the state's general revenue fund. 63125

~~(D) On or prior to the first day of December of each year,~~ 63126
~~the department of youth services shall submit to the joint~~ 63127
~~legislative committee on juvenile corrections overcrowding a~~ 63128
~~report that pertains to the operation of sections 5139.34 and~~ 63129
~~5139.41 to 5139.45 of the Revised Code during the immediately~~ 63130
~~preceding state fiscal year and that includes, but is not limited~~ 63131
~~to, the following:~~ 63132

~~(1) A description of the programs, care, and services that~~ 63133
~~were financed under those sections in each county;~~ 63134

~~(2) The number of felony delinquents, other delinquent~~ 63135
~~children, unruly children, and juvenile traffic offenders served~~ 63136
~~by the programs, care, and services in each county;~~ 63137

~~(3) The total number of children adjudicated in each juvenile~~ 63138
~~court as felony delinquents;~~ 63139

~~(4) The total number of felony delinquents who were committed~~ 63140
~~by the juvenile court of each county to the department and who~~ 63141
~~were in the care and custody of an institution or a community~~ 63142
~~corrections facility;~~ 63143

~~(5) A breakdown of the felony delinquents described in~~ 63144
~~division (D)(4) of this section on the basis of the types and~~ 63145
~~degrees of felonies committed, the ages of the felony delinquents~~ 63146
~~at the time they committed the felonies, and the sex and race of~~ 63147
~~the felony delinquents.~~ 63148

~~(E)(C)~~ The determination of which county a reduction of the 63149
~~monthly~~ care and custody allocation will be charged against for a 63150
particular youth shall be made as outlined below for all youths 63151
who do not qualify as public safety beds. The determination of 63152
which county a reduction of the ~~monthly~~ care and custody 63153
allocation will be charged against shall be made as follows until 63154
each youth is released: 63155

(1) In the event of a commitment, the reduction shall be 63156
charged against the committing county. 63157

(2) In the event of a recommitment, the reduction shall be 63158
charged against the original committing county until the 63159
expiration of the minimum period of institutionalization under the 63160
original order of commitment or until the date on which the youth 63161
is admitted to the department of youth services pursuant to the 63162
order of recommitment, whichever is later. Reductions of the 63163
~~monthly~~ allocation shall be charged against the county that 63164
recommitted the youth after the minimum expiration date of the 63165
original commitment. 63166

(3) In the event of a revocation of a release on parole, the 63167
reduction shall be charged against the county that revokes the 63168
youth's parole. 63169

(D) A juvenile court is not precluded by its allocation 63170
amount for the care and custody of felony delinquents from 63171
committing a felony delinquent to the department of youth services 63172
for care and custody in an institution or a community corrections 63173
facility when the juvenile court determines that the commitment is 63174

<u>appropriate.</u>	63175
<u>Sec. 5139.44. (A)(1) There is hereby created the RECLAIM</u>	63176
<u>advisory committee that shall be composed of the following ten</u>	63177
<u>members:</u>	63178
<u>(a) Two members shall be juvenile court judges appointed by</u>	63179
<u>the Ohio association of juvenile and family court judges.</u>	63180
<u>(b) One member shall be the director of youth services or the</u>	63181
<u>director's designee.</u>	63182
<u>(c) One member shall be the director of budget and management</u>	63183
<u>or the director's designee.</u>	63184
<u>(d) One member shall be the director of the legislative</u>	63185
<u>service commission or the director's designee.</u>	63186
<u>(e) One member shall be a member of a senate committee</u>	63187
<u>dealing with finance or criminal justice issues appointed by the</u>	63188
<u>president of the senate.</u>	63189
<u>(f) One member shall be a member of a committee of the house</u>	63190
<u>of representatives dealing with finance or criminal justice issues</u>	63191
<u>appointed by the speaker of the house of representatives.</u>	63192
<u>(g) One member shall be a member of a board of county</u>	63193
<u>commissioners appointed by the county commissioners association of</u>	63194
<u>Ohio.</u>	63195
<u>(h) Two members shall be juvenile court administrators</u>	63196
<u>appointed by the Ohio association of juvenile and family court</u>	63197
<u>judges.</u>	63198
<u>(2) The members of the committee shall be appointed or</u>	63199
<u>designated within thirty days after the effective date of this</u>	63200
<u>section, and the director of youth services shall be notified of</u>	63201
<u>the names of the members.</u>	63202
<u>(3) Members described in divisions (A)(1)(a), (g), and (h) of</u>	63203

this section shall serve for terms of two years and shall hold 63204
office from the date of the member's appointment until the end of 63205
the term for which the member was appointed. Members described in 63206
divisions (A)(1)(b), (c), and (d) of this section shall serve as 63207
long as they hold the office described in that division. Members 63208
described in divisions (A)(1)(e) and (f) of this section shall 63209
serve for the duration of the session of the general assembly 63210
during which they were appointed, provided they continue to hold 63211
the office described in that division. The members described in 63212
divisions (A)(1)(a), (e), (f), (g), and (h) may be reappointed. 63213
Vacancies shall be filled in the manner provided for original 63214
appointments. Any member appointed to fill a vacancy occurring 63215
prior to the expiration date of the term for which the member's 63216
predecessor was appointed shall hold office as a member for the 63217
remainder of that term. A member shall continue in office 63218
subsequent to the expiration date of the member's term until the 63219
member's successor takes office or until a period of sixty days 63220
has elapsed, whichever occurs first. 63221

(4) Membership on the committee does not constitute the 63222
holding of an incompatible public office or employment in 63223
violation of any statutory or common law prohibition pertaining to 63224
the simultaneous holding of more than one public office or 63225
employment. Members of the committee are not disqualified from 63226
holding by reason of that membership and do not forfeit because of 63227
that membership their public office or employment that qualifies 63228
them for membership on the committee notwithstanding any contrary 63229
disqualification or forfeiture requirement under existing Revised 63230
Code sections. 63231

(B) The director of youth services shall serve as an interim 63232
chair of the RECLAIM advisory committee until the first meeting of 63233
the committee. Upon receipt of the names of the members of the 63234
committee, the director shall schedule the initial meeting of the 63235

committee that shall take place at an appropriate location in 63236
Columbus and occur not later than sixty days after the effective 63237
date of this section. The director shall notify the members of the 63238
committee of the time, date, and place of the meeting. At the 63239
initial meeting, the committee shall organize itself by selecting 63240
from among its members a chair, vice-chair, and secretary. The 63241
committee shall meet at least once each quarter of the calendar 63242
year but may meet more frequently at the call of the chair. 63243

(C) In addition to its functions with respect to the RECLAIM 63244
program described in section 5139.41 of the Revised Code, the 63245
RECLAIM advisory committee periodically shall do all of the 63246
following: 63247

(1) Evaluate the operation of the RECLAIM program by the 63248
department of youth services, evaluate the implementation of the 63249
RECLAIM program by the counties, and evaluate the efficiency of 63250
the formula described in section 5139.41 of the Revised Code. In 63251
conducting these evaluations, the committee shall consider the 63252
public policy that RECLAIM funds are to be expended to provide the 63253
most appropriate programs and services for felony delinquents and 63254
other youthful offenders. 63255

(2) Advise the department of youth services, the office of 63256
budget and management, and the general assembly on the following 63257
changes that the committee believes should be made: 63258

(a) Changes to sections of the Revised Code that pertain to 63259
the RECLAIM program, specifically the formula specified in section 63260
5139.41 of the Revised Code; 63261

(b) Changes in the funding level for the RECLAIM program, 63262
specifically the amounts distributed under the formula for county 63263
allocations, community correctional facilities, and juvenile 63264
correctional facility budgets. 63265

Sec. 5139.87. (A) The department of youth services shall 63266
serve as the state agent for the administration of all federal 63267
juvenile justice grants awarded to the state. 63268

(B) There are hereby created in the state treasury the 63269
federal juvenile justice programs funds. A separate fund shall be 63270
established each federal fiscal year. All federal grants and other 63271
moneys received for federal juvenile programs shall be deposited 63272
into the funds. All receipts deposited into the funds shall be 63273
used for federal juvenile programs. All investment earnings on the 63274
cash balance in a federal juvenile program fund shall be credited 63275
to that fund for the appropriate federal fiscal year. 63276

(C) All rules, orders, and determinations of the office of 63277
criminal justice services regarding the administration of federal 63278
juvenile justice grants that are in effect on the effective date 63279
of this amendment shall continue in effect as rules, orders, and 63280
determinations of the department of youth services. 63281

Sec. 5153.122. (A) Each caseworker hired by a public children 63282
services agency shall complete at least ninety hours of in-service 63283
training during the first year of the caseworker's continuous 63284
employment, except that the director of the public children 63285
services agency may waive the training requirement for a school of 63286
social work graduate who participated in the university 63287
partnership program described in division (D) of section 5101.141 63288
of the Revised Code. The training shall consist of courses in 63289
recognizing and preventing child abuse and neglect, assessing 63290
risks, interviewing persons, investigating cases, intervening, 63291
providing services to children and their families, and other 63292
topics relevant to child abuse and neglect. After the first year 63293
of continuous employment, each caseworker annually shall complete 63294
thirty-six hours of training in areas relevant to the caseworker's 63295

assigned duties. 63296

(B) Each supervisor hired by a public children services 63297
agency shall complete at least sixty hours of in-service training 63298
during the first year of the supervisor's continuous employment in 63299
that position. After the first year of continuous employment as a 63300
supervisor, the supervisor annually shall complete thirty hours of 63301
training in areas relevant to the supervisor's assigned duties. 63302

Sec. 5153.16. (A) Except as provided in section 2151.422 of 63303
the Revised Code, in accordance with rules of the department of 63304
job and family services, and on behalf of children in the county 63305
whom the public children services agency considers to be in need 63306
of public care or protective services, the public children 63307
services agency shall do all of the following: 63308

(1) Make an investigation concerning any child alleged to be 63309
an abused, neglected, or dependent child; 63310

(2) Enter into agreements with the parent, guardian, or other 63311
person having legal custody of any child, or with the department 63312
of job and family services, department of mental health, 63313
department of mental retardation and developmental disabilities, 63314
other department, any certified organization within or outside the 63315
county, or any agency or institution outside the state, having 63316
legal custody of any child, with respect to the custody, care, or 63317
placement of any child, or with respect to any matter, in the 63318
interests of the child, provided the permanent custody of a child 63319
shall not be transferred by a parent to the public children 63320
services agency without the consent of the juvenile court; 63321

(3) Accept custody of children committed to the public 63322
children services agency by a court exercising juvenile 63323
jurisdiction; 63324

(4) Provide such care as the public children services agency 63325

considers to be in the best interests of any child adjudicated to 63326
be an abused, neglected, or dependent child the agency finds to be 63327
in need of public care or service; 63328

(5) Provide social services to any unmarried girl adjudicated 63329
to be an abused, neglected, or dependent child who is pregnant 63330
with or has been delivered of a child; 63331

(6) Make available to the bureau for children with medical 63332
handicaps of the department of health at its request any 63333
information concerning a crippled child found to be in need of 63334
treatment under sections 3701.021 to 3701.028 of the Revised Code 63335
who is receiving services from the public children services 63336
agency; 63337

(7) Provide temporary emergency care for any child considered 63338
by the public children services agency to be in need of such care, 63339
without agreement or commitment; 63340

(8) Find certified foster homes, within or outside the 63341
county, for the care of children, including handicapped children 63342
from other counties attending special schools in the county; 63343

(9) Subject to the approval of the board of county 63344
commissioners and the state department of job and family services, 63345
establish and operate a training school or enter into an agreement 63346
with any municipal corporation or other political subdivision of 63347
the county respecting the operation, acquisition, or maintenance 63348
of any children's home, training school, or other institution for 63349
the care of children maintained by such municipal corporation or 63350
political subdivision; 63351

(10) Acquire and operate a county children's home, establish, 63352
maintain, and operate a receiving home for the temporary care of 63353
children, or procure certified foster homes for this purpose; 63354

(11) Enter into an agreement with the trustees of any 63355
district children's home, respecting the operation of the district 63356

children's home in cooperation with the other county boards in the 63357
district; 63358

(12) Cooperate with, make its services available to, and act 63359
as the agent of persons, courts, the department of job and family 63360
services, the department of health, and other organizations within 63361
and outside the state, in matters relating to the welfare of 63362
children, except that the public children services agency shall 63363
not be required to provide supervision of or other services 63364
related to the exercise of parenting time rights granted pursuant 63365
to section 3109.051 or 3109.12 of the Revised Code or 63366
companionship or visitation rights granted pursuant to section 63367
3109.051, 3109.11, or 3109.12 of the Revised Code unless a 63368
juvenile court, pursuant to Chapter 2151. of the Revised Code, or 63369
a common pleas court, pursuant to division (E)(6) of section 63370
3113.31 of the Revised Code, requires the provision of supervision 63371
or other services related to the exercise of the parenting time 63372
rights or companionship or visitation rights; 63373

(13) Make investigations at the request of any superintendent 63374
of schools in the county or the principal of any school concerning 63375
the application of any child adjudicated to be an abused, 63376
neglected, or dependent child for release from school, where such 63377
service is not provided through a school attendance department; 63378

(14) Administer funds provided under Title IV-E of the 63379
"Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as 63380
amended, in accordance with rules adopted under section 5101.141 63381
of the Revised Code; 63382

(15) In addition to administering Title IV-E adoption 63383
assistance funds, enter into agreements to make adoption 63384
assistance payments under section 5153.163 of the Revised Code; 63385

(16) Implement a system of risk assessment, in accordance 63386
with rules adopted by the director of job and family services, to 63387

assist the public children services agency in determining the risk of abuse or neglect to a child;

(17) Enter into a plan of cooperation with the board of county commissioners under section 307.983 of the Revised Code and comply with ~~the partnership~~ each fiscal agreement the board enters into under section 307.98 of the Revised Code that include family services duties of public children services agencies and contracts the board enters into under sections 307.981 and 307.982 of the Revised Code that affect the public children services agency;

(18) Make reasonable efforts to prevent the removal of an alleged or adjudicated abused, neglected, or dependent child from the child's home, eliminate the continued removal of the child from the child's home, or make it possible for the child to return home safely, except that reasonable efforts of that nature are not required when a court has made a determination under division (A)(2) of section 2151.419 of the Revised Code;

(19) Make reasonable efforts to place the child in a timely manner in accordance with the permanency plan approved under division (E) of section 2151.417 of the Revised Code and to complete whatever steps are necessary to finalize the permanent placement of the child;

(20) Administer a Title IV-A program identified under division (A)(3)(c) or (d) of section 5101.80 of the Revised Code that the department of job and family services provides for the public children services agency to administer under the department's supervision pursuant to section 5101.801 of the Revised Code;

(21) Provide independent living services pursuant to sections 2151.81 to 2151.84 of the Revised Code.

(B) The public children services agency shall use the system implemented pursuant to division (B)(16) of this section in

connection with an investigation undertaken pursuant to division 63419
(F)(1) of section 2151.421 of the Revised Code and may use the 63420
system at any other time the agency is involved with any child 63421
when the agency determines that risk assessment is necessary. 63422

(C) Except as provided in section 2151.422 of the Revised 63423
Code, in accordance with rules of the director of job and family 63424
services, and on behalf of children in the county whom the public 63425
children services agency considers to be in need of public care or 63426
protective services, the public children services agency may do 63427
the following: 63428

(1) Provide or find, with other child serving systems, 63429
specialized foster care for the care of children in a specialized 63430
foster home, as defined in section 5103.02 of the Revised Code, 63431
certified under section 5103.03 of the Revised Code; 63432

(2)(a) Except as limited by divisions (C)(2)(b) and (c) of 63433
this section, contract with the following for the purpose of 63434
assisting the agency with its duties: 63435

(i) County departments of job and family services; 63436

(ii) Boards of alcohol, drug addiction, and mental health 63437
services; 63438

(iii) County boards of mental retardation and developmental 63439
disabilities; 63440

(iv) Regional councils of political subdivisions established 63441
under Chapter 167. of the Revised Code; 63442

(v) Private and government providers of services; 63443

(vi) Managed care organizations and prepaid health plans. 63444

(b) A public children services agency contract under division 63445
(C)(2)(a) of this section regarding the agency's duties under 63446
section 2151.421 of the Revised Code may not provide for the 63447
entity under contract with the agency to perform any service not 63448

authorized by the department's rules. 63449

(c) Only a county children services board appointed under 63450
section 5153.03 of the Revised Code that is a public children 63451
services agency may contract under division (C)(2)(a) of this 63452
section. If an entity specified in division (B) or (C) of section 63453
5153.02 of the Revised Code is the public children services agency 63454
for a county, the board of county commissioners may enter into 63455
contracts pursuant to section 307.982 of the Revised Code 63456
regarding the agency's duties. 63457

Sec. 5153.163. (A) As used in this section, "adoptive parent" 63458
means, as the context requires, a prospective adoptive parent or 63459
an adoptive parent. 63460

(B)(1) ~~If Before a child's adoption is finalized, a public 63461
children services agency considers a child with special needs 63462
residing in the county served by the agency to be in need of 63463
public care or protective services and all of the following apply, 63464
the agency shall enter into an agreement with the child's adoptive 63465
parent before the child is adopted under which the agency shall 63466
make state adoption maintenance subsidy payments as needed on 63467
behalf of the child when all of the following apply: 63468~~

(a) The child is a child with special needs. 63469

(b) The child was placed in the adoptive home by a public 63470
children services agency or a private child placing agency and may 63471
legally be adopted. 63472

(c) The adoptive parent has the capability of providing the 63473
permanent family relationships needed by the child in all areas 63474
except financial need as determined by the agency;. 63475

~~(b)(d) The needs of the child are beyond the economic 63476
resources of the adoptive parent as determined by the agency;.~~ 63477

~~(c) The agency determines the acceptance (e) Acceptance of 63478~~

the child as a member of the adoptive parent's family would not be 63479
in the child's best interest without payments on the child's 63480
behalf under this section. 63481

~~(2) Payments to an adoptive parent under division (B) of this 63482
section shall include medical, surgical, psychiatric, 63483
psychological, and counseling expenses, and may include 63484
maintenance costs if necessary and other costs incidental to the 63485
care of the child. No payment of maintenance costs shall be made 63486
under division (B) of this section on behalf of a child if either 63487
of the following apply: 63488~~

~~(a)(f) The gross income of the adoptive parent's family 63489
exceeds does not exceed one hundred twenty per cent of the median 63490
income of a family of the same size, including the child, as most 63491
recently determined for this state by the secretary of health and 63492
human services under Title XX of the "Social Security Act," 88 63493
Stat. 2337, 42 U.S.C.A. 1397, as amended. 63494~~

~~(b)(g) The child is not eligible for adoption assistance 63495
payments for maintenance costs under Title IV-E of the "Social 63496
Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as amended. 63497~~

(2) State adoption maintenance subsidy payment agreements 63498
must be made by either the public children services agency that 63499
has permanent custody of the child or the public children services 63500
agency of the county in which the private child placing agency 63501
that has permanent custody of the child is located. 63502

(3) State adoption maintenance subsidy payments shall be made 63503
in accordance with the agreement between the public children 63504
services agency and the adoptive parent and are subject to an 63505
annual redetermination of need. 63506

(4) Payments under this division (B) of this section may 63507
begin either before or after issuance of the final adoption 63508
decree, except that payments made before issuance of the final 63509

adoption decree may be made only while the child is living in the 63510
adoptive parent's home. Preadoption payments may be made for not 63511
more than twelve months, unless the final adoption decree is not 63512
issued within that time because of a delay in court proceedings. 63513
Payments that begin before issuance of the final adoption decree 63514
may continue after its issuance. 63515

(C)(1) If, after the child's adoption is finalized, a public 63516
children services agency considers a child residing in the county 63517
served by the agency to be in need of public care or protective 63518
services ~~and both of the following apply,~~ the agency may, ~~and~~ to 63519
the extent state funds are appropriated for this purpose ~~shall,~~ 63520
enter into an agreement with the child's adoptive parent ~~after the~~ 63521
~~child is adopted~~ under which the agency shall make post adoption 63522
special services subsidy payments on behalf of the child as needed 63523
when both of the following apply: 63524

~~(1)~~(a) The child has a physical or developmental handicap or 63525
mental or emotional condition that either: 63526

~~(a)~~(i) Existed before the adoption petition was filed; or 63527

~~(b)~~(ii) Developed after the adoption petition was filed and 63528
can be directly attributed to factors in the child's preadoption 63529
background, medical history, or biological family's background or 63530
medical history. 63531

~~(2)~~(b) The agency determines the expenses necessitated by the 63532
child's handicap or condition are beyond the adoptive parent's 63533
economic resources. 63534

~~Payments to an adoptive parent~~ (2) Services for which a 63535
public children services agency may make post adoption special 63536
services subsidy payments on behalf of a child under this division 63537
shall include medical, surgical, psychiatric, psychological, and 63538
counseling ~~expenses~~ services, including residential treatment. 63539

(3) The department of job and family services shall establish 63540

clinical standards to evaluate a child's physical or developmental 63541
handicap or mental or emotional condition and assess the child's 63542
need for services. 63543

(4) The total dollar value of post adoption special services 63544
subsidy payments made on a child's behalf shall not exceed ten 63545
thousand dollars in any fiscal year, unless the department 63546
determines that extraordinary circumstances exist that necessitate 63547
further funding of services for the child. Under such 63548
extraordinary circumstances, the value of the payments made on the 63549
child's behalf shall not exceed fifteen thousand dollars in any 63550
fiscal year. 63551

(5) The adoptive parent or parents of a child who receives 63552
post adoption special services subsidy payments shall pay at least 63553
five per cent of the total cost of all services provided to the 63554
child; except that a public children services agency may waive 63555
this requirement if the gross annual income of the child's 63556
adoptive family is not more than two hundred per cent of the 63557
federal poverty guideline. 63558

(6) A public children services agency may use other sources 63559
of revenue to make post adoption special services subsidy 63560
payments, in addition to any state funds appropriated for that 63561
purpose. 63562

(D) No payment shall be made under division (B) or (C) of 63563
this section on behalf of any person eighteen years of age or 63564
older beyond the end of the school year during which the person 63565
attains the age of eighteen or on behalf of a mentally or 63566
physically handicapped person twenty-one years of age or older. 63567
~~Payments under those divisions shall be made in accordance with~~ 63568
~~the terms of the agreement between the public children services~~ 63569
~~agency and the adoptive parent, subject to an annual~~ 63570
~~redetermination of need. The agency may use sources of funding in~~ 63571
~~addition to any state funds appropriated for the purposes of those~~ 63572

~~divisions.~~ 63573

(E) The director of job and family services shall adopt rules 63574
in accordance with Chapter 119. of the Revised Code that are 63575
needed to implement this section. The rules shall establish all of 63576
the following: 63577

(1) The application process for ~~payments~~ all forms of 63578
assistance provided under this section; 63579

(2) The method to determine the ~~amounts and kinds~~ amount of 63580
assistance payable under division (B) of this section; 63581

(3) The definition of "child with special needs" for this 63582
section; 63583

(4) The process whereby a child's continuing need for 63584
services provided under division (B) of this section is annually 63585
redetermined; 63586

(5) The method of determining the amount, duration, and scope 63587
of services provided to a child under division (C) of this 63588
section; 63589

(6) Any other rule, requirement, or procedure the department 63590
considers appropriate for the implementation of this section. 63591

~~The rules shall allow for payments for children placed by~~ 63592
~~nonpublic agencies.~~ 63593

~~(E)~~(F) The state adoption special services subsidy program 63594
ceases to exist on July 1, 2004, except that, subject to the 63595
findings of the annual redetermination process established under 63596
division (E) of this section and the child's individual need for 63597
services, a public children services agency may continue to 63598
provide state adoption special services subsidy payments on behalf 63599
of a child for whom payments were being made prior to July 1, 63600
2004. 63601

(G) No public children services agency shall, pursuant to 63602

either section 2151.353 or 5103.15 of the Revised Code, place or 63603
maintain a child with special needs who is in the permanent 63604
custody of an institution or association certified by the 63605
department of job and family services under section 5103.03 of the 63606
Revised Code in a setting other than with a person seeking to 63607
adopt the child, unless the agency has determined and redetermined 63608
at intervals of not more than six months the impossibility of 63609
adoption by a person listed pursuant to division (B), (C), or (D) 63610
of section 5103.154 of the Revised Code, including the 63611
impossibility of entering into a payment agreement with such a 63612
person. The agency so maintaining such a child shall report its 63613
reasons for doing so to the department of job and family services. 63614
~~No agency that fails to so determine, redetermine, and report 63615~~
~~shall receive more than fifty per cent of the state funds to which 63616~~
~~it would otherwise be eligible for that part of the fiscal year 63617~~
~~following placement under section 5101.14 of the Revised Code. 63618~~

The department may take any action permitted under section 63619
5101.24 of the Revised Code for an agency's failure to determine, 63620
redetermine, and report on a child's status. 63621

Sec. 5153.60. (A) The department of job and family services 63622
shall establish a statewide program that provides ~~the~~ all of the 63623
following: 63624

(1) The training section 5153.122 of the Revised Code 63625
requires public children services agency caseworkers and 63626
supervisors to complete. ~~The program may also provide the;~~ 63627

(2) The preplacement and continuing training described in 63628
sections 5103.034, 5103.039, 5103.0310, and 5103.0311 of the 63629
Revised Code that foster caregivers are required by sections 63630
5103.031, 5103.032, and 5103.033 of the Revised Code to obtain- 63631
The; 63632

(3) The education programs for adoption assessors required by 63633

section 3107.014 of the Revised Code. 63634

(B) The training described in division (A)(1) of this section shall be conducted in accordance with rules adopted by the department of job and family services under section 111.15 of the Revised Code and the training and programs described in divisions (A)(2) and (3) of this section shall be conducted in accordance with rules adopted under Chapter 119. of the Revised Code. 63635
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(C) The program established pursuant to division (A) of this section shall be called the "Ohio child welfare training program." 63641
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Sec. 5153.69. The training program steering committee shall monitor and evaluate the Ohio child welfare training program to ensure the following: 63643
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(A) That the Ohio child welfare training program is a competency-based training system that satisfies the training requirements for public children services agency caseworkers and supervisors under section 5153.122 of the Revised Code; 63646
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(B) That, ~~if~~ the Ohio child welfare training program provides preplacement or continuing training for foster caregivers, ~~it as~~ required by section 5153.60 of the Revised Code that meets the ~~same~~ requirements ~~that~~ preplacement training programs and continuing training programs must meet pursuant to section 5103.038 of the Revised Code to obtain approval by the department of job and family services, except that the Ohio child welfare training program is not required to obtain department approval. 63650
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Sec. 5153.72. Prior to the beginning of the fiscal biennium that first follows ~~the effective date of this section~~ October 5, 2000, the public children services agencies of Athens, Cuyahoga, Franklin, Greene, Guernsey, Hamilton, Lucas, and Summit counties shall each establish and maintain a regional training center. At any time after the beginning of that biennium, the department of 63658
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job and family services, on the recommendation of the training 63664
program steering committee, may direct a public children services 63665
agency to establish and maintain a training center to replace the 63666
center established by an agency under this section. There may be 63667
no more and no less than eight centers in existence at any time. 63668
The department may make a grant to a public children services 63669
agency that establishes and maintains a regional training center 63670
under this section for the purpose of wholly or partially 63671
subsidizing the operation of the center. 63672

Sec. 5153.78. (A) As used in this section: 63673

(1) "Title IV-B" means Title IV-B of the "Social Security Act 63674
of 1967," 81 Stat. 821, 42 U.S.C. 620, as amended. 63675

(2) "Title IV-E" means Title IV-E of the "Social Security 63676
Act," 94 Stat. 501, 42 U.S.C. 670(1980). 63677

(3) "Title XX" has the same meaning as in section 5101.46 of 63678
the Revised Code. 63679

(B) For purposes of adequately funding the Ohio child welfare 63680
training program, the department of job and family services may 63681
use any of the following: 63682

(1) The federal financial participation funds withheld 63683
pursuant to division ~~(D)~~ (E) of section 5101.141 of the Revised 63684
Code in an amount determined by the department; 63685

(2) Funds available under Title XX, Title IV-B, and Title 63686
IV-E to pay for training costs; 63687

(3) Other available state or federal funds. 63688

Sec. 5301.68. An owner of land may grant a conservation 63689
easement to the department of natural resources, a park district 63690
created under Chapter 1545. of the Revised Code, a township park 63691
district created under section 511.18 of the Revised Code, a 63692

conservancy district created under Chapter 6101. of the Revised 63693
Code, a soil and water conservation district created under Chapter 63694
1515. of the Revised Code, a county, a township, a municipal 63695
corporation, or a charitable organization that is authorized to 63696
hold conservation easements by division (B) of section 5301.69 of 63697
the Revised Code, in the form of articles of dedication, easement, 63698
covenant, restriction, or condition. An owner of land also may 63699
grant an agricultural easement to the director of agriculture; to 63700
a municipal corporation, county, ~~or township,~~ or soil and water 63701
conservation district; or to a charitable organization described 63702
in division (B) of section 5301.69 of the Revised Code. An owner 63703
of land may grant an agricultural easement only on land that is 63704
valued for purposes of real property taxation at its current value 63705
for agricultural use under section 5713.31 of the Revised Code or 63706
that constitutes a homestead when the easement is granted. 63707

All conservation easements and agricultural easements shall 63708
be executed and recorded in the same manner as other instruments 63709
conveying interests in land. 63710

Sec. 5301.691. (A)(1) Subject to divisions (A)(2) and ~~(E)~~(F) 63711
of this section, the director of agriculture, with moneys credited 63712
to the agricultural easement purchase fund created in section 63713
901.21 of the Revised Code, may purchase agricultural easements in 63714
the name of the state. 63715

(2) Not less than thirty days prior to the acquisition of an 63716
agricultural easement under division (A)(1) of this section or the 63717
extinguishment of such an easement purchased under that division, 63718
the director shall provide written notice of the intention to do 63719
so to the board of county commissioners of the county in which the 63720
land that is or is proposed to be subject to the easement or 63721
extinguishment is located, and either to the legislative authority 63722
of the municipal corporation in which the land is located, if it 63723

is located in an incorporated area, or to the board of township 63724
trustees of the township in which the land is located, if it is 63725
located in an unincorporated area. If, within thirty days after 63726
the director provides the notice, the board of county 63727
commissioners, legislative authority, or board of township 63728
trustees requests an informational meeting with the director 63729
regarding the proposed acquisition or extinguishment, the director 63730
shall meet with the legislative authority or board to respond to 63731
the board's or authority's questions and concerns. If a meeting is 63732
timely requested under division (A)(2) of this section, the 63733
director shall not undertake the proposed acquisition or 63734
extinguishment until after the meeting has been concluded. 63735

The director, upon the director's own initiative and prior to 63736
the purchase of an agricultural easement under division (A)(1) of 63737
this section or the extinguishment of such an easement, may hold 63738
an informational meeting with the board of county commissioners 63739
and the legislative authority of the municipal corporation or 63740
board of township trustees in which land that would be affected by 63741
the proposed acquisition or extinguishment is located, to respond 63742
to any questions and concerns of the board or authority regarding 63743
the proposed acquisition or extinguishment. 63744

(B)(1) Subject to division ~~(E)~~(F) of this section, the 63745
legislative authority of a municipal corporation, board of county 63746
commissioners of a county, or board of trustees of a township, 63747
with moneys in the political subdivision's general fund not 63748
required by law or charter to be used for other specified purposes 63749
or with moneys in a special fund of the political subdivision to 63750
be used for the purchase of agricultural easements, may purchase 63751
agricultural easements in the name of the municipal corporation, 63752
county, or township. 63753

(2) Subject to division ~~(E)~~(F) of this section, the 63754
legislative authority of a municipal corporation, board of county 63755

commissioners of a county, or board of township trustees of a township may acquire agricultural easements by gift, devise, or bequest. Any terms may be included in an agricultural easement so acquired that are necessary or appropriate to preserve on behalf of the grantor of the easement the favorable tax consequences of the gift, devise, or bequest under the "Internal Revenue Act of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(C)(1) Subject to division (F) of this section, the board of supervisors of a soil and water conservation district, with moneys in any fund not required by law to be used for other specified purposes or with moneys provided to the board through matching grants made under section 901.22 of the Revised Code for the purchase of agricultural easements, may purchase agricultural easements in the name of the board.

(2) Subject to division (F) of this section, the board of supervisors of a soil and water conservation district may acquire agricultural easements by gift, devise, or bequest. Any terms may be included in an agricultural easement so acquired that are necessary or appropriate to preserve on behalf of the grantor of the easement the favorable tax consequences of the gift, devise, or bequest under the "Internal Revenue Act of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(D)(1) The term of an agricultural easement purchased wholly or in part with money from the agricultural easement purchase fund shall be perpetual and shall run with the land.

(2) The term of an agricultural easement purchased by ~~such a~~ the legislative authority of a municipal corporation, board of county commissioners of a county, board of township trustees of a township, or board of supervisors of a soil and water conservation district without the use of any money from the agricultural easement purchase fund may be perpetual or for a specified period. The agricultural easement shall run with the land. The instrument

conveying an agricultural easement for a specified period shall 63788
include provisions specifying, at a minimum, all of the following: 63789

(a) The consideration to be paid for the easement and manner 63790
of payment; 63791

(b) Whether the easement is renewable and, if so, procedures 63792
for its renewal; 63793

(c) The circumstances under which the easement may be 63794
extinguished; 63795

(d) The method for determining the amount of money, if any, 63796
due the holder of the easement upon extinguishment and for payment 63797
of that amount to the holder. 63798

~~(D)~~(E)(1) The director and each legislative authority of a 63799
municipal corporation, board of county commissioners, ~~or~~ board of 63800
township trustees, or board of supervisors of a soil and water 63801
conservation district, upon acquiring an agricultural easement by 63802
purchase, gift, devise, or bequest under this section or section 63803
901.21 of the Revised Code, shall name an appropriate 63804
administrative officer, department, or division to supervise and 63805
enforce the easement. A legislative authority ~~or~~ of a municipal 63806
corporation, board of county commissioners, or board of township 63807
trustees may enter into a contract with the board of park 63808
commissioners of a park district established under Chapter 1545. 63809
of the Revised Code, the board of park commissioners of a township 63810
park district established under section 511.18 of the Revised 63811
Code, or the board of supervisors of a soil and water conservation 63812
district ~~established under Chapter 1515. of the Revised Code~~ 63813
having territorial jurisdiction within the municipal corporation, 63814
county, or township, or with a charitable organization described 63815
in division (B) of section 5301.69 of the Revised Code, to 63816
supervise on behalf of the legislative authority or board an 63817
agricultural easement so acquired. A board of supervisors of a 63818

soil and water conservation district may enter into a contract 63819
with the board of park commissioners of a park district 63820
established under Chapter 1545. of the Revised Code or the board 63821
of park commissioners of a township park district established 63822
under section 511.18 of the Revised Code having territorial 63823
jurisdiction within the soil and water conservation district, or 63824
with a charitable organization described in division (B) of 63825
section 5301.69 of the Revised Code, to supervise on behalf of the 63826
board an agricultural easement so acquired. The contract may be 63827
entered into on such terms as are agreeable to the parties and 63828
shall specify or prescribe a method for determining the amounts of 63829
any payments to be made by the legislative authority ~~or~~, board of 63830
county commissioners ~~or~~, board of township trustees, or board of 63831
supervisors for the performance of the contract. 63832

(2) With respect to an agricultural easement purchased with a 63833
matching grant that is made under division (D) of section 901.22 63834
of the Revised Code and that consists in whole or in part of 63835
moneys from the clean Ohio agricultural easement fund created in 63836
section 901.21 of the Revised Code, the recipient of the matching 63837
grant shall make an annual monitoring visit to the land that is 63838
the subject of the easement. The purpose of the visit is to ensure 63839
that no development that is prohibited by the terms of the 63840
easement has occurred or is occurring. In accordance with rules 63841
adopted under division (A)(1)(d) of section 901.22 of the Revised 63842
Code, the grant recipient shall prepare a written annual 63843
monitoring report and submit it to the office of farmland 63844
preservation in the department of agriculture. If necessary to 63845
enforce the terms of the easement, the grant recipient shall take 63846
corrective action in accordance with those rules. The director may 63847
agree to share these monitoring and enforcement responsibilities 63848
with the grant recipient. 63849

~~(E)~~(F) The director; a municipal corporation, county, ~~or~~ 63850

township, or soil and water conservation district; or a charitable organization ~~described in division (B) of section 5301.69 of the Revised Code~~, may acquire agricultural easements by purchase, gift, devise, or bequest only on land that is valued for purposes of real property taxation at its current value for agricultural use under section 5713.31 of the Revised Code or that constitutes a homestead when the easement is granted.

~~(F)~~(G) An agricultural easement acquired by the director under division (A) of this section may be extinguished if an unexpected change in the conditions of or surrounding the land that is subject to the easement makes impossible or impractical the continued use of the land for the purposes described in the agricultural easement, or if the requirements of the easement are extinguished by judicial proceedings. Upon the sale, exchange, or involuntary conversion of the land subject to the easement, the director shall be paid an amount of money that is at least equal to the proportionate value of the easement compared to the total value of the land at the time the easement was acquired. Moneys so received shall be credited to the agricultural easement purchase fund.

An agricultural easement acquired by a municipal corporation, county, or township under division (B) of this section or by a soil and water conservation district under division (C) of this section may be extinguished under the circumstances prescribed, and in accordance with the terms and conditions set forth, in the instrument conveying the agricultural easement. An agricultural easement acquired by a charitable organization described in division (B) of section 5301.69 of the Revised Code may be extinguished under the circumstances prescribed, and in accordance with the terms and conditions set forth, in the instrument conveying the agricultural easement.

Any instrument extinguishing an agricultural easement shall

be executed and recorded in the same manner as other instruments 63883
conveying or terminating interests in real property. 63884

~~(G)~~(H) Promptly after the recording and indexing of an 63885
instrument conveying an agricultural easement to any person or to 63886
a municipal corporation, county, ~~or~~ township, or soil and water 63887
conservation district or of an instrument extinguishing an 63888
agricultural easement held by any person or such a political 63889
subdivision, the county recorder shall mail, by regular mail, a 63890
photocopy of the instrument to the office of farmland preservation 63891
in the department of agriculture. The photocopy shall be 63892
accompanied by an invoice for the applicable fee established in 63893
section 317.32 of the Revised Code. Promptly after receiving the 63894
photocopy and invoice, the office of farmland preservation shall 63895
remit the fee to the county recorder. 63896

~~(H)~~(I) The director, the legislative authority of a municipal 63897
corporation, a board of county commissioners, ~~or~~ a board of 63898
township trustees, or a board of supervisors of a soil and water 63899
conservation district may receive and expend grants from any 63900
public or private source for the purpose of purchasing 63901
agricultural easements and supervising and enforcing them. 63902

Sec. 5310.15. On filing an application for registration, the 63903
applicant shall pay to the clerk of the probate court or the clerk 63904
of the court of common pleas ten dollars, which is full payment 63905
for all clerk's fees and charges in such proceeding on behalf of 63906
the applicant. Any defendant, except a guardian ad litem, on 63907
entering ~~his~~ an appearance by filing a pleading of any kind, shall 63908
pay to the clerk five dollars, which is full payment for all 63909
clerk's fees on behalf of such defendant. When any number of 63910
defendants enter their appearance at the same time in one pleading 63911
by filing a pleading of any kind, one fee shall be paid. 63912

Every required publication in a newspaper shall be paid for 63913

by the party on whose application the order of publication is 63914
made, in addition to the fees prescribed in the first paragraph of 63915
this section. The party at whose request, or on whose behalf, any 63916
notice is issued, shall pay for the service of such notice except 63917
when such notice is sent by mail by the clerk or the county 63918
recorder. 63919

Examiners of titles shall receive for examining title or 63920
original reference, and making report on all matters arising under 63921
the application, including final certificate as to all necessary 63922
parties being made and properly brought before the probate court 63923
or the court of common pleas, and as to the proceedings being 63924
regular and legal, one half of one per cent of the appraised tax 63925
value, the fee in no case to be less than seventy-five or more 63926
than two hundred fifty dollars, for each separate and distinct 63927
parcel of land included in the application although made up of 63928
more than one tract. 63929

Upon a reference to an examiner of titles or to any other 63930
person upon a hearing to take evidence and make report to the 63931
court, the fee of the referee shall be fixed by the court at not 63932
more than fifteen dollars per day for the time actually employed. 63933

For a certificate of an examiner of titles that all necessary 63934
parties are before the court, and the proceedings are regular and 63935
legal in a suit for partition, foreclosure of mortgage, 63936
marshalling of liens, or other suit or proceeding affecting the 63937
title of any interest in, or lien or charge upon registered lands, 63938
the fees shall be fixed by the court, and shall not be more than 63939
twenty-five dollars for each separate and distinct parcel of land 63940
included in the petition or application although such parcel is 63941
made up of more than one tract. 63942

Guardians for the suit in original registration shall receive 63943
three dollars when there is no contest in which the guardian 63944
participates. In other cases such guardians shall receive such 63945

fees as the court fixes, but not more than twenty-five dollars. 63946

For certifying pending suits, judgments, liens, attachments, 63947
executions, or levies, the officers certifying them to the 63948
recorder shall receive a fee of twenty-five cents to be paid by 63949
the party interested and taxed in the costs of the case. 63950

For serving summons, notice, or other paper provided for in 63951
sections 5309.02 to 5310.21 of the Revised Code, the sheriff or 63952
other officer shall receive the same fees as in other similar 63953
cases. 63954

The recorder shall receive the following fees, to include 63955
base fees for services and housing trust fund fees pursuant to 63956
section 317.36 of the Revised Code: 63957

(A) For original registration of title, issuing duplicate 63958
certificate, entering memorials and memorandums, as directed by 63959
the decree, and indexing it, a base fee of thirty dollars and a 63960
housing trust fund fee of thirty dollars; 63961

(B) For examining and registering each transfer of registered 63962
land, including the filing of all papers therewith, entering 63963
memorials, issuing new duplicate certificate of title and indexing 63964
it, a base fee of thirty dollars and a housing trust fund fee of 63965
thirty dollars for the first distinct body or parcel of land 63966
contained in such certificate, and a base fee of two dollars and a 63967
housing trust fund fee of two dollars for each additional distinct 63968
body or parcel of land contained in such certificate; 63969

(C) For filing, examining, and entering a memorial of each 63970
mortgage or lease, upon registered land, and indexing it, for each 63971
separately registered parcel, a base fee of ten dollars and a 63972
housing trust fund fee of ten dollars; 63973

(D) For filing, examining, and entering a memorial of each 63974
lien, charge, or demand upon registered land, and indexing it, for 63975
each separately registered parcel of land, a base fee of five 63976

dollars and a housing trust fund fee of five dollars; 63977

(E) For cancellation of any memorial or memorandum, a base fee of five dollars and a housing trust fund fee of five dollars; 63978
for entry of change of address, or notice of dower, for each 63979
separately registered parcel, a base fee of five dollars and a housing trust fund fee of five dollars; 63980
63981
63982

(F) For each certified copy of a registered certificate, or 63983
issuing a mortgagee's duplicate certificate, or issuing a new 63984
owner's duplicate certificate to replace one which has been lost 63985
or destroyed, a base fee of fifteen dollars and a housing trust fund fee of fifteen dollars; 63986
63987

(G) For filing, examining, and entering a memorial of each 63988
release, assignment, or waiver of priority of a mortgage, lease, 63989
lien, charge, or demand upon registered land and indexing it, for 63990
each separately registered parcel, a base fee of five dollars and a housing trust fund fee of five dollars; 63991
63992

(H) For filing, examining, and entering a memorial of each 63993
official certificate of pending suit, judgment, lien, attachment, 63994
execution, or levy, upon registered land and indexing it, for each 63995
separately registered parcel, a base fee of five dollars and a housing trust fund fee of five dollars; 63996
63997

(I) For continuing an owner's duplicate certificate, or 63998
mortgagee's duplicate certificate and entering and certifying 63999
memorials and notations thereon, a base fee of five dollars and a housing trust fund fee of five dollars; 64000
64001

(J) For certificate as to taxes and special assessments, for 64002
each separately registered parcel, a base fee of ten dollars and a housing trust fund fee of ten dollars; 64003
64004

(K) For filing, recording, and indexing any papers or 64005
instruments other than those provided in this section, any 64006
certified copy of record, or of any instrument on file in ~~his~~ the 64007

recorder's office, the same fees allowed by law for like services; 64008

(L) For issuing subpoenas and notices and swearing witnesses, 64009
the same fees allowed the clerk for like services. 64010

Costs as provided in this section may be taxed and by the 64011
court ordered to be paid by the parties in such manner as is just. 64012

Sec. 5502.01. (A) The department of public safety shall 64013
administer and enforce the laws relating to the registration, 64014
licensing, sale, and operation of motor vehicles and the laws 64015
pertaining to the licensing of drivers of motor vehicles. 64016

The department shall compile, analyze, and publish statistics 64017
relative to motor vehicle accidents and the causes of them, 64018
prepare and conduct educational programs for the purpose of 64019
promoting safety in the operation of motor vehicles on the 64020
highways, and conduct research and studies for the purpose of 64021
promoting safety on the highways of this state. 64022

(B) The department shall administer the laws and rules 64023
relative to trauma and emergency medical services specified in 64024
Chapter 4765. of the Revised Code. 64025

(C) The department shall administer and enforce the laws 64026
contained in Chapters 4301. and 4303. of the Revised Code and 64027
enforce the rules and orders of the liquor control commission 64028
pertaining to retail liquor permit holders. 64029

(D) The department shall administer the laws governing the 64030
state emergency management agency and shall enforce all additional 64031
duties and responsibilities as prescribed in the Revised Code 64032
related to emergency management services. 64033

(E) The department shall conduct investigations pursuant to 64034
Chapter 5101. of the Revised Code in support of the duty of the 64035
department of job and family services to administer food stamp 64036
programs throughout this state. The department of public safety 64037

shall conduct investigations necessary to protect the state's 64038
property rights and interests in the food stamp program. 64039

(F) The department of public safety shall enforce compliance 64040
with orders and rules of the public utilities commission and 64041
applicable laws in accordance with Chapters 4919., 4921., and 64042
4923. of the Revised Code regarding commercial motor vehicle 64043
transportation safety, economic, and hazardous materials 64044
requirements. 64045

(G) Notwithstanding Chapter 4117. of the Revised Code, the 64046
department of public safety may establish requirements for its 64047
enforcement personnel, including its enforcement agents described 64048
in section 5502.14 of the Revised Code, that include standards of 64049
conduct, work rules and procedures, and criteria for eligibility 64050
as law enforcement personnel. 64051

(H) The department shall administer, maintain, and operate 64052
the Ohio criminal justice network. The Ohio criminal justice 64053
network shall be a computer network that supports state and local 64054
criminal justice activities. The network shall be an electronic 64055
repository for various data, which may include arrest warrants, 64056
notices of persons wanted by law enforcement agencies, criminal 64057
records, prison inmate records, stolen vehicle records, vehicle 64058
operator's licenses, and vehicle registrations and titles. 64059

(I) The department shall coordinate all homeland security 64060
activities of all state agencies and shall be a liaison between 64061
state agencies and local entities for those activities and related 64062
purposes. 64063

(J) Beginning January 1, 2004, the department shall 64064
administer the laws and rules relative to private investigators 64065
and security guard providers specified in Chapter 4749. of the 64066
Revised Code. 64067

(K) There is hereby created in the department of public 64068

safety the division of the state fire marshal, which shall 64069
administer and enforce Chapters 3731. and 3743. of the Revised 64070
Code and any other law conferring powers or imposing duties upon 64071
the state fire marshal. 64072

Sec. 5502.03. (A) There is hereby created in the department 64073
of public safety a division of homeland security. It is the intent 64074
of the general assembly that the creation of the division of 64075
homeland security of the department of public safety by this 64076
amendment does not result in an increase of funding appropriated 64077
to the department. 64078

(B)(1) The division shall coordinate all homeland security 64079
activities of all state agencies and shall be the liaison between 64080
state agencies and local entities for the purposes of 64081
communicating homeland security funding and policy initiatives. 64082

(2) The division shall be in charge of the systems operations 64083
of the multi-agency radio communications system (MARCS) in 64084
accordance with any rules that the director of public safety may 64085
adopt. The director shall appoint a steering committee to advise 64086
the director in the operation of the MARCS, comprised of persons 64087
who represent the users of that system. The director or the 64088
director's designee shall chair the committee. 64089

(C) The director of public safety shall appoint an executive 64090
director, who shall be head of the division of homeland security 64091
and who regularly shall advise the governor and the director on 64092
matters pertaining to homeland security. The executive director 64093
shall serve at the pleasure of the director of public safety. To 64094
carry out the duties assigned under this section, the executive 64095
director, subject to the direction and control of the director of 64096
public safety, may appoint and maintain necessary staff and may 64097
enter into any necessary agreements. 64098

(D) Except as otherwise provided by law, nothing in this 64099

section shall be construed to give the director of public safety 64100
or the executive director of the division of homeland security 64101
authority over the incident management structure or 64102
responsibilities of local emergency response personnel. 64103

Sec. 5502.13. The department of public safety shall maintain 64104
an investigative unit in order to conduct investigations and other 64105
enforcement activity authorized by Chapters 4301., 4303., 5101., 64106
5107., ~~and 5108.,~~ and 5115. and sections 2903.12, 2903.13, 64107
2903.14, 2907.09, 2913.46, 2917.11, 2921.13, 2921.31, 2921.32, 64108
2921.33, 2923.12, 2923.121, 2925.11, 2925.13, 2927.02, and 64109
4507.30, ~~and 5115.03~~ of the Revised Code. The director of public 64110
safety shall appoint the employees of the unit who are necessary, 64111
designate the activities to be performed by those employees, and 64112
prescribe their titles and duties. 64113

Sec. 5549.21. The board of township trustees may purchase or 64114
lease such machinery and tools as are necessary for use in 64115
constructing, reconstructing, maintaining, and repairing roads and 64116
culverts within the township, and shall provide suitable places 64117
for housing and storing machinery and tools owned by the township. 64118
It may purchase such material and employ such labor as is 64119
necessary for carrying into effect this section, or it may 64120
authorize the purchase or employment of such material and labor by 64121
one of its number, or by the township highway superintendent, at a 64122
price to be fixed by the board. All payments on account of 64123
machinery, tools, material, and labor shall be made from the 64124
township road fund. Except as otherwise provided in sections 64125
505.08, 505.101, and 5513.01 of the Revised Code, all purchases of 64126
materials, machinery, and tools shall, ~~where~~ if the amount 64127
involved exceeds ~~fifteen~~ twenty-five thousand dollars, be made 64128
from the lowest responsible bidder after advertisement, as 64129
provided in section 5575.01 of the Revised Code. ~~where~~ 64130

If, in compliance with section 505.10 of the Revised Code, 64131
the board wishes to sell machinery, equipment, or tools owned by 64132
the township to the person from whom it is to purchase other 64133
machinery, equipment, or tools, the board may offer, ~~where if~~ the 64134
amount of the purchase alone involved does not exceed ~~fifteen~~ 64135
twenty-five thousand dollars, to sell such machinery, equipment, 64136
or tools and have the amount credited by the vendor against the 64137
purchase of the other machinery, equipment, or tools. ~~Where~~ If the 64138
purchase price of the other machinery, equipment, or tools alone 64139
exceeds ~~fifteen~~ twenty-five thousand dollars, the board may give 64140
notice to the competitive bidders of its willingness to accept 64141
offers for the purchase of the old machinery, equipment, or tools, 64142
and ~~such~~ those offers shall be subtracted from the selling price 64143
of the other machinery, equipment, or tools as bid, in determining 64144
the lowest responsible bidder. Notice of the willingness of the 64145
board to accept offers for the purchase of the old machinery, 64146
equipment, or tools shall be made as a part of the advertisement 64147
for bids. 64148

Sec. 5703.052. (A) There is hereby created in the state 64149
treasury the tax refund fund, from which refunds shall be paid for 64150
taxes illegally or erroneously assessed or collected, or for any 64151
other reason overpaid, that are levied by Chapter 4301., 4305., 64152
5728., 5729., 5733., 5735., 5739., 5741., 5743., 5747., 5748., 64153
5749., or 5753., and sections 3737.71, 3905.35, 3905.36, 4303.33, 64154
5707.03, 5725.18, 5727.28, 5727.38, 5727.81, and 5727.811 of the 64155
Revised Code. Refunds for fees illegally or erroneously assessed 64156
or collected, or for any other reason overpaid, that are levied by 64157
sections 3734.90 to 3734.9014 of the Revised Code also shall be 64158
paid from the fund. However, refunds for taxes levied under 64159
section 5739.101 of the Revised Code shall not be paid from the 64160
tax refund fund, but shall be paid as provided in section 5739.104 64161
of the Revised Code. 64162

(B)(1) Upon certification by the tax commissioner to the 64163
treasurer of state of a tax refund, ~~or~~ fee refund, ~~or tax credit~~ 64164
~~due~~, or by the superintendent of insurance of a domestic or 64165
foreign insurance tax refund, the treasurer of state ~~may~~ shall 64166
place the amount certified to the credit of the fund. The 64167
certified amount transferred shall be derived from current 64168
receipts of the same tax or the fee ~~for~~ from which the refund 64169
arose ~~or, in the case of a tax credit refund, from the current~~ 64170
~~receipts of the taxes levied by sections 5739.02 and 5741.02 of~~ 64171
~~the Revised Code. If~~ 64172

~~If the tax refund arises from a tax payable to the general~~ 64173
~~revenue fund, and current receipts from that source~~ the tax or fee 64174
from which the refund arose are inadequate to make the transfer of 64175
the amount so certified, the treasurer of state ~~may~~ shall transfer 64176
such certified amount from current receipts of the sales tax 64177
levied by section 5739.02 of the Revised Code. 64178

(2) When the treasurer of state provides for the payment of a 64179
refund of a tax or fee from the current receipts of the sales tax, 64180
and the refund is for a tax or fee that is not levied by the 64181
state, the tax commissioner shall recover the amount of that 64182
refund from the next distribution of that tax or fee that 64183
otherwise would be made to the taxing jurisdiction. If the amount 64184
to be recovered would exceed twenty-five per cent of the next 64185
distribution of that tax or fee, the commissioner may spread the 64186
recovery over more than one future distribution, taking into 64187
account the amount to be recovered and the amount of the 64188
anticipated future distributions. In no event may the commissioner 64189
spread the recovery over a period to exceed twenty-four months. 64190

Sec. 5703.56. (A) As used in this section: 64191

(1) "Sham transaction" means a transaction or series of 64192
transactions without economic substance because there is no 64193

business purpose or expectation of profit other than obtaining tax 64194
benefits. 64195

(2) "Tax" includes any tax or fee administered by the tax 64196
commissioner. 64197

(3) "Taxpayer" includes any entity subject to a tax. 64198

(4) "Controlled group" means two or more persons related in 64199
such a way that one person directly or indirectly owns or controls 64200
the business operation of another member of the group. In the case 64201
of persons with stock or other equity, one person owns or controls 64202
another if it directly or indirectly owns more than fifty per cent 64203
of the other person's common stock with voting rights or other 64204
equity with voting rights. 64205

(B) The tax commissioner may disregard any sham transaction 64206
in ascertaining any taxpayer's tax liability. Except as otherwise 64207
provided in the Revised Code, with respect to transactions between 64208
members of a controlled group, the taxpayer shall bear the burden 64209
of establishing by a preponderance of the evidence that a 64210
transaction or series of transactions between the taxpayer and one 64211
or more members of the controlled group was not a sham 64212
transaction. Except as otherwise provided in the Revised Code, for 64213
all other taxpayers, the tax commissioner shall bear the burden of 64214
establishing by a preponderance of the evidence that a transaction 64215
or series of transactions was a sham transaction. 64216

(C) In administering any tax, the tax commissioner may apply 64217
the doctrines of "economic reality," "substance over form," and 64218
"step transaction." 64219

(D) If the commissioner disregards a sham transaction under 64220
division (B) of this section, the applicable limitation period for 64221
assessing the tax, together with applicable penalties, charges, 64222
and interest, shall be extended for a period equal to the 64223
applicable limitation period. Nothing in this division shall be 64224

construed as extending an applicable limitation period for 64225
claiming any refund of a tax. 64226

(E) The tax commissioner may, in accordance with Chapter 119. 64227
of the Revised Code, adopt rules that are necessary to administer 64228
this section, including rules establishing criteria for 64229
identifying sham transactions. 64230

Sec. 5703.57. (A) As used in this section, "Ohio business 64231
gateway" has the same meaning as in section 718.051 of the Revised 64232
Code. 64233

(B) There is hereby created the Ohio business gateway 64234
steering committee to direct the continuing development of the 64235
Ohio business gateway and to oversee its operations. The committee 64236
shall provide general oversight regarding operation of the Ohio 64237
business gateway and shall recommend to the department of 64238
administrative services enhancements that will improve the Ohio 64239
business gateway. The committee shall consider all banking, 64240
technological, administrative, and other issues associated with 64241
the Ohio business gateway and shall make recommendations regarding 64242
the type of reporting forms or other tax documents to be filed 64243
through the Ohio business gateway. 64244

(C) The committee shall consist of: 64245

(1) The following members, appointed by the governor with the 64246
advice and consent of the senate: 64247

(a) Not more than two representatives of the business 64248
community; 64249

(b) Not more than three representatives of municipal tax 64250
administrators; and 64251

(c) Not more than two tax practitioners. 64252

(2) The following ex officio members: 64253

(a) The director or other highest officer of each state agency that has tax reporting forms or other tax documents filed with it through the Ohio business gateway or the director's designee; 64254
64255
64256
64257

(b) The secretary of state or the secretary of state's designee; 64258
64259

(c) The treasurer of state or the treasurer of state's designee; 64260
64261

(d) The director of budget and management or the director's designee; 64262
64263

(e) The director of administrative services or the director's designee; and 64264
64265

(f) The tax commissioner or the tax commissioner's designee. 64266

An appointed member shall serve until the member resigns or is removed by the governor. Vacancies shall be filled in the same manner as original appointments. 64267
64268
64269

(D) A vacancy on the committee does not impair the right of the other members to exercise all the functions of the committee. The presence of a majority of the members of the committee constitutes a quorum for the conduct of business of the committee. The concurrence of at least a majority of the members of the committee is necessary for any action to be taken by the committee. On request, each member of the committee shall be reimbursed for the actual and necessary expenses incurred in the discharge of the member's duties. 64270
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(E) The board is a part of the department of taxation for administrative purposes. 64279
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(F) Each year, the governor shall select a member of the committee to serve as chairperson. The chairperson shall appoint an official or employee of the department of taxation to act as 64281
64282
64283

the committee's secretary. The secretary shall keep minutes of the 64284
committee's meetings and a journal of all meetings, proceedings, 64285
findings, and determinations of the committee. 64286

(G) The board shall hire professional, technical, and 64287
clerical staff needed to support its activities. 64288

(H) The committee shall meet as often as necessary to perform 64289
its duties. 64290

Sec. 5703.58. (A) As used in this section, "felony" has the 64291
same meaning as in section 109.511 of the Revised Code. 64292

(B) For the purposes of enforcing all laws relating to taxes 64293
and fees that the tax commissioner is responsible for 64294
administering, the tax commissioner, by journal entry, may 64295
delegate any investigation powers of the commissioner to an 64296
employee of the department of taxation who has been certified by 64297
the executive director of the Ohio peace officer training 64298
commission. Each journal entry shall be a matter of public record 64299
and shall be kept in an administrative portion of the journal 64300
maintained under division (L) of section 5703.05 of the Revised 64301
Code. When that journal entry is completed, the employee to whom 64302
it pertains, while engaged within the scope of the employee's 64303
duties in enforcing the laws that the commissioner is responsible 64304
for administering, has the power of a police officer to carry 64305
concealed weapons, make arrests, and obtain warrants for 64306
violations of those laws. The commissioner, at any time, may 64307
suspend or revoke the commissioner's delegation by journal entry. 64308

(C) The tax commissioner shall not delegate any investigation 64309
powers to an employee of the department of taxation under division 64310
(B) of this section if the employee has been convicted of or has 64311
pleaded guilty to a felony. 64312

(D)(1) The tax commissioner shall revoke the delegation of 64313

investigation powers to an employee to whom the delegation was 64314
made under division (B) of this section if that employee does 64315
either of the following: 64316

(a) Pleads guilty to a felony; 64317

(b) Pleads guilty to a misdemeanor pursuant to a negotiated 64318
plea agreement, as provided in division (D) of section 2929.29 of 64319
the Revised Code, in which the employee agrees under section 64320
109.77 of the Revised Code to surrender the certificate awarded to 64321
that employee. 64322

(2) The tax commissioner shall suspend the delegation of 64323
investigation powers to an employee to whom the delegation was 64324
made under division (B) of this section if that employee is 64325
convicted, after trial, of a felony. If the employee files an 64326
appeal from that conviction and the conviction is upheld by the 64327
highest court to which the appeal is taken, or if the employee 64328
does not file a timely appeal, the commissioner shall revoke the 64329
delegation of investigation powers to that employee. If the 64330
employee files an appeal that results in that employee's acquittal 64331
of the felony or conviction of a misdemeanor, or in the dismissal 64332
of the felony charge against that employee, the commissioner shall 64333
reinstate the delegation of investigation powers to that employee. 64334
The revocation, suspension, or reinstatement of the delegation of 64335
investigation powers to an employee under division (D) of this 64336
section shall be made by journal entry pursuant to division (B) of 64337
this section. An employee to whom the delegation of investigation 64338
powers is reinstated under division (D)(2) of this section shall 64339
not receive any back pay for the exercise of those investigation 64340
powers, unless that employee's conviction of the felony was 64341
reversed on appeal, or the felony charge was dismissed, because 64342
the court found insufficient evidence to convict the employee of 64343
the felony. 64344

(3) The revocation or suspension of the delegation of 64345

investigation powers to an employee under division (D) of this 64346
section shall be in accordance with Chapter 119. of the Revised 64347
Code. 64348

(E) Divisions (C) and (D) of this section do not apply to an 64349
offense that was committed prior to January 1, 1997. 64350

(F) Nothing in this section limits the tax commissioner's 64351
ability to have other employees of the department of taxation 64352
conduct investigations as authorized by sections 5703.17 and 64353
5703.19 of the Revised Code. 64354

(G) The department of taxation shall cooperate with the 64355
attorney general, local law enforcement officials, and appropriate 64356
agencies of the federal government and other states in the 64357
investigation and prosecution of violations of all laws relating 64358
to taxes and fees administered by the tax commissioner. 64359

Sec. 5703.80. There is hereby created in the state treasury 64360
the property tax administration fund. All money to the credit of 64361
the fund shall be used to defray the costs incurred by the 64362
department of taxation in administering the taxation of property 64363
and the equalization of real property valuation. 64364

Each fiscal year between the first and fifteenth days of 64365
July, the tax commissioner shall compute the following amounts for 64366
the property in each taxing district in each county, and certify 64367
to the director of budget and management the sum of those amounts 64368
for all taxing districts in all counties: 64369

(A) Three-tenths of one per cent of the total amount by which 64370
taxes charged against real property on the general tax list of 64371
real and public utility property were reduced under section 64372
319.302 of the Revised Code for the preceding tax year; 64373

(B) Fifteen-hundredths of one per cent of the total amount of 64374
taxes charged and payable against public utility personal property 64375

on the general tax list of real and public utility property for 64376
the preceding tax year; 64377

(C) Seventy-five hundredths of one per cent of the total 64378
amount of taxes charged and payable against tangible personal 64379
property on the general tax list of personal property of the 64380
preceding tax year and for which returns were filed with the tax 64381
commissioner under section 5711.13 of the Revised Code. 64382

After receiving the tax commissioner's certification, the 64383
director of budget and management shall transfer from the general 64384
revenue fund to the property tax administration fund one-fourth of 64385
the amount certified on or before each of the following days: the 64386
first days of August, November, February, and May. 64387

On or before the thirtieth day of June of the fiscal year, 64388
the tax commissioner shall certify to the director of budget and 64389
management the sum of the amounts by which the amounts computed 64390
for a taxing district under divisions (A), (B), and (C) of this 64391
section exceeded the distributions to the taxing district under 64392
division (F) of section 321.24 of the Revised Code, and the 64393
director shall transfer that sum from the property tax 64394
administration fund to the general revenue fund. 64395

Sec. 5705.39. The total appropriations from each fund shall 64396
not exceed the total of the estimated revenue available for 64397
expenditure therefrom, as certified by the budget commission, or 64398
in case of appeal, by the board of tax appeals. No appropriation 64399
measure shall become effective until the county auditor files with 64400
the appropriating authority ~~and in the case of a school district,~~ 64401
~~also files with the superintendent of public instruction,~~ a 64402
certificate that the total appropriations from each fund, taken 64403
together with all other outstanding appropriations, do not exceed 64404
such official estimate or amended official estimate. When the 64405
appropriation does not exceed such official estimate, the county 64406

auditor shall give such certificate forthwith upon receiving from 64407
the appropriating authority a certified copy of the appropriation 64408
measure, ~~a copy of which he shall deliver to the superintendent of~~ 64409
~~public instruction in the case of a school district.~~ 64410
Appropriations shall be made from each fund only for the purposes 64411
for which such fund is established. 64412

Sec. 5705.41. No subdivision or taxing unit shall: 64413

(A) Make any appropriation of money except as provided in 64414
Chapter 5705. of the Revised Code; provided, that the 64415
authorization of a bond issue shall be deemed to be an 64416
appropriation of the proceeds of the bond issue for the purpose 64417
for which such bonds were issued, but no expenditure shall be made 64418
from any bond fund until first authorized by the taxing authority; 64419

(B) Make any expenditure of money unless it has been 64420
appropriated as provided in such chapter; 64421

(C) Make any expenditure of money except by a proper warrant 64422
drawn against an appropriate fund; 64423

(D)(1) Except as otherwise provided in division (D)(2) of 64424
this section and section 5705.44 of the Revised Code, make any 64425
contract or give any order involving the expenditure of money 64426
unless there is attached thereto a certificate of the fiscal 64427
officer of the subdivision that the amount required to meet the 64428
obligation or, in the case of a continuing contract to be 64429
performed in whole or in part in an ensuing fiscal year, the 64430
amount required to meet the obligation in the fiscal year in which 64431
the contract is made, has been lawfully appropriated for such 64432
purpose and is in the treasury or in process of collection to the 64433
credit of an appropriate fund free from any previous encumbrances. 64434
This certificate need be signed only by the subdivision's fiscal 64435
officer. Every such contract made without such a certificate shall 64436
be void, and no warrant shall be issued in payment of any amount 64437

due thereon. If no certificate is furnished as required, upon 64438
receipt by the taxing authority of the subdivision or taxing unit 64439
of a certificate of the fiscal officer stating that there was at 64440
the time of the making of such contract or order and at the time 64441
of the execution of such certificate a sufficient sum appropriated 64442
for the purpose of such contract and in the treasury or in process 64443
of collection to the credit of an appropriate fund free from any 64444
previous encumbrances, such taxing authority may authorize the 64445
drawing of a warrant in payment of amounts due upon such contract, 64446
but such resolution or ordinance shall be passed within thirty 64447
days after the taxing authority receives such certificate; 64448
provided that, if the amount involved is less than one hundred 64449
dollars in the case of counties or three thousand dollars in the 64450
case of all other subdivisions or taxing units, the fiscal officer 64451
may authorize it to be paid without such affirmation of the taxing 64452
authority of the subdivision or taxing unit, if such expenditure 64453
is otherwise valid. 64454

(2) Annually, the board of county commissioners may adopt a 64455
resolution exempting for the current fiscal year county purchases 64456
of seven hundred fifty dollars or less from the requirement of 64457
division (D)(1) of this section that a certificate be attached to 64458
any contract or order involving the expenditure of money. The 64459
resolution shall state the dollar amount that is exempted from the 64460
certificate requirement and whether the exemption applies to all 64461
purchases, to one or more specific classes of purchases, or to the 64462
purchase of one or more specific items. Prior to the adoption of 64463
the resolution, the board shall give written notice to the county 64464
auditor that it intends to adopt the resolution. The notice shall 64465
state the dollar amount that is proposed to be exempted and 64466
whether the exemption would apply to all purchases, to one or more 64467
specific classes of purchases, or to the purchase of one or more 64468
specific items. The county auditor may review and comment on the 64469
proposal, and shall send any comments to the board within fifteen 64470

days after receiving the notice. The board shall wait at least 64471
fifteen days after giving the notice to the auditor before 64472
adopting the resolution. A person authorized to make a county 64473
purchase in a county that has adopted such a resolution shall 64474
prepare and file with the county auditor, within three business 64475
days after incurring an obligation not requiring a certificate, a 64476
written document specifying the purpose and amount of the 64477
expenditure, the date of the purchase, the name of the vendor, and 64478
such additional information as the auditor of state may prescribe. 64479

(3) Upon certification by the auditor or other chief fiscal 64480
officer that a certain sum of money, not in excess of ~~five~~ 64481
~~thousand dollars~~ an amount established by resolution or ordinance 64482
adopted by a majority of the members of the legislative authority 64483
of the subdivision or taxing unit, has been lawfully appropriated, 64484
authorized, or directed for a certain purpose and is in the 64485
treasury or in the process of collection to the credit of a 64486
specific line-item appropriation account in a certain fund free 64487
from previous and then outstanding obligations or certifications, 64488
then for such purpose and from such line-item appropriation 64489
account in such fund, over a period ~~not exceeding three months and~~ 64490
not extending beyond the end of the fiscal year, expenditures may 64491
be made, orders for payment issued, and contracts or obligations 64492
calling for or requiring the payment of money made and assumed; 64493
provided, that the aggregate sum of money included in and called 64494
for by such expenditures, orders, contracts, and obligations shall 64495
not exceed the sum so certified. Such a certification need be 64496
signed only by the fiscal officer of the subdivision or the taxing 64497
district and may, but need not, be limited to a specific vendor. 64498
An itemized statement of obligations incurred and expenditures 64499
made under such certificate shall be rendered to the auditor or 64500
other chief fiscal officer before another such certificate may be 64501
issued, and not more than one such certificate shall be 64502
outstanding at a time. 64503

In addition to providing the certification for expenditures 64504
~~of five thousand dollars or less~~ as ~~provided~~ specified in this 64505
division, a subdivision also may make expenditures, issue orders 64506
for payment, and make contracts or obligations calling for or 64507
requiring the payment of money made and assumed for specified 64508
permitted purposes from a specific line-item appropriation account 64509
in a specified fund for a sum of money upon the certification by 64510
the fiscal officer of the subdivision that this sum of money has 64511
been lawfully appropriated, authorized, or directed for a 64512
permitted purpose and is in the treasury or in the process of 64513
collection to the credit of the specific line-item appropriation 64514
account in the specified fund free from previous and 64515
then-outstanding obligations or certifications; provided that the 64516
aggregate sum of money included in and called for by the 64517
expenditures, orders, and obligations shall not exceed the 64518
certified sum. The purposes for which a subdivision may lawfully 64519
appropriate, authorize, or issue such a certificate are the 64520
services of an accountant, architect, attorney at law, physician, 64521
professional engineer, construction project manager, consultant, 64522
surveyor, or appraiser by or on behalf of the subdivision or 64523
contracting authority; fuel oil, gasoline, food items, roadway 64524
materials, and utilities; and any purchases exempt from 64525
competitive bidding under section 125.04 of the Revised Code and 64526
any other specific expenditure that is a recurring and reasonably 64527
predictable operating expense. Such a certification shall not 64528
extend beyond the end of the fiscal year or, in the case of a 64529
board of county commissioners that has established a quarterly 64530
spending plan under section 5705.392 of the Revised Code, beyond 64531
the quarter to which the plan applies. Such a certificate shall be 64532
signed by the fiscal officer and may, but need not, be limited to 64533
a specific vendor. An itemized statement of obligations incurred 64534
and expenditures made under such a certificate shall be rendered 64535
to the fiscal officer for each certificate issued. More than one 64536

such certificate may be outstanding at any time. 64537

In any case in which a contract is entered into upon a per 64538
unit basis, the head of the department, board, or commission for 64539
the benefit of which the contract is made shall make an estimate 64540
of the total amount to become due upon such contract, which 64541
estimate shall be certified in writing to the fiscal officer of 64542
the subdivision. Such a contract may be entered into if the 64543
appropriation covers such estimate, or so much thereof as may be 64544
due during the current year. In such a case the certificate of the 64545
fiscal officer based upon the estimate shall be a sufficient 64546
compliance with the law requiring a certificate. 64547

Any certificate of the fiscal officer attached to a contract 64548
shall be binding upon the political subdivision as to the facts 64549
set forth therein. Upon request of any person receiving an order 64550
or entering into a contract with any political subdivision, the 64551
certificate of the fiscal officer shall be attached to such order 64552
or contract. "Contract" as used in this section excludes current 64553
payrolls of regular employees and officers. 64554

Taxes and other revenue in process of collection, or the 64555
proceeds to be derived from authorized bonds, notes, or 64556
certificates of indebtedness sold and in process of delivery, 64557
shall for the purpose of this section be deemed in the treasury or 64558
in process of collection and in the appropriate fund. This section 64559
applies neither to the investment of sinking funds by the trustees 64560
of such funds, nor to investments made under sections 731.56 to 64561
731.59 of the Revised Code. 64562

No district authority shall, in transacting its own affairs, 64563
do any of the things prohibited to a subdivision by this section, 64564
but the appropriation referred to shall become the appropriation 64565
by the district authority, and the fiscal officer referred to 64566
shall mean the fiscal officer of the district authority. 64567

Sec. 5705.412. (A) As used in this section, "qualifying contract" means any agreement for the expenditure of money under which aggregate payments from the funds included in the school district's five-year forecast under section 5705.391 of the Revised Code will exceed the lesser of the following amounts:

(1) Five hundred thousand dollars;

(2) One per cent of the total revenue to be credited in the current fiscal year to the district's general fund, as specified in the district's most recent certificate of estimated resources certified under section 5705.36 of the Revised Code.

(B) Notwithstanding section 5705.41 of the Revised Code, no school district shall adopt any appropriation measure, make any qualifying contract, or increase during any school year any wage or salary schedule unless there is attached thereto a certificate, signed as required by this section, that the school district has in effect the authorization to levy taxes including the renewal or replacement of existing levies which, when combined with the estimated revenue from all other sources available to the district at the time of certification, are sufficient to provide the operating revenues necessary to enable the district to maintain all personnel and programs for all the days set forth in its adopted school calendars for the current fiscal year and for a number of days in succeeding fiscal years equal to the number of days instruction was held or is scheduled for the current fiscal year, as follows:

(1) A certificate attached to an appropriation measure under this section shall cover only the fiscal year in which the appropriation measure is effective and shall not consider the renewal or replacement of an existing levy as the authority to levy taxes that are subject to appropriation in the current fiscal year unless the renewal or replacement levy has been approved by

the electors and is subject to appropriation in the current fiscal year. 64599
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(2) A certificate attached, in accordance with this section, 64601
to any qualifying contract shall cover the term of the contract. 64602

(3) A certificate attached under this section to a wage or 64603
salary schedule shall cover the term of the schedule. 64604

If the board of education has not adopted a school calendar 64605
for the school year beginning on the first day of the fiscal year 64606
in which a certificate is required, the certificate attached to an 64607
appropriation measure shall include the number of days on which 64608
instruction was held in the preceding fiscal year and other 64609
certificates required under this section shall include that number 64610
of days for the fiscal year in which the certificate is required 64611
and any succeeding fiscal years that the certificate must cover. 64612

The certificate shall be signed by the treasurer and 64613
president of the board of education and the superintendent of the 64614
school district, unless the district is in a state of fiscal 64615
emergency declared under Chapter 3316. of the Revised Code. In 64616
that case, the certificate shall be signed by a member of the 64617
district's financial planning and supervision commission who is 64618
designated by the commission for this purpose. 64619

(C) Every qualifying contract made or wage or salary schedule 64620
adopted or put into effect without such a certificate shall be 64621
void, and no payment of any amount due thereon shall be made. 64622

(D) The department of education and the auditor of state 64623
jointly shall adopt rules governing the methods by which 64624
treasurers, presidents of boards of education, superintendents, 64625
and members of financial planning and supervision commissions 64626
shall estimate revenue and determine whether such revenue is 64627
sufficient to provide necessary operating revenue for the purpose 64628
of making certifications required by this section. 64629

(E) The auditor of state shall be responsible for determining whether school districts are in compliance with this section. At the time a school district is audited pursuant to section 117.11 of the Revised Code, the auditor of state shall review each certificate issued under this section since the district's last audit, and the appropriation measure, contract, or wage and salary schedule to which such certificate was attached. If the auditor of state determines that a school district has not complied with this section with respect to any qualifying contract or wage or salary schedule, the auditor of state shall notify the prosecuting attorney for the county, the city director of law, or other chief law officer of the school district. That officer may file a civil action in any court of appropriate jurisdiction to seek a declaration that the contract or wage or salary schedule is void, to recover for the school district from the payee the amount of payments already made under it, or both, except that the officer shall not seek to recover payments made under any collective bargaining agreement entered into under Chapter 4117. of the Revised Code. If the officer does not file such an action within one hundred twenty days after receiving notice of noncompliance from the auditor of state, any taxpayer may institute the action in the taxpayer's own name on behalf of the school district.

(F) This section does not apply to any contract or increase in any wage or salary schedule that is necessary in order to enable a board of education to comply with division (B) of section 3317.13 of the Revised Code, provided the contract or increase does not exceed the amount required to be paid to be in compliance with such division.

(G) Any officer, employee, or other person who expends or authorizes the expenditure of any public funds or authorizes or executes any contract or schedule contrary to this section, expends or authorizes the expenditure of any public funds on the

void contract or schedule, or issues a certificate under this 64662
section which contains any false statements is liable to the 64663
school district for the full amount paid from the district's funds 64664
on the contract or schedule. The officer, employee, or other 64665
person is jointly and severally liable in person and upon any 64666
official bond that the officer, employee, or other person has 64667
given to the school district to the extent of any payments on the 64668
void claim, not to exceed ten thousand dollars. However, no 64669
officer, employee, or other person shall be liable for a mistaken 64670
estimate of available resources made in good faith and based upon 64671
reasonable grounds. If an officer, employee, or other person is 64672
found to have complied with rules jointly adopted by the 64673
department of education and the auditor of state under this 64674
section governing methods by which revenue shall be estimated and 64675
determined sufficient to provide necessary operating revenue for 64676
the purpose of making certifications required by this section, the 64677
officer, employee, or other person shall not be liable under this 64678
section if the estimates and determinations made according to 64679
those rules do not, in fact, conform with actual revenue. The 64680
prosecuting attorney of the county, the city director of law, or 64681
other chief law officer of the district shall enforce this 64682
liability by civil action brought in any court of appropriate 64683
jurisdiction in the name of and on behalf of the school district. 64684
If the prosecuting attorney, city director of law, or other chief 64685
law officer of the district fails, upon the written request of any 64686
taxpayer, to institute action for the enforcement of the 64687
liability, the attorney general, or the taxpayer in the taxpayer's 64688
own name, may institute the action on behalf of the subdivision. 64689

(H) This section does not require the attachment of an 64690
additional certificate beyond that required by section 5705.41 of 64691
the Revised Code for current payrolls of, or contracts of 64692
employment with, ~~regular~~ any employees or officers of the school 64693
district. 64694

This section does not require the attachment of a certificate 64695
to a temporary appropriation measure if all of the following 64696
apply: 64697

(1) The amount appropriated does not exceed twenty-five per 64698
cent of the total amount from all sources available for 64699
expenditure from any fund during the preceding fiscal year; 64700

(2) The measure will not be in effect on or after the 64701
thirtieth day following the earliest date on which the district 64702
may pass an annual appropriation measure; 64703

(3) An amended official certificate of estimated resources 64704
for the current year, if required, has not been certified to the 64705
board of education under division (B) of section 5705.36 of the 64706
Revised Code. 64707

Sec. 5709.20. As used in sections 5709.20 to 5709.27 of the 64708
Revised Code: 64709

(A) "Air contaminant" means particulate matter, dust, fumes, 64710
gas, mist, smoke, vapor, or odorous substances, or any combination 64711
thereof. 64712

(B) "Air pollution control facility" means any property 64713
designed, constructed, or installed for the primary purpose of 64714
eliminating or reducing the emission of, or ground level 64715
concentration of, air contaminants ~~which~~ generated at an 64716
industrial or commercial plant or site that renders air harmful or 64717
inimical to the public health or to property within this state. 64718

(C) "Energy conversion" means the conversion of fuel or power 64719
usage and consumption from natural gas to an alternate fuel or 64720
power source other than propane, butane, naphtha, or fuel oil; or 64721
the conversion of fuel or power usage and consumption from fuel 64722
oil to an alternate fuel or power source other than natural gas, 64723
propane, butane, or naphtha. 64724

(D) "Energy conversion facility" means any additional property or equipment designed, constructed, or installed after December 31, 1974, for use at an industrial or commercial plant or site for the primary purpose of energy conversion.

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(E) "Exempt facility" means any of the facilities defined in division (B), (D), (F), (I), (K), or (L) of this section for which an exempt facility certificate is issued pursuant to section 5709.21 or for which a certificate remains valid under section 5709.201 of the Revised Code.

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(F) "Noise pollution control facility" means any property designed, constructed, or installed ~~in or on~~ for use at an industrial or commercial plant or site for the primary purpose of eliminating or reducing, at that plant or site, the emission of sound which is harmful or inimical to persons or property, or materially reduces the quality of the environment, as shall be determined by the director of environmental protection within such standards for noise pollution control facilities and standards for environmental noise necessary to protect public health and welfare as may be promulgated by the United States environmental protection agency. In the absence of such United States environmental protection agency standards, the determination shall be made in accordance with generally accepted current standards of good engineering practice in environmental noise control.

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~~Facilities~~ (G) "Solid waste" means such unwanted residual solid or semi-solid material as results from industrial operations, including those of public utility companies, and commercial, distribution, research, agricultural, and community operations, including garbage, combustible or noncombustible, street dirt, and debris.

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(H) "Solid waste energy conversion" means the conversion of solid waste into energy and the utilization of such energy for

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some useful purpose. 64756

(I) "Solid waste energy conversion facility" means any property or equipment designed, constructed, or installed after December 31, 1974, for use at an industrial or a commercial plant or site for the primary purpose of solid waste energy conversion. 64757
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(J) "Thermal efficiency improvement" means the recovery and use of waste heat or waste steam produced incidental to electric power generation, industrial process heat generation, lighting, refrigeration, or space heating. 64761
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(K) "Thermal efficiency improvement facility" means any property or equipment designed, constructed, or installed after December 31, 1974, for use at an industrial or a commercial plant or site for the primary purpose of thermal efficiency improvement. 64765
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(L) "Industrial water pollution control facility" means any property designed, constructed, or installed for the primary purpose of collecting or conducting industrial waste to a point of disposal or treatment; reducing, controlling, or eliminating water pollution caused by industrial waste; or reducing, controlling, or eliminating the discharge into a disposal system of industrial waste or what would be industrial waste if discharged into the waters of this state. This division applies only to property related to a facility placed into operation or initially capable of operation after December 31, 1965, and installed pursuant to the approval of the environmental protection agency or any other governmental agency having authority to approve the installation of industrial water pollution control facilities. The definitions in section 6111.01 of the Revised Code, as applicable, apply to the terms used in this division. 64769
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(M) Property designed, constructed, installed, used, or placed in operation solely primarily for the safety, health, protection, or benefit, or any combination thereof, of personnel, 64784
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~~er by of a business solely for its, or primarily for a business's~~ 64787
~~own benefit, are not pollution control facilities is not an~~ 64788
~~"exempt facility."~~ 64789

Sec. 5709.201. (A) Except as provided in divisions (C)(4)(a) 64790
and (c) of section 5709.22 and division (F) of section 5709.25 of 64791
the Revised Code, a certificate issued under section 5709.21, 64792
5709.31, 5709.46, or 6111.31 of the Revised Code that was valid 64793
and in effect on the effective date of this section shall continue 64794
in effect subject to the law as it existed before that effective 64795
date. Division (C)(4)(b) of section 5709.22 of the Revised Code 64796
does not apply to any certificate issued by the tax commissioner 64797
before July 1, 2003. 64798

(B) Any applications pending on the effective date of this 64799
section for which a certificate had not been issued on or before 64800
that effective date under section 6111.31 of the Revised Code 64801
shall be transferred to the tax commissioner for further 64802
administering. Sections 5709.20 to 5709.27 of the Revised Code 64803
apply to such pending applications, excluding the requirement of 64804
section 5709.212 of the Revised Code that applicants must pay the 64805
fee. 64806

(C) For applications pending on the effective date of this 64807
section, division (D) of section 5709.25 of the Revised Code 64808
applies only to tax periods that would otherwise be open to 64809
assessment on that effective date. 64810

Sec. 5709.21. (A) As used in this section: 64811

(1) "Exclusive property" means property that is installed, 64812
used, and necessary for the operation of an exempt facility, and 64813
that is not auxiliary property unless the auxiliary property 64814
exempt cost equals or exceeds eighty-five per cent of the total 64815
cost of the property. 64816

(2) "Auxiliary property" means property installed, used, and necessary for the operation of an exempt facility that is also used in other operations of the business other than an exempt facility purpose described in section 5709.20 of the Revised Code. "Auxiliary property" does not include property if the auxiliary property exempt cost of such property is less than or equal to fifteen per cent of the total cost of such property.

(3) "Auxiliary property exempt cost" means the cost of auxiliary property calculated as follows:

(a) If the auxiliary property is used for an exempt facility purpose for discrete periods of time, the exempt cost shall be determined by the ratio of time the auxiliary property is in use in such exempt capacity to the total time it is in use. Division (A)(3)(a) of this section does not apply if the property is concurrently used for an exempt facility purpose and a nonexempt facility purpose.

(b) The applicant has the burden of proving the exempt cost of all auxiliary property not described in division (A)(3)(a) of this section.

(c) Any cost related to an expansion of the commercial or industrial site that is not related to the operation of the exempt facility shall not be included as an auxiliary exempt cost under division (A)(3) of this section.

(B) Application for an ~~air or noise pollution control~~ exempt facility certificate shall be filed with the tax commissioner in such manner and in such form as ~~may be~~ prescribed by ~~regulations issued by~~ the tax commissioner ~~and~~. The application shall contain plans and specifications of the ~~structure or structures~~ property, including all materials incorporated ~~and~~ or to be incorporated therein and their associated costs, and a descriptive list of all equipment acquired or to be acquired by the applicant for the

~~purpose of air or noise pollution control exempt facility and its associated cost. If the commissioner, after obtaining the opinion of the director of environmental protection, finds that the proposed facility property was designed primarily for the control of air or noise pollution as defined in section 5709.20 of the Revised Code, as an exempt facility and is suitable and reasonably adequate for such purpose and is intended for such purpose, he the commissioner shall enter a finding and issue a certificate to that effect. Said certificate shall permit tax exemption pursuant to section 5709.25 of the Revised Code only for that portion of such pollution control facility or that part used exclusively for air or noise pollution control. The effective date of said the certificate shall be the date of the making of the application was made for such certificate or the date of the construction of the facility, whichever is earlier; provided, that if such application relates to facilities placed in operation or capable of operation prior to October 2, 1969, the effective date of the certificate shall be the date of the application.~~

Nothing in this section shall be construed to extend the time period to file, to keep the time period to file open, or supersede the requirement of filing a tax refund or other tax reduction request in the manner and within the time prescribed by law.

(C)(1) Except as provided in division (C)(2) of this section, the certificate shall permit tax exemption pursuant to section 5709.25 of the Revised Code only for that portion of such exempt facility that is exclusive property used for a purpose enumerated in section 5709.20 of the Revised Code.

(2) Auxiliary property shall be permitted a partial tax exemption under section 5709.25 of the Revised Code, but only to the extent allowed pursuant to division (A)(3) of this section.

(D) The tax commissioner may allow an applicant to file one application that applies to more than one exempt facility that are

the same or substantially similar, so long as such facilities are 64880
located within the same county. 64881

Sec. 5709.211. (A) Before issuing an exempt facility 64882
certificate pursuant to section 5709.21 of the Revised Code, the 64883
tax commissioner shall provide a copy of a properly completed 64884
application to, and obtain the opinion of, the director of 64885
environmental protection in the case of an exempt facility 64886
described in division (B), (F), or (L) of section 5709.20 of the 64887
Revised Code, or provide a copy of the application to, and obtain 64888
the opinion of, the director of development in the case of an 64889
application for an exempt facility described in division (D), (I), 64890
or (K) of section 5709.20 of the Revised Code. The opinion shall 64891
provide the commissioner with a recommendation of whether the 64892
property is primarily designed, constructed, installed, and used 64893
as an exempt facility. The applicant shall provide additional 64894
information upon request by the tax commissioner, the director of 64895
environmental protection, or the director of development, and 64896
allow them to inspect the property listed in the application for 64897
the purposes of sections 5709.20 to 5709.27 of the Revised Code. 64898
The tax commissioner shall provide to the applicant a copy of the 64899
opinion issued by either the director of environmental protection 64900
or the director of the department of development. 64901

(B) The opinions of the director of the environmental 64902
protection agency and the director of development under division 64903
(A) of this section or division (C)(4) of section 5709.22 of the 64904
Revised Code are not final actions or orders subject to appeal. 64905

Sec. 5709.212. (A) With every application for an exempt 64906
facility certificate filed pursuant to section 5709.21 of the 64907
Revised Code, the applicant shall pay a fee equal to one-half of 64908
one per cent of the total exempt facility project cost, not to 64909
exceed two thousand dollars. One-half of the fee received with 64910

applications for exempt facility certificates shall be credited to 64911
the exempt facility administrative fund, which is hereby created 64912
in the state treasury, for appropriation to the department of 64913
taxation for use in administering sections 5709.20 to 5709.27 of 64914
the Revised Code. If the director of environmental protection is 64915
required to provide the opinion for an application, one-half of 64916
the fee shall be credited to the clean air fund created in section 64917
3704.035 of the Revised Code for use in administering section 64918
5709.211 of the Revised Code, unless the application is for an 64919
industrial water pollution control facility. If the application is 64920
for an industrial water pollution control facility, one-half of 64921
the fee shall be credited to the surface water protection fund 64922
created in section 6111.038 of the Revised Code for use in 64923
administering section 5709.211 of the Revised Code. If the 64924
director of development is required to provide the opinion for an 64925
application, one-half of the fee for each exempt facility 64926
application shall be credited to the exempt facility inspection 64927
fund, which is hereby created in the state treasury, for 64928
appropriation to the department of development for use in 64929
administering section 5709.211 of the Revised Code. 64930

An applicant is not entitled to any tax exemption under 64931
section 5709.25 of the Revised Code until the fee required by this 64932
section is paid. The fee required by this section is not 64933
refundable, and is due with the application for an exempt facility 64934
certificate even if an exempt facility certificate ultimately is 64935
not issued or is withdrawn. Any application submitted without 64936
payment of the fee shall be deemed incomplete until the fee is 64937
paid. 64938

(B) The application fee imposed under division (A) of this 64939
section for a jointly owned facility shall be equal to one-half of 64940
one per cent of the total exempt facility project cost, not to 64941
exceed two thousand dollars for each facility that is the subject 64942

of the application. 64943

~~Sec. 5709.22. Before issuing any certificate the tax~~ 64944
~~commissioner shall give notice in writing by mail to the auditor~~ 64945
~~of the county in which such facilities are located, and shall~~ 64946
~~afford to the applicant and to the auditor an opportunity for a~~ 64947
~~hearing. On like notice to the applicant and opportunity for a~~ 64948
~~hearing, the commissioner shall on his (A) After receiving an~~ 64949
~~opinion from the director of environmental protection or the~~ 64950
~~director of development, the tax commissioner shall promptly~~ 64951
~~ascertain if an application filed under section 5709.21 of the~~ 64952
~~Revised Code shall be allowed or disallowed in whole or in part.~~ 64953
~~The commissioner shall give written notice of the proposed finding~~ 64954
~~to the applicant and the county auditor of the county in which the~~ 64955
~~facility described in the application is located. Within sixty~~ 64956
~~days after sending written notice of the proposed finding, the~~ 64957
~~applicant or the county auditor may file a request for~~ 64958
~~reconsideration, in writing, to the commissioner and may request~~ 64959
~~that the commissioner conduct a hearing on the application. If no~~ 64960
~~request for reconsideration is filed, the commissioner's proposed~~ 64961
~~findings shall be final and, if applicable, the commissioner shall~~ 64962
~~issue an exempt facility certificate, which shall not be subject~~ 64963
~~to appeal pursuant to section 5717.02 of the Revised Code.~~ 64964

~~(B) If a reconsideration of the tax commissioner's proposed~~ 64965
~~finding is requested by the applicant or the county auditor, the~~ 64966
~~commissioner shall notify the applicant and the auditor of the~~ 64967
~~time and place of the hearing, which the commissioner may continue~~ 64968
~~from time to time as the commissioner finds necessary. The~~ 64969
~~commissioner also shall notify the environmental protection agency~~ 64970
~~or department of development, as applicable, of the hearing. The~~ 64971
~~environmental protection agency or the department of development~~ 64972
~~shall participate in the hearing if requested in writing by the~~ 64973
~~commissioner, the applicant, or the county auditor. After~~ 64974

conducting the hearing, the commissioner shall issue a final 64975
determination, with a copy of it served on the applicant and 64976
applicable county auditors in the manner prescribed by section 64977
5703.37 of the Revised Code. The final determination is subject to 64978
appeal pursuant to section 5717.02 of the Revised Code. Once all 64979
appeals are exhausted, the commissioner shall issue, if 64980
applicable, the exempt facility certificate based on the outcome 64981
of the appeal. 64982

(C) The tax commissioner, on the commissioner's own 64983
initiative or on complaint by the county auditor of the any county 64984
in which any property to which such air or noise pollution control 64985
the exempt facility certificate relates is located, shall revoke 64986
such air or noise pollution control certificate whenever any of 64987
the following appears the certificate, or modify it by restricting 64988
its operation, if it appears to the commissioner that any of the 64989
following has occurred: 64990

(A)(1) The certificate was obtained by fraud or 64991
misrepresentation; 64992

(B)(2) The holder of the certificate has failed substantially 64993
to proceed with the construction, reconstruction, installation, or 64994
acquisition of air or noise pollution control facilities an exempt 64995
facility; 64996

(C)(3) The structure or equipment or both property to which 64997
the certificate relates has ceased to be used for the primary 64998
purpose of pollution control and is being used for a different 64999
purpose. 65000

Provided, that where the circumstances so require, the 65001
commissioner in lieu of revoking such certificate may modify the 65002
same by restricting its operations as an exempt facility; 65003

(4) The tax commissioner issued the certificate in error. As 65004
used in this section, "error" means any of the following: 65005

(a) A clerical or mathematical mistake; 65006

(b) When the commissioner agrees with an opinion from the 65007
director of environmental protection or the director of 65008
development that a certificate should not have been issued; 65009

(c) When the tax commissioner determines that the issuance of 65010
the certificate may have been improper as the result of a final 65011
adjudication by the board of tax appeals, or by a court with 65012
jurisdiction on appeal from that board, that is adverse to the 65013
original exempt status of the facility, regardless of whether the 65014
holder of the certificate was a party to such adjudication. 65015

(D) If the revocation or modification of a certificate under 65016
division (C)(4) of this section is an action found to be frivolous 65017
for the purposes of section 5703.54 of the Revised Code the 65018
certificate holder may claim damages as provided under division 65019
(B) of that section. 65020

~~On the mailing of notice of the action of the commissioner~~ 65021
~~revoking or modifying an air or noise pollution control~~ 65022
~~certificate as provided in section 5709.23 of the Revised Code,~~ 65023
~~such~~ (E) Upon service of notice certificate to the holder of an 65024
exempt facility certificate, in the manner provided in section 65025
5703.37 of the Revised Code, of the tax commissioner's revocation 65026
or modification of the certificate under division (C) of this 65027
section, the certificate shall cease to be in force or shall 65028
remain in force only as modified, as the case may require. The 65029
notice is subject to appeal under section 5717.02 of the Revised 65030
Code. Once all appeals are exhausted, the commissioner shall issue 65031
a modified certificate, if applicable, and the holder of the 65032
certificate shall be allowed to claim a refund within one hundred 65033
eighty days, notwithstanding any other time limitation provided by 65034
law of the taxes paid as a result of the certificate being revoked 65035
or modified. 65036

Sec. 5709.23. (A) As soon as is practicable after receiving 65037
an application for an exempt facility certificate, the tax 65038
commissioner shall provide a copy of the application and any 65039
accompanying documentation to the county auditor of the county in 65040
which the facility is located. The copy shall be accompanied by a 65041
statement showing an estimate of what the assessed value of the 65042
facility would be, based on the appropriate assessment percentage, 65043
if the facility were to be taxable, and an estimate of the taxes 65044
that would be chargeable against the facility computed on the 65045
basis of the rate of taxation in the taxing district in the year 65046
in which the application is received. Within sixty days after 65047
receiving such a statement, the county auditor shall issue a 65048
notice to the taxing authority of each taxing unit in which the 65049
facility is or is to be located. The notice shall state that an 65050
application for an exempt facility certificate has been filed for 65051
the facility; the estimated assessed value of the facility shown 65052
on the statement; the annual amount of taxes that would be charged 65053
and payable on that value at the current rate of taxation in 65054
effect in the taxing unit; and that, if approved, the application 65055
entitles the facility to exemption from taxation and the taxing 65056
unit may be required to refund any taxes on the facility accruing 65057
after the certificate becomes effective. The tax commissioner 65058
shall issue an amended statement if, after the original statement 65059
is issued, the estimate of such assessed value increases or 65060
decreases by more than ten per cent of the estimated value shown 65061
on the most recently issued statement or amended statement, and 65062
the county auditor shall issue an amended notice reflecting such 65063
change. 65064

(B) Upon request by the county auditor of the county in which 65065
the exempt facility described in the application is located, the 65066
tax commissioner shall provide the county auditor with any 65067
documents submitted with the opinion of the director of 65068

environmental protection or director of development, including a 65069
copy of opinion. 65070

(C) Any documents, statements, and notices provided for under 65071
this section are solely for the purpose of notifying taxing 65072
authorities of the existence of an exempt facility application and 65073
the potential for a refund of taxes paid on an exempt facility 65074
before a tax exemption certificate is issued. Such documents, 65075
statements, and notices do not constitute an assessment that is 65076
subject to a petition for reassessment nor are such documents, 65077
statements, and notices appealable under section 5717.02 of the 65078
Revised Code by any person. 65079

(D) The documents, statements, and notices provided by the 65080
tax commissioner under this section are subject to all applicable 65081
confidentiality provisions of law. 65082

Sec. 5709.24. The tax commissioner may adopt rules to 65083
administer sections 5709.20 to 5709.27 of the Revised Code. 65084

Sec. 5709.25. (A) Whenever an ~~air or noise pollution control~~ 65085
~~exempt facility~~ certificate is issued ~~on a pollution control~~ 65086
~~facility~~, the transfer of tangible personal property to the holder 65087
of the certificate, whether such transfer takes place before or 65088
after the issuance of the certificate, shall not be considered a 65089
"sale" of such tangible personal property for the purpose of the 65090
sales tax, or a "use" for the purpose of the use tax, if the 65091
tangible personal property is to be or was a material or part to 65092
be incorporated into an ~~air or noise pollution control~~ exempt 65093
facility ~~as defined in section 5709.20 of the Revised Code.~~ 65094

(B) For the period subsequent to the effective date of an ~~air~~ 65095
~~or noise pollution control~~ exempt facility certificate and 65096
continuing for so long as the certificate is in force, no 65097
~~pollution control~~ exempt facility or certified portion thereof 65098

shall be considered to be either of the following: 65099

(1) An improvement on the land on which the ~~same~~ exempt facility is located for the purpose of real property taxation; 65100
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(2) As "used in business" for the purpose of personal property taxation; 65102
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~~(3) As an asset of any corporation in determining the value of its issued and outstanding shares or the value of the property owned and used by it in this state for the purpose of the franchise tax.~~ 65104
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(C)(1) The tax commissioner, upon receiving a properly completed application for an exempt facility certificate, may allow the applicant to claim the exemption provided by this section before the commissioner issues the certificate. The applicant is entitled to the exemption unless the commissioner notifies the applicant otherwise by serving notice upon the applicant in the manner prescribed by section 5703.37 of the Revised Code. 65108
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(2) A taxpayer whose tangible personal property is subject to taxation under Chapter 5727. of the Revised Code shall notify the commissioner in writing of any property the applicant does not want the commissioner to exclude from assessment. The notice shall be provided before the date the commissioner issues the preliminary assessment under section 5727.23 of the Revised Code. 65116
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(D)(1) Notwithstanding any other time limitations imposed by law, the commissioner may assess any additional tax or may assess any additional taxable property, including any applicable interest, on the denied portion of the applicant's claim for an exempt facility that the applicant claimed prior to the exempt facility certificate being issued or the application being denied. No assessment shall be made pursuant to this division after one hundred eighty days from the date the commissioner mails the 65122
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exempt facility certificate or notice of the denial of the exempt facility certificate pursuant to section 5709.22 of the Revised Code. Nothing in this section shall prohibit an assessment that otherwise may be timely made by law. 65130
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(2) Assessments issued pursuant to division (D)(1) of this section shall be issued as amended preliminary assessment certificates under section 5711.31 of the Revised Code for personal property tax, as amended preliminary assessment certificates under section 5727.23 of the Revised Code for public utility tax, and as assessments under section 5733.11 of the Revised Code for corporation franchise tax, section 5739.13 of the Revised Code for sales tax, and section 5741.11 of the Revised Code for use tax, and are subject to the same appeal requirements as defined in those sections. 65134
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(3) Nothing in division (D) of this section allows the tax commissioner, after the expiration of the time limitation, to issue an assessment referenced in division (D)(2) of this section that increases any tax beyond the amount claimed by the applicant as an exempt facility. 65144
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(4) If an assessment is issued for only the denied portion of the application for an exempt facility, the only issue the applicant is permitted to raise on appeal of the assessment referenced in division (D)(2) of this section is that of the taxable property or transaction constituting the denied portion of the applicant's claim for an exempt facility. 65149
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(E) Except as otherwise provided in this division, no exemption for additional property shall be claimed under this section after an exempt facility certificate has been issued for that facility unless the applicant files a new application under section 5709.21 of the Revised Code. The tax commissioner shall waive the requirement to file a new application under section 5709.21 of the Revised Code if the cost of the additional 65155
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property, net of retirements for similar property, does not exceed 65162
five hundred thousand dollars during any calendar year. The fee 65163
imposed under section 5709.212 of the Revised Code for 65164
applications filed as a result of this division shall be five 65165
hundred dollars. 65166

(F) If, as the result of a revaluation due to sale or 65167
bankruptcy or any other reason, the book value of property that is 65168
the subject of an exempt facility certificate is changed from the 65169
book value at the time of the original issuance of the 65170
certificate, the amount of exemption available to the owner is 65171
limited to the percentage resulting from the ratio of the 65172
historical cost of the property that is the subject of the exempt 65173
facility certificate to the historic cost of all tangible personal 65174
property and real property of the owner located at the same 65175
location as the property subject to the exempt facility 65176
certificate. If the result of using this ratio is greater than the 65177
original cost, then acceptable reasons for allowing such greater 65178
cost must be established with supporting documentation in order to 65179
qualify for the exemption above the original cost. 65180

(G) After two years from the date the tax commissioner 65181
receives an application, the applicant may request in writing that 65182
the tax commissioner take final action on the pending application. 65183
Within ten days after receiving such a request, the tax 65184
commissioner shall issue a proposed finding, under section 5709.22 65185
of the Revised Code, if the application is allowed in whole or in 65186
part. Otherwise, the tax commissioner shall issue a final 65187
determination denying the issuance of the certificate, which is a 65188
final determination appealable under section 5717.02 of the 65189
Revised Code. 65190

Sec. 5709.26. When an air or noise pollution control exempt 65191
facility certificate is revoked because obtained by fraud or 65192

~~misrepresentation~~ or modified for the reason stated in division 65193
(C)(1) of section 5709.22 of the Revised Code, all taxes which 65194
that would have been payable had no certificate been issued shall 65195
be assessed with ~~maximum~~ penalties and interest prescribed by law 65196
applicable thereto dating to when the exemption was first allowed. 65197
Notwithstanding any other time limitations imposed by law, if the 65198
certificate is revoked or modified under division (C)(2), (3), or 65199
(4) of section 5709.22 of the Revised Code, all taxes that would 65200
have been payable had no certificate existed as of the first day 65201
of January of the calendar year in which the certificate was 65202
revoked or modified are subject to assessment. 65203

Sec. 5709.27. In the event of the sale, lease, or other 65204
transfer of an ~~air or noise pollution control~~ exempt facility, not 65205
involving a different location or use, the holder of ~~an air or~~ 65206
~~noise pollution control~~ the exempt facility certificate ~~for such~~ 65207
~~facility may~~ shall transfer the certificate by written instrument 65208
to the person who, except for the transfer of the certificate, 65209
would be obligated to pay taxes on ~~such~~ the facility. The 65210
transferee shall become the holder of the certificate and shall 65211
have all the rights to exemption from taxes ~~which were~~ granted to 65212
the former holder or holders, effective as of the date of transfer 65213
of the facility or the date of transfer of the certificate, 65214
whichever is earlier. The transferee shall promptly give written 65215
notice of the effective date of the transfer, together with a copy 65216
of the instrument of transfer, to the tax commissioner and the 65217
county auditor of the county in which the facility is located. 65218
Upon request, the commissioner may provide the transferee with any 65219
information the commissioner possesses related to the issuance of 65220
the exempt facility certificate. 65221

Sec. 5709.61. As used in sections 5709.61 to 5709.69 of the 65222
Revised Code: 65223

- (A) "Enterprise zone" or "zone" means any of the following: 65224
- (1) An area with a single continuous boundary designated in 65225
the manner set forth in section 5709.62 or 5709.63 of the Revised 65226
Code and certified by the director of development as having a 65227
population of at least four thousand according to the best and 65228
most recent data available to the director and having at least two 65229
of the following characteristics: 65230
- (a) It is located in a municipal corporation defined by the 65231
United States office of management and budget as a central city of 65232
a metropolitan statistical area or in a city designated as an 65233
urban cluster in a rural statistical area; 65234
- (b) It is located in a county designated as being in the 65235
"Appalachian region" under the "Appalachian Regional Development 65236
Act of 1965," 79 Stat. 5, 40 App. U.S.C.A. 403, as amended; 65237
- (c) Its average rate of unemployment, during the most recent 65238
twelve-month period for which data are available, is equal to at 65239
least one hundred twenty-five per cent of the average rate of 65240
unemployment for the state of Ohio for the same period; 65241
- (d) There is a prevalence of commercial or industrial 65242
structures in the area that are vacant or demolished, or are 65243
vacant and the taxes charged thereon are delinquent, and 65244
certification of the area as an enterprise zone would likely 65245
result in the reduction of the rate of vacant or demolished 65246
structures or the rate of tax delinquency in the area; 65247
- (e) The population of all census tracts in the area, 65248
according to the federal census of 1990, decreased by at least ten 65249
per cent between the years 1970 and 1990; 65250
- (f) At least fifty-one per cent of the residents of the area 65251
have incomes of less than eighty per cent of the median income of 65252
residents of the municipal corporation or municipal corporations 65253

in which the area is located, as determined in the same manner 65254
specified under section 119(b) of the "Housing and Community 65255
Development Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as 65256
amended; 65257

(g) The area contains structures previously used for 65258
industrial purposes, but currently not so used due to age, 65259
obsolescence, deterioration, relocation of the former occupant's 65260
operations, or cessation of operations resulting from unfavorable 65261
economic conditions either generally or in a specific economic 65262
sector; 65263

(h) It is located within one or more adjacent city, local, or 65264
exempted village school districts, the income-weighted tax 65265
capacity of each of which is less than seventy per cent of the 65266
average of the income-weighted tax capacity of all city, local, or 65267
exempted village school districts in the state according to the 65268
most recent data available to the director from the department of 65269
taxation. 65270

The director of development shall adopt rules in accordance 65271
with Chapter 119. of the Revised Code establishing conditions 65272
constituting the characteristics described in divisions (A)(1)(d), 65273
(g), and (h) of this section. 65274

If an area could not be certified as an enterprise zone 65275
unless it satisfied division (A)(1)(g) of this section, the 65276
legislative authority may enter into agreements in that zone under 65277
section 5709.62, 5709.63, or 5709.632 of the Revised Code only if 65278
such agreements result in the development of the facilities 65279
described in that division, the parcel of land on which such 65280
facilities are situated, or adjacent parcels. The director of 65281
development annually shall review all agreements in such zones to 65282
determine whether the agreements have resulted in such 65283
development; if the director determines that the agreements have 65284
not resulted in such development, the director immediately shall 65285

revoke certification of the zone and notify the legislative 65286
authority of such revocation. Any agreements entered into prior to 65287
revocation under this paragraph shall continue in effect for the 65288
period provided in the agreement. 65289

(2) An area with a single continuous boundary designated in 65290
the manner set forth in section 5709.63 of the Revised Code and 65291
certified by the director of development as: 65292

(a) Being located within a county that contains a population 65293
of three hundred thousand or less; 65294

(b) Having a population of at least one thousand according to 65295
the best and most recent data available to the director; 65296

(c) Having at least two of the characteristics described in 65297
divisions (A)(1)(b) to (h) of this section. 65298

(3) An area with a single continuous boundary designated in 65299
the manner set forth under division (A)(1) of section 5709.632 of 65300
the Revised Code and certified by the director of development as 65301
having a population of at least four thousand, or under division 65302
(A)(2) of that section and certified as having a population of at 65303
least one thousand, according to the best and most recent data 65304
available to the director. 65305

(B) "Enterprise" means any form of business organization 65306
including, but not limited to, any partnership, sole 65307
proprietorship, or corporation, including an S corporation as 65308
defined in section 1361 of the Internal Revenue Code and any 65309
corporation that is majority work-owned either directly through 65310
the ownership of stock or indirectly through participation in an 65311
employee stock ownership plan. 65312

(C) "Facility" means an enterprise's place of business in a 65313
zone, including land, buildings, machinery, equipment, and other 65314
materials, except inventory, used in business. "Facility" includes 65315
land, buildings, machinery, production and station equipment, 65316

other equipment, and other materials, except inventory, used in 65317
business to generate electricity, provided that, for purposes of 65318
sections 5709.61 to 5709.69 of the Revised Code, the value of the 65319
property at such a facility shall be reduced by the value, if any, 65320
that is not apportioned under section 5727.15 of the Revised Code 65321
to the taxing district in which the facility is physically 65322
located. In the case of such a facility that is physically located 65323
in two adjacent taxing districts, the property located in each 65324
taxing district constitutes a separate facility. 65325

"Facility" does not include any portion of an enterprise's 65326
place of business used primarily for making retail sales, unless 65327
the place of business is located in an impacted city as defined in 65328
section 1728.01 of the Revised Code. 65329

(D) "Vacant facility" means a facility that has been vacant 65330
for at least ninety days immediately preceding the date on which 65331
an agreement is entered into under section 5709.62 or 5709.63 of 65332
the Revised Code. 65333

(E) "Expand" means to make expenditures to add land, 65334
buildings, machinery, equipment, or other materials, except 65335
inventory, to a facility that equal at least ten per cent of the 65336
market value of the facility prior to such expenditures, as 65337
determined for the purposes of local property taxation. 65338

(F) "Renovate" means to make expenditures to alter or repair 65339
a facility that equal at least fifty per cent of the market value 65340
of the facility prior to such expenditures, as determined for the 65341
purposes of local property taxation. 65342

(G) "Occupy" means to make expenditures to alter or repair a 65343
vacant facility equal to at least twenty per cent of the market 65344
value of the facility prior to such expenditures, as determined 65345
for the purposes of local property taxation. 65346

(H) "Project site" means all or any part of a facility that 65347

is newly constructed, expanded, renovated, or occupied by an enterprise. 65348
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(I) "Project" means any undertaking by an enterprise to establish a facility or to improve a project site by expansion, renovation, or occupancy. 65350
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(J) "Position" means the position of one full-time employee performing a particular set of tasks and duties. 65353
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(K) "Full-time employee" means an individual who is employed for consideration by an enterprise 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. 65355
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(L) "New employee" means a full-time employee first employed by an enterprise at a facility that is a project site after the enterprise enters an agreement under section 5709.62 or 5709.63 of the Revised Code. "New employee" does not include an employee if, immediately prior to being employed by the enterprise, the employee was employed by an enterprise that is a related member or predecessor enterprise of that enterprise. 65360
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(M) "Unemployed person" means any person who is totally unemployed in this state, as that term is defined in division (M) of section 4141.01 of the Revised Code, for at least ten consecutive weeks immediately preceding that person's employment at a facility that is a project site, or who is so unemployed for at least twenty-six of the fifty-two weeks immediately preceding that person's employment at such a facility. 65367
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(N) "JTPA eligible employee" means any individual who is eligible for employment or training under the "Job Training Partnership Act," 96 Stat. 1324 (1982), 29 U.S.C. 1501, as amended. 65374
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(O) "First used in business" means that the property referred 65378

to has not been used in business in this state by the enterprise 65379
that owns it, or by an enterprise that is a related member or 65380
predecessor enterprise of such an enterprise, other than as 65381
inventory, prior to being used in business at a facility as the 65382
result of a project. 65383

(P) "Training program" means any noncredit training program 65384
or course of study that is offered by any state college or 65385
university; university branch district; community college; 65386
technical college; nonprofit college or university certified under 65387
section 1713.02 of the Revised Code; school district; joint 65388
vocational school district; school registered and authorized to 65389
offer programs under section 3332.05 of the Revised Code; an 65390
entity administering any federal, state, or local adult education 65391
and training program; or any enterprise; and that meets all of the 65392
following requirements: 65393

(1) It is approved by the director of development; 65394

(2) It is established or operated to satisfy the need of a 65395
particular industry or enterprise for skilled or semi-skilled 65396
employees; 65397

(3) An individual is required to complete the course or 65398
program before filling a position at a project site. 65399

(Q) "Development" means to engage in the process of clearing 65400
and grading land, making, installing, or constructing water 65401
distribution systems, sewers, sewage collection systems, steam, 65402
gas, and electric lines, roads, curbs, gutters, sidewalks, storm 65403
drainage facilities, and construction of other facilities or 65404
buildings equal to at least fifty per cent of the market value of 65405
the facility prior to the expenditures, as determined for the 65406
purposes of local property taxation. 65407

(R) "Large manufacturing facility" means a single Ohio 65408
facility that employed an average of at least one thousand 65409

individuals during the five calendar years preceding an agreement 65410
authorized under division (C)(3) of section 5709.62 or division 65411
(B)(2) of section 5709.63 of the Revised Code. For purposes of 65412
this division, both of the following apply: 65413

(1) A single Ohio manufacturing facility employed an average 65414
of at least one thousand individuals during the five calendar 65415
years preceding entering into such an agreement if one-fifth of 65416
the sum of the number of employees employed on the highest 65417
employment day during each of the five calendar years equals or 65418
exceeds one thousand. 65419

(2) The highest employment day is the day or days during a 65420
calendar year on which the number of employees employed at a 65421
single Ohio manufacturing facility was greater than on any other 65422
day during the calendar year. 65423

(S) "Business cycle" means the cycle of business activity 65424
usually regarded as passing through alternating stages of 65425
prosperity and depression. 65426

(T) "Making retail sales" means the effecting of 65427
point-of-final-purchase transactions at a facility open to the 65428
consuming public, wherein one party is obligated to pay the price 65429
and the other party is obligated to provide a service or to 65430
transfer title to or possession of the item sold. 65431

(U) "Environmentally contaminated" means that hazardous 65432
substances exist at a facility under conditions that have caused 65433
or would cause the facility to be identified as contaminated by 65434
the state or federal environmental protection agency. These may 65435
include facilities located at sites identified in the master sites 65436
list or similar database maintained by the state environmental 65437
protection agency if the sites have been investigated by the 65438
agency and found to be contaminated. 65439

(V) "Remediate" means to make expenditures to clean up an 65440

environmentally contaminated facility so that it is no longer 65441
environmentally contaminated that equal at least ten per cent of 65442
the real property market value of the facility prior to such 65443
expenditures as determined for the purposes of property taxation. 65444

(W) "Related member" has the same meaning as defined in 65445
section 5733.042 of the Revised Code without regard to division 65446
(B) of that section, except that it is used with respect to an 65447
enterprise rather than a taxpayer. 65448

(X) "Predecessor enterprise" means an enterprise from which 65449
the assets or equity of another enterprise has been transferred, 65450
which transfer resulted in the full or partial nonrecognition of 65451
gain or loss, or resulted in a carryover basis, both as determined 65452
by rule adopted by the tax commissioner. 65453

(Y) "Successor enterprise" means an enterprise to which the 65454
assets or equity of another enterprise has been transferred, which 65455
transfer resulted in the full or partial nonrecognition of gain or 65456
loss, or resulted in a carryover basis, both as determined by rule 65457
adopted by the tax commissioner. 65458

Sec. 5709.62. (A) In any municipal corporation that is 65459
defined by the United States office of management and budget as a 65460
central city of a metropolitan statistical area, or in a city 65461
designated as an urban cluster in a rural statistical area, the 65462
legislative authority of the municipal corporation may designate 65463
one or more areas within its municipal corporation as proposed 65464
enterprise zones. Upon designating an area, the legislative 65465
authority shall petition the director of development for 65466
certification of the area as having the characteristics set forth 65467
in division (A)(1) of section 5709.61 of the Revised Code as 65468
amended by Substitute Senate Bill No. 19 of the 120th general 65469
assembly. Except as otherwise provided in division (E) of this 65470
section, on and after July 1, 1994, legislative authorities shall 65471

not enter into agreements under this section unless the 65472
legislative authority has petitioned the director and the director 65473
has certified the zone under this section as amended by that act; 65474
however, all agreements entered into under this section as it 65475
existed prior to July 1, 1994, and the incentives granted under 65476
those agreements shall remain in effect for the period agreed to 65477
under those agreements. Within sixty days after receiving such a 65478
petition, the director shall determine whether the area has the 65479
characteristics set forth in division (A)(1) of section 5709.61 of 65480
the Revised Code, and shall forward the findings to the 65481
legislative authority of the municipal corporation. If the 65482
director certifies the area as having those characteristics, and 65483
thereby certifies it as a zone, the legislative authority may 65484
enter into an agreement with an enterprise under division (C) of 65485
this section. 65486

(B) Any enterprise that wishes to enter into an agreement 65487
with a municipal corporation under division (C) of this section 65488
shall submit a proposal to the legislative authority of the 65489
municipal corporation on a form prescribed by the director of 65490
development, together with the application fee established under 65491
section 5709.68 of the Revised Code. The form shall require the 65492
following information: 65493

(1) An estimate of the number of new employees whom the 65494
enterprise intends to hire, or of the number of employees whom the 65495
enterprise intends to retain, within the zone at a facility that 65496
is a project site, and an estimate of the amount of payroll of the 65497
enterprise attributable to these employees; 65498

(2) An estimate of the amount to be invested by the 65499
enterprise to establish, expand, renovate, or occupy a facility, 65500
including investment in new buildings, additions or improvements 65501
to existing buildings, machinery, equipment, furniture, fixtures, 65502
and inventory; 65503

(3) A listing of the enterprise's current investment, if any, 65504
in a facility as of the date of the proposal's submission. 65505

The enterprise shall review and update the listings required 65506
under this division to reflect material changes, and any agreement 65507
entered into under division (C) of this section shall set forth 65508
final estimates and listings as of the time the agreement is 65509
entered into. The legislative authority may, on a separate form 65510
and at any time, require any additional information necessary to 65511
determine whether an enterprise is in compliance with an agreement 65512
and to collect the information required to be reported under 65513
section 5709.68 of the Revised Code. 65514

(C) Upon receipt and investigation of a proposal under 65515
division (B) of this section, if the legislative authority finds 65516
that the enterprise submitting the proposal is qualified by 65517
financial responsibility and business experience to create and 65518
preserve employment opportunities in the zone and improve the 65519
economic climate of the municipal corporation, the legislative 65520
authority, on or before ~~June 30, 2004~~ October 15, 2009, may do one 65521
of the following: 65522

(1) Enter into an agreement with the enterprise under which 65523
the enterprise agrees to establish, expand, renovate, or occupy a 65524
facility and hire new employees, or preserve employment 65525
opportunities for existing employees, in return for one or more of 65526
the following incentives: 65527

(a) Exemption for a specified number of years, not to exceed 65528
ten, of a specified portion, up to seventy-five per cent, of the 65529
assessed value of tangible personal property first used in 65530
business at the project site as a result of the agreement. An 65531
exemption granted pursuant to this division applies to inventory 65532
required to be listed pursuant to sections 5711.15 and 5711.16 of 65533
the Revised Code, except that, in the instance of an expansion or 65534

other situations in which an enterprise was in business at the 65535
facility prior to the establishment of the zone, the inventory 65536
that is exempt is that amount or value of inventory in excess of 65537
the amount or value of inventory required to be listed in the 65538
personal property tax return of the enterprise in the return for 65539
the tax year in which the agreement is entered into. 65540

(b) Exemption for a specified number of years, not to exceed 65541
ten, of a specified portion, up to seventy-five per cent, of the 65542
increase in the assessed valuation of real property constituting 65543
the project site subsequent to formal approval of the agreement by 65544
the legislative authority; 65545

(c) Provision for a specified number of years, not to exceed 65546
ten, of any optional services or assistance that the municipal 65547
corporation is authorized to provide with regard to the project 65548
site. 65549

(2) Enter into an agreement under which the enterprise agrees 65550
to remediate an environmentally contaminated facility, to spend an 65551
amount equal to at least two hundred fifty per cent of the true 65552
value in money of the real property of the facility prior to 65553
remediation as determined for the purposes of property taxation to 65554
establish, expand, renovate, or occupy the remediated facility, 65555
and to hire new employees or preserve employment opportunities for 65556
existing employees at the remediated facility, in return for one 65557
or more of the following incentives: 65558

(a) Exemption for a specified number of years, not to exceed 65559
ten, of a specified portion, not to exceed fifty per cent, of the 65560
assessed valuation of the real property of the facility prior to 65561
remediation; 65562

(b) Exemption for a specified number of years, not to exceed 65563
ten, of a specified portion, not to exceed one hundred per cent, 65564
of the increase in the assessed valuation of the real property of 65565

the facility during or after remediation; 65566

(c) The incentive under division (C)(1)(a) of this section, 65567
except that the percentage of the assessed value of such property 65568
exempted from taxation shall not exceed one hundred per cent; 65569

(d) The incentive under division (C)(1)(c) of this section. 65570

(3) Enter into an agreement with an enterprise that plans to 65571
purchase and operate a large manufacturing facility that has 65572
ceased operation or announced its intention to cease operation, in 65573
return for exemption for a specified number of years, not to 65574
exceed ten, of a specified portion, up to one hundred per cent, of 65575
the assessed value of tangible personal property used in business 65576
at the project site as a result of the agreement, or of the 65577
assessed valuation of real property constituting the project site, 65578
or both. 65579

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this 65580
section, the portion of the assessed value of tangible personal 65581
property or of the increase in the assessed valuation of real 65582
property exempted from taxation under those divisions may exceed 65583
seventy-five per cent in any year for which that portion is 65584
exempted if the average percentage exempted for all years in which 65585
the agreement is in effect does not exceed sixty per cent, or if 65586
the board of education of the city, local, or exempted village 65587
school district within the territory of which the property is or 65588
will be located approves a percentage in excess of seventy-five 65589
per cent. For the purpose of obtaining such approval, the 65590
legislative authority shall deliver to the board of education a 65591
notice not later than forty-five days prior to approving the 65592
agreement, excluding Saturdays, Sundays, and legal holidays as 65593
defined in section 1.14 of the Revised Code. The notice shall 65594
state the percentage to be exempted, an estimate of the true value 65595
of the property to be exempted, and the number of years the 65596
property is to be exempted. The board of education, by resolution 65597

adopted by a majority of the board, shall approve or disapprove 65598
the agreement and certify a copy of the resolution to the 65599
legislative authority not later than fourteen days prior to the 65600
date stipulated by the legislative authority as the date upon 65601
which approval of the agreement is to be formally considered by 65602
the legislative authority. The board of education may include in 65603
the resolution conditions under which the board would approve the 65604
agreement, including the execution of an agreement to compensate 65605
the school district under division (B) of section 5709.82 of the 65606
Revised Code. The legislative authority may approve the agreement 65607
at any time after the board of education certifies its resolution 65608
approving the agreement to the legislative authority, or, if the 65609
board approves the agreement conditionally, at any time after the 65610
conditions are agreed to by the board and the legislative 65611
authority. 65612

If a board of education has adopted a resolution waiving its 65613
right to approve agreements and the resolution remains in effect, 65614
approval of an agreement by the board is not required under this 65615
division. If a board of education has adopted a resolution 65616
allowing a legislative authority to deliver the notice required 65617
under this division fewer than forty-five business days prior to 65618
the legislative authority's approval of the agreement, the 65619
legislative authority shall deliver the notice to the board not 65620
later than the number of days prior to such approval as prescribed 65621
by the board in its resolution. If a board of education adopts a 65622
resolution waiving its right to approve agreements or shortening 65623
the notification period, the board shall certify a copy of the 65624
resolution to the legislative authority. If the board of education 65625
rescinds such a resolution, it shall certify notice of the 65626
rescission to the legislative authority. 65627

(2) The legislative authority shall comply with section 65628
5709.83 of the Revised Code unless the board of education has 65629

adopted a resolution under that section waiving its right to 65630
receive such notice. 65631

(E) This division applies to zones certified by the director 65632
of development under this section prior to July 22, 1994. 65633

On or before ~~June 30, 2004~~ October 15, 2009, the legislative 65634
authority that designated a zone to which this division applies 65635
may enter into an agreement with an enterprise if the legislative 65636
authority makes the finding required under that division and 65637
determines that the enterprise satisfies one of the criteria 65638
described in divisions (E)(1) to (5) of this section: 65639

(1) The enterprise currently has no operations in this state 65640
and, subject to approval of the agreement, intends to establish 65641
operations in the zone; 65642

(2) The enterprise currently has operations in this state 65643
and, subject to approval of the agreement, intends to establish 65644
operations at a new location in the zone that would not result in 65645
a reduction in the number of employee positions at any of the 65646
enterprise's other locations in this state; 65647

(3) The enterprise, subject to approval of the agreement, 65648
intends to relocate operations, currently located in another 65649
state, to the zone; 65650

(4) The enterprise, subject to approval of the agreement, 65651
intends to expand operations at an existing site in the zone that 65652
the enterprise currently operates; 65653

(5) The enterprise, subject to approval of the agreement, 65654
intends to relocate operations, currently located in this state, 65655
to the zone, and the director of development has issued a waiver 65656
for the enterprise under division (B) of section 5709.633 of the 65657
Revised Code. 65658

The agreement shall require the enterprise to agree to 65659

establish, expand, renovate, or occupy a facility in the zone and 65660
hire new employees, or preserve employment opportunities for 65661
existing employees, in return for one or more of the incentives 65662
described in division (C) of this section. 65663

(F) All agreements entered into under this section shall be 65664
in the form prescribed under section 5709.631 of the Revised Code. 65665
After an agreement is entered into under this division, if the 65666
legislative authority revokes its designation of a zone, or if the 65667
director of development revokes the zone's certification, any 65668
entitlements granted under the agreement shall continue for the 65669
number of years specified in the agreement. 65670

(G) Except as otherwise provided in this division, an 65671
agreement entered into under this section shall require that the 65672
enterprise pay an annual fee equal to the greater of one per cent 65673
of the dollar value of incentives offered under the agreement or 65674
five hundred dollars; provided, however, that if the value of the 65675
incentives exceeds two hundred fifty thousand dollars, the fee 65676
shall not exceed two thousand five hundred dollars. The fee shall 65677
be payable to the legislative authority once per year for each 65678
year the agreement is effective on the days and in the form 65679
specified in the agreement. Fees paid shall be deposited in a 65680
special fund created for such purpose by the legislative authority 65681
and shall be used by the legislative authority exclusively for the 65682
purpose of complying with section 5709.68 of the Revised Code and 65683
by the tax incentive review council created under section 5709.85 65684
of the Revised Code exclusively for the purposes of performing the 65685
duties prescribed under that section. The legislative authority 65686
may waive or reduce the amount of the fee charged against an 65687
enterprise, but such a waiver or reduction does not affect the 65688
obligations of the legislative authority or the tax incentive 65689
review council to comply with section 5709.68 or 5709.85 of the 65690
Revised Code. 65691

(H) When an agreement is entered into pursuant to this 65692
section, the legislative authority authorizing the agreement shall 65693
forward a copy of the agreement to the director of development and 65694
to the tax commissioner within fifteen days after the agreement is 65695
entered into. If any agreement includes terms not provided for in 65696
section 5709.631 of the Revised Code affecting the revenue of a 65697
city, local, or exempted village school district or causing 65698
revenue to be foregone by the district, including any compensation 65699
to be paid to the school district pursuant to section 5709.82 of 65700
the Revised Code, those terms also shall be forwarded in writing 65701
to the director of development along with the copy of the 65702
agreement forwarded under this division. 65703

(I) After an agreement is entered into, the enterprise shall 65704
file with each personal property tax return required to be filed, 65705
or annual report required to be filed under section 5727.08 of the 65706
Revised Code, while the agreement is in effect, an informational 65707
return, on a form prescribed by the tax commissioner for that 65708
purpose, setting forth separately the property, and related costs 65709
and values, exempted from taxation under the agreement. 65710

(J) Enterprises may agree to give preference to residents of 65711
the zone within which the agreement applies relative to residents 65712
of this state who do not reside in the zone when hiring new 65713
employees under the agreement. 65714

(K) An agreement entered into under this section may include 65715
a provision requiring the enterprise to create one or more 65716
temporary internship positions for students enrolled in a course 65717
of study at a school or other educational institution in the 65718
vicinity, and to create a scholarship or provide another form of 65719
educational financial assistance for students holding such a 65720
position in exchange for the student's commitment to work for the 65721
enterprise at the completion of the internship. 65722

Sec. 5709.63. (A) With the consent of the legislative 65723
authority of each affected municipal corporation or of a board of 65724
township trustees, a board of county commissioners may, in the 65725
manner set forth in section 5709.62 of the Revised Code, designate 65726
one or more areas in one or more municipal corporations or in 65727
unincorporated areas of the county as proposed enterprise zones. A 65728
board of county commissioners may designate no more than one area 65729
within a township, or within adjacent townships, as a proposed 65730
enterprise zone. The board shall petition the director of 65731
development for certification of the area as having the 65732
characteristics set forth in division (A)(1) or (2) of section 65733
5709.61 of the Revised Code as amended by Substitute Senate Bill 65734
No. 19 of the 120th general assembly. Except as otherwise provided 65735
in division (D) of this section, on and after July 1, 1994, boards 65736
of county commissioners shall not enter into agreements under this 65737
section unless the board has petitioned the director and the 65738
director has certified the zone under this section as amended by 65739
that act; however, all agreements entered into under this section 65740
as it existed prior to July 1, 1994, and the incentives granted 65741
under those agreements shall remain in effect for the period 65742
agreed to under those agreements. The director shall make the 65743
determination in the manner provided under section 5709.62 of the 65744
Revised Code. Any enterprise wishing to enter into an agreement 65745
with the board under division (B) or (D) of this section shall 65746
submit a proposal to the board on the form and accompanied by the 65747
application fee prescribed under division (B) of section 5709.62 65748
of the Revised Code. The enterprise shall review and update the 65749
estimates and listings required by the form in the manner required 65750
under that division. The board may, on a separate form and at any 65751
time, require any additional information necessary to determine 65752
whether an enterprise is in compliance with an agreement and to 65753
collect the information required to be reported under section 65754

5709.68 of the Revised Code. 65755

(B) If the board of county commissioners finds that an 65756
enterprise submitting a proposal is qualified by financial 65757
responsibility and business experience to create and preserve 65758
employment opportunities in the zone and to improve the economic 65759
climate of the municipal corporation or municipal corporations or 65760
the unincorporated areas in which the zone is located and to which 65761
the proposal applies, the board, on or before ~~June 30, 2004~~ 65762
October 15, 2009, and with the consent of the legislative 65763
authority of each affected municipal corporation or of the board 65764
of township trustees may do either of the following: 65765

(1) Enter into an agreement with the enterprise under which 65766
the enterprise agrees to establish, expand, renovate, or occupy a 65767
facility in the zone and hire new employees, or preserve 65768
employment opportunities for existing employees, in return for the 65769
following incentives: 65770

(a) When the facility is located in a municipal corporation, 65771
the board may enter into an agreement for one or more of the 65772
incentives provided in division (C) of section 5709.62 of the 65773
Revised Code, subject to division (D) of that section; 65774

(b) When the facility is located in an unincorporated area, 65775
the board may enter into an agreement for one or more of the 65776
following incentives: 65777

(i) Exemption for a specified number of years, not to exceed 65778
ten, of a specified portion, up to sixty per cent, of the assessed 65779
value of tangible personal property first used in business at a 65780
project site as a result of the agreement. An exemption granted 65781
pursuant to this division applies to inventory required to be 65782
listed pursuant to sections 5711.15 and 5711.16 of the Revised 65783
Code, except, in the instance of an expansion or other situations 65784
in which an enterprise was in business at the facility prior to 65785

the establishment of the zone, the inventory that is exempt is 65786
that amount or value of inventory in excess of the amount or value 65787
of inventory required to be listed in the personal property tax 65788
return of the enterprise in the return for the tax year in which 65789
the agreement is entered into. 65790

(ii) Exemption for a specified number of years, not to exceed 65791
ten, of a specified portion, up to sixty per cent, of the increase 65792
in the assessed valuation of real property constituting the 65793
project site subsequent to formal approval of the agreement by the 65794
board; 65795

(iii) Provision for a specified number of years, not to 65796
exceed ten, of any optional services or assistance the board is 65797
authorized to provide with regard to the project site; 65798

(iv) The incentive described in division (C)(2) of section 65799
5709.62 of the Revised Code. 65800

(2) Enter into an agreement with an enterprise that plans to 65801
purchase and operate a large manufacturing facility that has 65802
ceased operation or has announced its intention to cease 65803
operation, in return for exemption for a specified number of 65804
years, not to exceed ten, of a specified portion, up to one 65805
hundred per cent, of tangible personal property used in business 65806
at the project site as a result of the agreement, or of real 65807
property constituting the project site, or both. 65808

(C)(1) Notwithstanding divisions (B)(1)(b)(i) and (ii) of 65809
this section, the portion of the assessed value of tangible 65810
personal property or of the increase in the assessed valuation of 65811
real property exempted from taxation under those divisions may 65812
exceed sixty per cent in any year for which that portion is 65813
exempted if the average percentage exempted for all years in which 65814
the agreement is in effect does not exceed fifty per cent, or if 65815
the board of education of the city, local, or exempted village 65816

school district within the territory of which the property is or 65817
will be located approves a percentage in excess of sixty per cent. 65818
For the purpose of obtaining such approval, the board of 65819
commissioners shall deliver to the board of education a notice not 65820
later than forty-five days prior to approving the agreement, 65821
excluding Saturdays, Sundays, and legal holidays as defined in 65822
section 1.14 of the Revised Code. The notice shall state the 65823
percentage to be exempted, an estimate of the true value of the 65824
property to be exempted, and the number of years the property is 65825
to be exempted. The board of education, by resolution adopted by a 65826
majority of the board, shall approve or disapprove the agreement 65827
and certify a copy of the resolution to the board of commissioners 65828
not later than fourteen days prior to the date stipulated by the 65829
board of commissioners as the date upon which approval of the 65830
agreement is to be formally considered by the board of 65831
commissioners. The board of education may include in the 65832
resolution conditions under which the board would approve the 65833
agreement, including the execution of an agreement to compensate 65834
the school district under division (B) of section 5709.82 of the 65835
Revised Code. The board of county commissioners may approve the 65836
agreement at any time after the board of education certifies its 65837
resolution approving the agreement to the board of county 65838
commissioners, or, if the board of education approves the 65839
agreement conditionally, at any time after the conditions are 65840
agreed to by the board of education and the board of county 65841
commissioners. 65842

If a board of education has adopted a resolution waiving its 65843
right to approve agreements and the resolution remains in effect, 65844
approval of an agreement by the board of education is not required 65845
under division (C) of this section. If a board of education has 65846
adopted a resolution allowing a board of county commissioners to 65847
deliver the notice required under this division fewer than 65848
forty-five business days prior to approval of the agreement by the 65849

board of county commissioners, the board of county commissioners 65850
shall deliver the notice to the board of education not later than 65851
the number of days prior to such approval as prescribed by the 65852
board of education in its resolution. If a board of education 65853
adopts a resolution waiving its right to approve agreements or 65854
shortening the notification period, the board of education shall 65855
certify a copy of the resolution to the board of county 65856
commissioners. If the board of education rescinds such a 65857
resolution, it shall certify notice of the rescission to the board 65858
of county commissioners. 65859

(2) The board of county commissioners shall comply with 65860
section 5709.83 of the Revised Code unless the board of education 65861
has adopted a resolution under that section waiving its right to 65862
receive such notice. 65863

(D) This division applies to zones certified by the director 65864
of development under this section prior to July 22, 1994. 65865

On or before ~~June 30, 2004~~ October 15, 2009, and with the 65866
consent of the legislative authority of each affected municipal 65867
corporation or board of township trustees of each affected 65868
township, the board of commissioners that designated a zone to 65869
which this division applies may enter into an agreement with an 65870
enterprise if the board makes the finding required under that 65871
division and determines that the enterprise satisfies one of the 65872
criteria described in divisions (D)(1) to (5) of this section: 65873

(1) The enterprise currently has no operations in this state 65874
and, subject to approval of the agreement, intends to establish 65875
operations in the zone; 65876

(2) The enterprise currently has operations in this state 65877
and, subject to approval of the agreement, intends to establish 65878
operations at a new location in the zone that would not result in 65879
a reduction in the number of employee positions at any of the 65880

enterprise's other locations in this state; 65881

(3) The enterprise, subject to approval of the agreement, 65882
intends to relocate operations, currently located in another 65883
state, to the zone; 65884

(4) The enterprise, subject to approval of the agreement, 65885
intends to expand operations at an existing site in the zone that 65886
the enterprise currently operates; 65887

(5) The enterprise, subject to approval of the agreement, 65888
intends to relocate operations, currently located in this state, 65889
to the zone, and the director of development has issued a waiver 65890
for the enterprise under division (B) of section 5709.633 of the 65891
Revised Code. 65892

The agreement shall require the enterprise to agree to 65893
establish, expand, renovate, or occupy a facility in the zone and 65894
hire new employees, or preserve employment opportunities for 65895
existing employees, in return for one or more of the incentives 65896
described in division (B) of this section. 65897

(E) All agreements entered into under this section shall be 65898
in the form prescribed under section 5709.631 of the Revised Code. 65899
After an agreement under this section is entered into, if the 65900
board of county commissioners revokes its designation of the zone, 65901
or if the director of development revokes the zone's 65902
certification, any entitlements granted under the agreement shall 65903
continue for the number of years specified in the agreement. 65904

(F) Except as otherwise provided in this paragraph, an 65905
agreement entered into under this section shall require that the 65906
enterprise pay an annual fee equal to the greater of one per cent 65907
of the dollar value of incentives offered under the agreement or 65908
five hundred dollars; provided, however, that if the value of the 65909
incentives exceeds two hundred fifty thousand dollars, the fee 65910
shall not exceed two thousand five hundred dollars. The fee shall 65911

be payable to the board of commissioners once per year for each 65912
year the agreement is effective on the days and in the form 65913
specified in the agreement. Fees paid shall be deposited in a 65914
special fund created for such purpose by the board and shall be 65915
used by the board exclusively for the purpose of complying with 65916
section 5709.68 of the Revised Code and by the tax incentive 65917
review council created under section 5709.85 of the Revised Code 65918
exclusively for the purposes of performing the duties prescribed 65919
under that section. The board may waive or reduce the amount of 65920
the fee charged against an enterprise, but such waiver or 65921
reduction does not affect the obligations of the board or the tax 65922
incentive review council to comply with section 5709.68 or 5709.85 65923
of the Revised Code, respectively. 65924

(G) With the approval of the legislative authority of a 65925
municipal corporation or the board of township trustees of a 65926
township in which a zone is designated under division (A) of this 65927
section, the board of county commissioners may delegate to that 65928
legislative authority or board any powers and duties of the board 65929
to negotiate and administer agreements with regard to that zone 65930
under this section. 65931

(H) When an agreement is entered into pursuant to this 65932
section, the legislative authority authorizing the agreement shall 65933
forward a copy of the agreement to the director of development and 65934
to the tax commissioner within fifteen days after the agreement is 65935
entered into. If any agreement includes terms not provided for in 65936
section 5709.631 of the Revised Code affecting the revenue of a 65937
city, local, or exempted village school district or causing 65938
revenue to be foregone by the district, including any compensation 65939
to be paid to the school district pursuant to section 5709.82 of 65940
the Revised Code, those terms also shall be forwarded in writing 65941
to the director of development along with the copy of the 65942
agreement forwarded under this division. 65943

(I) After an agreement is entered into, the enterprise shall 65944
file with each personal property tax return required to be filed, 65945
or annual report that is required to be filed under section 65946
5727.08 of the Revised Code, while the agreement is in effect, an 65947
informational return, on a form prescribed by the tax commissioner 65948
for that purpose, setting forth separately the property, and 65949
related costs and values, exempted from taxation under the 65950
agreement. 65951

(J) Enterprises may agree to give preference to residents of 65952
the zone within which the agreement applies relative to residents 65953
of this state who do not reside in the zone when hiring new 65954
employees under the agreement. 65955

(K) An agreement entered into under this section may include 65956
a provision requiring the enterprise to create one or more 65957
temporary internship positions for students enrolled in a course 65958
of study at a school or other educational institution in the 65959
vicinity, and to create a scholarship or provide another form of 65960
educational financial assistance for students holding such a 65961
position in exchange for the student's commitment to work for the 65962
enterprise at the completion of the internship. 65963

Sec. 5709.632. (A)(1) The legislative authority of a 65964
municipal corporation defined by the United States office of 65965
management and budget as a central city of a metropolitan 65966
statistical area may, in the manner set forth in section 5709.62 65967
of the Revised Code, designate one or more areas in the municipal 65968
corporation as a proposed enterprise zone. 65969

(2) With the consent of the legislative authority of each 65970
affected municipal corporation or of a board of township trustees, 65971
a board of county commissioners may, in the manner set forth in 65972
section 5709.62 of the Revised Code, designate one or more areas 65973
in one or more municipal corporations or in unincorporated areas 65974

of the county as proposed urban jobs and enterprise zones, except 65975
that a board of county commissioners may designate no more than 65976
one area within a township, or within adjacent townships, as a 65977
proposed urban jobs and enterprise zone. 65978

(3) The legislative authority or board of county 65979
commissioners may petition the director of development for 65980
certification of the area as having the characteristics set forth 65981
in division (A)(3) of section 5709.61 of the Revised Code. Within 65982
sixty days after receiving such a petition, the director shall 65983
determine whether the area has the characteristics set forth in 65984
that division and forward the findings to the legislative 65985
authority or board of county commissioners. If the director 65986
certifies the area as having those characteristics and thereby 65987
certifies it as a zone, the legislative authority or board may 65988
enter into agreements with enterprises under division (B) of this 65989
section. Any enterprise wishing to enter into an agreement with a 65990
legislative authority or board of commissioners under this section 65991
and satisfying one of the criteria described in divisions (B)(1) 65992
to (5) of this section shall submit a proposal to the legislative 65993
authority or board on the form prescribed under division (B) of 65994
section 5709.62 of the Revised Code and shall review and update 65995
the estimates and listings required by the form in the manner 65996
required under that division. The legislative authority or board 65997
may, on a separate form and at any time, require any additional 65998
information necessary to determine whether an enterprise is in 65999
compliance with an agreement and to collect the information 66000
required to be reported under section 5709.68 of the Revised Code. 66001

(B) Prior to entering into an agreement with an enterprise, 66002
the legislative authority or board of county commissioners shall 66003
determine whether the enterprise submitting the proposal is 66004
qualified by financial responsibility and business experience to 66005
create and preserve employment opportunities in the zone and to 66006

improve the economic climate of the municipal corporation or 66007
municipal corporations or the unincorporated areas in which the 66008
zone is located and to which the proposal applies, and whether the 66009
enterprise satisfies one of the following criteria: 66010

(1) The enterprise currently has no operations in this state 66011
and, subject to approval of the agreement, intends to establish 66012
operations in the zone; 66013

(2) The enterprise currently has operations in this state 66014
and, subject to approval of the agreement, intends to establish 66015
operations at a new location in the zone that would not result in 66016
a reduction in the number of employee positions at any of the 66017
enterprise's other locations in this state; 66018

(3) The enterprise, subject to approval of the agreement, 66019
intends to relocate operations, currently located in another 66020
state, to the zone; 66021

(4) The enterprise, subject to approval of the agreement, 66022
intends to expand operations at an existing site in the zone that 66023
the enterprise currently operates; 66024

(5) The enterprise, subject to approval of the agreement, 66025
intends to relocate operations, currently located in this state, 66026
to the zone, and the director of development has issued a waiver 66027
for the enterprise under division (B) of section 5709.633 of the 66028
Revised Code. 66029

(C) If the legislative authority or board determines that the 66030
enterprise is so qualified and satisfies one of the criteria 66031
described in divisions (B)(1) to (5) of this section, the 66032
legislative authority or board may, after complying with section 66033
5709.83 of the Revised Code and on or before ~~June 30, 2004~~ October 66034
15, 2009, and, in the case of a board of commissioners, with the 66035
consent of the legislative authority of each affected municipal 66036
corporation or of the board of township trustees, enter into an 66037

agreement with the enterprise under which the enterprise agrees to 66038
establish, expand, renovate, or occupy a facility in the zone and 66039
hire new employees, or preserve employment opportunities for 66040
existing employees, in return for the following incentives: 66041

(1) When the facility is located in a municipal corporation, 66042
a legislative authority or board of commissioners may enter into 66043
an agreement for one or more of the incentives provided in 66044
division (C) of section 5709.62 of the Revised Code, subject to 66045
division (D) of that section; 66046

(2) When the facility is located in an unincorporated area, a 66047
board of commissioners may enter into an agreement for one or more 66048
of the incentives provided in divisions (B)(1)(b), (B)(2), and 66049
(B)(3) of section 5709.63 of the Revised Code, subject to division 66050
(C) of that section. 66051

(D) All agreements entered into under this section shall be 66052
in the form prescribed under section 5709.631 of the Revised Code. 66053
After an agreement under this section is entered into, if the 66054
legislative authority or board of county commissioners revokes its 66055
designation of the zone, or if the director of development revokes 66056
the zone's certification, any entitlements granted under the 66057
agreement shall continue for the number of years specified in the 66058
agreement. 66059

(E) Except as otherwise provided in this division, an 66060
agreement entered into under this section shall require that the 66061
enterprise pay an annual fee equal to the greater of one per cent 66062
of the dollar value of incentives offered under the agreement or 66063
five hundred dollars; provided, however, that if the value of the 66064
incentives exceeds two hundred fifty thousand dollars, the fee 66065
shall not exceed two thousand five hundred dollars. The fee shall 66066
be payable to the legislative authority or board of commissioners 66067
once per year for each year the agreement is effective on the days 66068
and in the form specified in the agreement. Fees paid shall be 66069

deposited in a special fund created for such purpose by the 66070
legislative authority or board and shall be used by the 66071
legislative authority or board exclusively for the purpose of 66072
complying with section 5709.68 of the Revised Code and by the tax 66073
incentive review council created under section 5709.85 of the 66074
Revised Code exclusively for the purposes of performing the duties 66075
prescribed under that section. The legislative authority or board 66076
may waive or reduce the amount of the fee charged against an 66077
enterprise, but such waiver or reduction does not affect the 66078
obligations of the legislative authority or board or the tax 66079
incentive review council to comply with section 5709.68 or 5709.85 66080
of the Revised Code, respectively. 66081

(F) With the approval of the legislative authority of a 66082
municipal corporation or the board of township trustees of a 66083
township in which a zone is designated under division (A)(2) of 66084
this section, the board of county commissioners may delegate to 66085
that legislative authority or board any powers and duties of the 66086
board to negotiate and administer agreements with regard to that 66087
zone under this section. 66088

(G) When an agreement is entered into pursuant to this 66089
section, the legislative authority or board of commissioners 66090
authorizing the agreement shall forward a copy of the agreement to 66091
the director of development and to the tax commissioner within 66092
fifteen days after the agreement is entered into. If any agreement 66093
includes terms not provided for in section 5709.631 of the Revised 66094
Code affecting the revenue of a city, local, or exempted village 66095
school district or causing revenue to be foregone by the district, 66096
including any compensation to be paid to the school district 66097
pursuant to section 5709.82 of the Revised Code, those terms also 66098
shall be forwarded in writing to the director of development along 66099
with the copy of the agreement forwarded under this division. 66100

(H) After an agreement is entered into, the enterprise shall 66101

file with each personal property tax return required to be filed 66102
while the agreement is in effect, an informational return, on a 66103
form prescribed by the tax commissioner for that purpose, setting 66104
forth separately the property, and related costs and values, 66105
exempted from taxation under the agreement. 66106

(I) An agreement entered into under this section may include 66107
a provision requiring the enterprise to create one or more 66108
temporary internship positions for students enrolled in a course 66109
of study at a school or other educational institution in the 66110
vicinity, and to create a scholarship or provide another form of 66111
educational financial assistance for students holding such a 66112
position in exchange for the student's commitment to work for the 66113
enterprise at the completion of the internship. 66114

Sec. 5709.64. (A) If an enterprise has been granted an 66115
incentive for the current calendar year under an agreement entered 66116
pursuant to section 5709.62, 5709.63, or 5709.632 of the Revised 66117
Code, it may apply, on or before the thirtieth day of April of 66118
that year, to the director of development, on a form prescribed by 66119
the director, for a tax incentive qualification certificate. The 66120
enterprise qualifies for an initial certificate if, on or before 66121
the last day of the calendar year immediately preceding that in 66122
which application is made, it satisfies all of the following 66123
requirements: 66124

(1) The enterprise has established, expanded, renovated, or 66125
occupied a facility pursuant to the agreement under section 66126
5709.62, 5709.63, or 5709.632 of the Revised Code. 66127

(2) The enterprise has hired new employees to fill nonretail 66128
positions at the facility, at least twenty-five per cent of whom 66129
at the time they were employed were at least one of the following: 66130

(a) Unemployed persons who had resided at least six months in 66131
the county in which the enterprise's project site is located; 66132

(b) JPTA eligible employees who had resided at least six months in the county in which the enterprise's project site is located; 66133
66134
66135

(c) Participants of the Ohio works first program under Chapter 5107. of the Revised Code or the prevention, retention, and contingency program under Chapter 5108. of the Revised Code or recipients of general assistance under former Chapter 5113. of the Revised Code, ~~disability~~ financial assistance under Chapter 5115. of the Revised Code, or unemployment compensation benefits who had resided at least six months in the county in which the enterprise's project site is located; 66136
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(d) Handicapped persons, as defined under division (A) of section 3304.11 of the Revised Code, who had resided at least six months in the county in which the enterprise's project site is located; 66144
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(e) Residents for at least one year of a zone located in the county in which the enterprise's project site is located. 66148
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The director of development shall, by rule, establish criteria for determining what constitutes a nonretail position at a facility. 66150
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(3) The average number of positions attributable to the enterprise in the municipal corporation during the calendar year immediately preceding the calendar year in which application is made exceeds the maximum number of positions attributable to the enterprise in the municipal corporation during the calendar year immediately preceding the first year the enterprise satisfies the requirements set forth in divisions (A)(1) and (2) of this section. If the enterprise is engaged in a business which, because of its seasonal nature, customarily enables the enterprise to operate at full capacity only during regularly recurring periods of the year, the average number of positions attributable to the 66153
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enterprise in the municipal corporation during each period of the 66164
calendar year immediately preceding the calendar year in which 66165
application is made must exceed only the maximum number of 66166
positions attributable to the enterprise in each corresponding 66167
period of the calendar year immediately preceding the first year 66168
the enterprise satisfies the requirements of divisions (A)(1) and 66169
(2) of this section. The director of development shall, by rule, 66170
prescribe methods for determining whether an enterprise is engaged 66171
in a seasonal business and for determining the length of the 66172
corresponding periods to be compared. 66173

(4) The enterprise has not closed or reduced employment at 66174
any place of business in the state for the primary purpose of 66175
establishing, expanding, renovating, or occupying a facility. The 66176
legislative authority of any municipal corporation or the board of 66177
county commissioners of any county that concludes that an 66178
enterprise has closed or reduced employment at a place of business 66179
in that municipal corporation or county for the primary purpose of 66180
establishing, expanding, renovating, or occupying a facility in a 66181
zone may appeal to the director to determine whether the 66182
enterprise has done so. Upon receiving such an appeal, the 66183
director shall investigate the allegations and make such a 66184
determination before issuing an initial or renewal tax incentive 66185
qualification certificate under this section. 66186

Within sixty days after receiving an application under this 66187
division, the director shall review, investigate, and verify the 66188
application and determine whether the enterprise qualifies for a 66189
certificate. The application shall include an affidavit executed 66190
by the applicant verifying that the enterprise satisfies the 66191
requirements of division (A)(2) of this section, and shall contain 66192
such information and documents as the director requires, by rule, 66193
to ascertain whether the enterprise qualifies for a certificate. 66194
If the director finds the enterprise qualified, the director shall 66195

issue a tax incentive qualification certificate, which shall bear 66196
as its date of issuance the thirtieth day of June of the year of 66197
application, and shall state that the applicant is entitled to 66198
receive, for the taxable year that includes the certificate's date 66199
of issuance, the tax incentives provided under section 5709.65 of 66200
the Revised Code with regard to the facility to which the 66201
certificate applies. If an enterprise is issued an initial 66202
certificate, it may apply, on or before the thirtieth day of April 66203
of each succeeding calendar year for which it has been granted an 66204
incentive under an agreement entered pursuant to section 5709.62, 66205
5709.63, or 5709.632 of the Revised Code, for a renewal 66206
certificate. Subsequent to its initial certification, the 66207
enterprise qualifies for up to three successive renewal 66208
certificates if, on or before the last day of the calendar year 66209
immediately preceding that in which the application is made, it 66210
satisfies all the requirements of divisions (A)(1) to (4) of this 66211
section, and neither the zone's designation nor the zone's 66212
certification has been revoked prior to the fifteenth day of June 66213
of the year in which the application is made. The application 66214
shall include an affidavit executed by the applicant verifying 66215
that the enterprise satisfies the requirements of division (A)(2) 66216
of this section. An enterprise with ten or more supervisory 66217
personnel at the facility to which a certificate applies qualifies 66218
for any subsequent renewal certificates only if it meets all of 66219
the foregoing requirements and, in addition, at least ten per cent 66220
of those supervisory personnel are employees who, when first hired 66221
by the enterprise, satisfied at least one of the criteria 66222
specified in divisions (A)(2)(a) to (e) of this section. If the 66223
enterprise qualifies, a renewal certificate shall be issued 66224
bearing as its date of issuance the thirtieth day of June of the 66225
year of application. The director shall send copies of the initial 66226
certificate, and each renewal certificate, by certified mail, to 66227
the enterprise, the tax commissioner, the board of county 66228

commissioners, and the chief executive of the municipal 66229
corporation in which the facility to which the certificate applies 66230
is located. 66231

(B) If the director determines that an enterprise is not 66232
qualified for an initial or renewal tax incentive qualification 66233
certificate, the director shall send notice of this determination, 66234
specifying the reasons for it, by certified mail, to the 66235
applicant, the tax commissioner, the board of county 66236
commissioners, and the chief executive of the municipal 66237
corporation in which the facility to which the certificate would 66238
have applied is located. Within thirty days after receiving such a 66239
notice, an enterprise may request, in writing, a hearing before 66240
the director for the purpose of reviewing the application and the 66241
reasons for the determination. Within sixty days after receiving a 66242
request for a hearing, the director shall afford one and, within 66243
thirty days after the hearing, shall issue a redetermination of 66244
the enterprise's qualification for a certificate. If the 66245
enterprise is found to be qualified, the director shall proceed in 66246
the manner provided under division (A) of this section. If the 66247
enterprise is found to be unqualified, the director shall send 66248
notice of this finding, by certified mail, to the applicant, the 66249
tax commissioner, the board of county commissioners, and the chief 66250
executive of the municipal corporation in which the facility to 66251
which the certificate would have applied is located. The 66252
director's redetermination that an enterprise is unqualified may 66253
be appealed to the board of tax appeals in the manner provided 66254
under section 5717.02 of the Revised Code. 66255

Sec. 5711.02. Except as otherwise provided by section 5711.13 66256
of the Revised Code, each year, beginning in tax year 2004, each 66257
taxpayer having taxable personal property with an aggregate 66258
taxable value in excess of ten thousand dollars shall make a 66259
return, ~~annually,~~ to the county auditor of each county in which 66260

any taxable property, ~~which~~ the taxpayer must return, is required 66261
by this chapter to be listed ~~and~~. The taxpayer shall truly and 66262
correctly list ~~therein~~ on the return all taxable property so 66263
required to be listed, including property exempt under division 66264
(C)(3) of section 5709.01 of the Revised Code. Such returns shall 66265
be made on the blanks prescribed by the tax commissioner, which 66266
the county auditor shall supply at ~~his~~ the auditor's office along 66267
with blanks of the kind required for the county supplemental 66268
return required by section 5711.131 of the Revised Code ~~for the~~ 66269
~~use of taxpayers~~. The county auditor shall mail or distribute such 66270
blanks prior to the fifteenth day of February to all persons known 66271
to ~~him~~ the auditor to be taxpayers and to all persons to whom the 66272
commissioner may direct blanks of either type to be mailed or 66273
distributed, ~~and he~~. The county auditor may place listing and 66274
county supplemental blanks at convenient places in ~~his~~ the county. 66275
The failure of a taxpayer to receive or procure blanks shall not 66276
excuse ~~him~~ the taxpayer from making any return or county 66277
supplemental return. The individual required to make the return 66278
shall furnish all statements and documents, give all information 66279
required, answer all questions asked on the required blanks, and 66280
subscribe to the truth and correctness of all matters contained 66281
therein. 66282

Sec. 5711.13. A Beginning in tax year 2004, each taxpayer 66283
having taxable property with an aggregate taxable value in excess 66284
of ten thousand dollars and required to be listed in more than one 66285
county shall make a combined return to the tax commissioner 66286
listing all its taxable property in this state, in conformity with 66287
sections 5711.01 to 5711.36 of the Revised Code, including 66288
property exempt under division (C)(3) of section 5709.01 of the 66289
Revised Code, but ~~it~~ the taxpayer shall not assign ~~its~~ property of 66290
the kinds mentioned in section 5709.02 of the Revised Code to any 66291
particular taxing district or county. The tax commissioner shall 66292

assess the personal property of such taxpayer in the several 66293
taxing districts in which it is required ~~by~~ to be assessed under 66294
sections 5711.01 to 5711.36 of the Revised Code, ~~to be assessed,~~ 66295
and shall issue assessment certificates therefor to the proper 66296
county auditors at the time and in the manner required by section 66297
5711.25 of the Revised Code. All other property of such taxpayer 66298
required to be so listed shall be entered on the intangible 66299
property tax list in the office of the treasurer of state, and 66300
~~taxed~~ shall be subject to taxation under section 5707.03 of the 66301
Revised Code. The commissioner shall assess all other property of 66302
each such taxpayer and, on or before the second Monday of August 66303
annually, shall certify the total value or amount of each kind 66304
thereof to the treasurer of state, who shall enter the value or 66305
amount on the intangible property tax list in ~~his~~ the treasurer of 66306
state's office in the manner provided in sections 5725.01 to 66307
5725.26 of the Revised Code. Sections 5711.01 to 5711.36 of the 66308
Revised Code shall apply to and govern such taxpayer, its proper 66309
officers and representatives, the commissioner, and the county 66310
auditor as to all proceedings in the assessment of the property of 66311
such taxpayer. 66312

Sec. 5711.18. (A) As used in this section: 66313

(1) "Qualifying manufacturing property" means machinery or 66314
equipment satisfying both of the following: 66315

(a) The machinery or equipment would qualify as a thing 66316
transferred and used primarily in a manufacturing operation for 66317
the purposes of division (E)(9) of section 5739.01 and section 66318
5739.011 of the Revised Code. 66319

(b) The machinery or equipment was first placed in service in 66320
this state on or after July 1, 2004, and has not been listed for 66321
taxation under this chapter, and was not required to have been so 66322
listed, for any tax year before tax year 2004. 66323

(2) "Phase-in percentage" means the percentage corresponding 66324
with each of the following tax years: 66325

<u>Tax Year</u>	<u>Percentage</u>	66326
<u>2004</u>	<u>90%</u>	66327
<u>2005</u>	<u>80%</u>	66328
<u>2006</u>	<u>70%</u>	66329
<u>2007</u>	<u>60%</u>	66330
<u>2008</u>	<u>50%</u>	66331
<u>2009</u>	<u>40%</u>	66332
<u>2010</u>	<u>30%</u>	66333
<u>2011</u>	<u>20%</u>	66334
<u>2012</u>	<u>10%</u>	66335
<u>2013 and thereafter</u>	<u>0%</u>	66336

(B) In the case of accounts receivable, the book value 66337
thereof less book reserves shall be listed and shall be taken as 66338
the true value thereof unless the assessor finds that such net 66339
book value is greater or less than the then true value of such 66340
accounts receivable in money. ~~It~~ 66341

(C) In the case of personal property used in business, the 66342
~~book value thereof less book depreciation at such time shall be~~ 66343
~~listed, and such depreciated book value~~ one of the following 66344
values shall be listed and shall be taken as the true value of 66345
such property, unless the assessor finds that such ~~depreciated~~ 66346
~~book~~ value is greater or less than the then true value of such 66347
property in money. ~~Claim:~~ 66348

(1) In the case of personal property other than qualifying 66349
manufacturing property, the book value of the property less book 66350
depreciation at the time of listing; 66351

(2) In the case of qualifying manufacturing property, the sum 66352
of the following: 66353

(a) The depreciated book value at which the property would be 66354

valued under division (C)(1) of this section if the property were 66355
valued at the lowest valuation percentage for the class life 66356
assigned to such property, as prescribed under the rules adopted 66357
by the tax commissioner for the purpose of valuing personal 66358
property used in business; 66359

(b) The phase-in percentage multiplied by the excess, if any, 66360
of (i) the book value of the property less book depreciation at 66361
the time of listing, as prescribed in such rules, over (ii) the 66362
value described in division (C)(2)(a) of this section. 66363

Nothing in this section shall cause the true value of 66364
qualifying manufacturing property for any tax year to exceed the 66365
book value of the property less book depreciation at the time of 66366
listing. 66367

(D) Claims for any deduction from net book value of accounts 66368
receivable or depreciated book value of personal property must be 66369
made in writing by the taxpayer at the time of making the 66370
taxpayer's return; ~~and when such.~~ If the return is made to the 66371
county auditor who is required by sections 5711.01 to 5711.36~~7~~ 66372
~~inclusive,~~ of the Revised Code~~7~~, to transmit it to the tax 66373
commissioner for assessment, the auditor shall, as deputy of the 66374
commissioner, investigate such claim and shall enter thereon, or 66375
attach thereto, in such form as the commissioner prescribes, the 66376
auditor's findings and recommendations with respect ~~thereto; when~~ 66377
~~such~~ to the claim. If the return is made to the tax commissioner, 66378
~~such~~ the claim for deduction from depreciated book value of 66379
personal property shall be referred to the auditor, as such 66380
deputy, of each county in which the property affected thereby is 66381
listed for investigation and report. 66382

(E) Any change in the method of determining true value, as 66383
prescribed by the tax commissioner on a prospective basis, shall 66384
not be admissible in any judicial or administrative action or 66385
proceeding as evidence of value with regard to prior years' taxes. 66386

Information about the business, property, or transactions of any taxpayer obtained by the commissioner for the purpose of adopting or modifying any such method shall not be subject to discovery or disclosure.

Sec. 5711.22. (A) Deposits not taxed at the source shall be listed and assessed at their amount in dollars on the day they are required to be listed. Moneys shall be listed and assessed at the amount thereof in dollars on hand on the day that they are required to be listed. In listing investments, the amount of the income yield of each for the calendar year next preceding the date of listing shall, except as otherwise provided in this chapter, be stated in dollars and cents and the assessment thereof shall be at the amount of such income yield; but any property defined as investments in either division (A) or (B) of section 5701.06 of the Revised Code that has not been outstanding for the full calendar year next preceding the date of listing, except shares of stock of like kind as other shares of the same corporation outstanding for the full calendar year next preceding the date of listing, or which has yielded no income during such calendar year shall be listed and assessed as unproductive investments, at their true value in money on the day that such investments are required to be listed.

Credits and other taxable intangibles shall be listed and assessed at their true value in money on the day as of which the same are required to be listed.

Shares of stock of a bank holding company, as defined in Title 12 U.S.C.A., section 1841, that are required to be listed for taxation under this division and upon which dividends were paid during the year of their issuance, which dividends are subject to taxation under the provisions of Chapter 5747. of the Revised Code, shall be exempt from the intangibles tax for the

year immediately succeeding their issuance. If such shares bear 66418
dividends the first calendar year after their issuance, which 66419
dividends are subject to taxation under the provisions of Chapter 66420
5747. of the Revised Code, it shall be deemed that the 66421
nondelinquent intangible property tax pursuant to division (A) of 66422
section 5707.04 of the Revised Code was paid on those dividends 66423
paid that first calendar year after the issuance of the shares. 66424

(B)(1) Boilers, machinery, equipment, and personal property 66425
the true value of which is determined under division (B) of 66426
section 5711.21 of the Revised Code shall be listed and assessed 66427
at an amount equal to the sum of the products determined under 66428
divisions (B)(1)(a), (b), and (c) of this section. 66429

(a) Multiply the portion of the true value determined under 66430
division (B)(1) of section 5711.21 of the Revised Code by the 66431
assessment rate in division (F) of this section; 66432

(b) Multiply the portion of the true value determined under 66433
division (B)(2) of section 5711.21 of the Revised Code by the 66434
assessment rate in section 5727.111 of the Revised Code that is 66435
applicable to the production equipment of an electric company; 66436

(c) Multiply the portion of the true value determined under 66437
division (B)(3) of section 5711.21 of the Revised Code by the 66438
assessment rate in section 5727.111 of the Revised Code that is 66439
applicable to the property of an electric company that is not 66440
production equipment. 66441

(2) Personal property leased to a public utility or 66442
interexchange telecommunications company as defined in section 66443
5727.01 of the Revised Code and used directly in the rendition of 66444
a public utility service as defined in division (P) of section 66445
5739.01 of the Revised Code shall be listed and assessed at the 66446
same percentage of true value in money that such property is 66447
required to be assessed by section 5727.111 of the Revised Code if 66448

owned by the public utility or interexchange telecommunications 66449
company. 66450

(C)(1) Merchandise or an agricultural product shipped from 66451
outside this state and held in this state in a warehouse or a 66452
place of storage without further manufacturing or processing and 66453
for storage only and for shipment outside this state, but that is 66454
taxable because it does not qualify as "not used in business in 66455
this state" under division (B)(1) or (2) of section 5701.08 of the 66456
Revised Code, shall be listed and assessed at a rate of 66457
twenty-five one-hundredths of its true value in money until 66458
reduced in accordance with the following schedule: 66459

(a) For any year, subtract five one-hundredths from the rate 66460
at which such property was required to be listed and assessed in 66461
the preceding year, if the total statewide collection of all real 66462
and tangible personal property taxes for the second preceding year 66463
exceeded the total statewide collection of all real and tangible 66464
personal property taxes for the third preceding year by more than 66465
the greater of four per cent or the rate of increase from the 66466
third to the second preceding years in the average consumer price 66467
index (all urban consumers, all items) prepared by the bureau of 66468
labor statistics of the United States department of labor; 66469

(b) If no reduction in the assessment rate is made for a 66470
year, the rate is the same as for the preceding year. 66471

(2) Each year until the year the assessment rate equals zero, 66472
the tax commissioner shall determine the assessment rate required 66473
under this division and shall notify all county auditors of that 66474
rate. 66475

(3) Notwithstanding provisions to the contrary in division 66476
(B) of section 5701.08 of the Revised Code, during and after the 66477
year for which the assessment rate as calculated under this 66478
division equals zero, any merchandise or agricultural product 66479

shipped from outside this state and held in this state in any 66480
warehouse or place of storage, whether public or private, without 66481
further manufacturing or processing and for storage only and for 66482
shipment outside this state to any person for any purpose is not 66483
used in business in this state for property tax purposes. 66484

(D)(1) Merchandise or an agricultural product owned by a 66485
qualified out-of-state person shipped from outside this state and 66486
held in this state in a public warehouse without further 66487
manufacturing or processing and for temporary storage only and for 66488
shipment inside this state, but that is taxable because it does 66489
not qualify as "not used in business in this state" under division 66490
(B)(1) or (2) of section 5701.08 of the Revised Code, shall be 66491
listed and assessed at a rate of twenty-five one-hundredths of its 66492
true value in money until reduced in accordance with the following 66493
schedule: 66494

(a) For any year, subtract five one-hundredths from the rate 66495
at which such property was required to be listed and assessed in 66496
the preceding year, if the total statewide collection of all real 66497
and tangible personal property taxes for the second preceding year 66498
exceeded the total statewide collection of all real and tangible 66499
personal property taxes for the third preceding year by more than 66500
the greater of four per cent or the rate of increase from the 66501
third to the second preceding years in the average consumer price 66502
index (all urban consumers, all items) prepared by the bureau of 66503
labor statistics of the United States department of labor; 66504

(b) If no reduction in the assessment rate is made for a 66505
year, the rate is the same as for the preceding year. 66506

(2) Each year until the year the assessment rate equals zero, 66507
the tax commissioner shall determine the assessment rate required 66508
under this division and shall notify all county auditors of that 66509
rate. 66510

(3) Notwithstanding provisions to the contrary in division 66511
(B) of section 5701.08 of the Revised Code, during and after the 66512
year for which the assessment rate as calculated under this 66513
division equals zero, any merchandise or agricultural product 66514
described in division (D)(1) of this section is not used in 66515
business in this state for property tax purposes. 66516

(4) As used in division (D) of this section: 66517

(a) "Qualified out-of-state person" means a person that does 66518
not own, lease, or use property, other than merchandise or an 66519
agricultural product described in this division, in this state, 66520
and does not have employees, agents, or representatives in this 66521
state; 66522

(b) "Public warehouse" means a warehouse in this state that 66523
is not subject to the control of or under the supervision of the 66524
owner of the merchandise or agricultural product stored in it, or 66525
staffed by the owner's employees, and from which the property is 66526
to be shipped inside this state. 66527

(E) Personal property valued pursuant to section 5711.15 of 66528
the Revised Code and personal property required to be listed on 66529
the average basis by division (A) of section 5711.16 of the 66530
Revised Code, except property described in division (C) or (D) of 66531
this section, business fixtures, and furniture not held for sale 66532
in the course of business, shall be listed and assessed at the 66533
rate of twenty-five per cent of its true value in money until 66534
reduced to zero in accordance with the following schedule: 66535

(1) Beginning in tax year 2002 and for each of tax years 66536
2003, and 2004, ~~2005, and 2006~~, subtract one percentage point from 66537
the rate at which the property was required to be listed and 66538
assessed in the preceding year, if the total statewide collection 66539
of tangible personal property taxes for the second preceding year 66540
exceeded the total statewide collection of tangible personal 66541

property taxes for the third preceding year. If no reduction in 66542
the assessment rate is made for a year, the rate is the same as 66543
for the preceding year. ~~For purposes of this division, total 66544~~
~~statewide collection of tangible personal property taxes excludes 66545~~
~~taxes collected from public utilities and interexchange 66546~~
~~telecommunications companies on property that is determined to be 66547~~
~~taxable pursuant to section 5727.06 of the Revised Code. 66548~~

(2) In tax year 2007, ~~the assessment rate shall be the lesser 66549~~
~~of twenty four per cent or one percentage point less than the rate 66550~~
~~at which property was required to be listed and assessed the 66551~~
~~preceding year. Each 2005 and each tax year thereafter, the 66552~~
assessment rate shall be reduced by one two percentage point until 66553
it equals zero per cent not later than tax year 2031 points, if 66554
the total statewide collection of tangible personal property taxes 66555
for the second preceding year exceeded the total statewide 66556
collection of tangible personal property taxes for the third 66557
preceding year. If no reduction in the assessment rate is made for 66558
a year, the rate is the same as for the preceding year. During and 66559
after the tax year that the assessment rate equals zero, the 66560
property described in division (E) of this section shall not be 66561
listed for taxation. 66562

Each year until the year the assessment rate equals zero, the 66563
tax commissioner shall determine the assessment rate required 66564
under this division and shall notify all county auditors of that 66565
rate. 66566

For purposes of division (E) of this section, "total 66567
statewide collection of tangible person property taxes" excludes 66568
taxes collected from public utilities and interexchange 66569
telecommunications companies on property that is determined to be 66570
taxable pursuant to section 5727.06 of the Revised Code. 66571

(F) Unless otherwise provided by law, all other personal 66572
property used in business that has not been legally regarded as an 66573

improvement on land and considered in arriving at the value of the 66574
real property assessed for taxation shall be listed and assessed 66575
at the rate of twenty-five per cent of its true value in money. 66576

Sec. 5711.27. No taxpayer shall fail to make a return within 66577
the time prescribed by law, or as extended pursuant to section 66578
5711.04 of the Revised Code, nor fail to list in a return or 66579
disclose on an accompanying balance sheet or in other information 66580
filed with the return any item of taxable property ~~which he~~ the 66581
taxpayer is required ~~by~~ to list in the return under sections 66582
5711.01 to 5711.36 of the Revised Code, ~~to list therein.~~ 66583

~~If any taxpayer does so fail the following shall apply:~~ 66584

~~(A) In the case of a taxpayer who fails to make a timely 66585
return, the assessor shall add to the taxpayer's assessment as a 66586
penalty, one half of the taxpayer's taxable value that is exempt 66587
from taxation under division (C)(3) of section 5709.01 of the 66588
Revised Code. If the taxpayer's taxable value that is exempt from 66589
taxation under division (C)(3) of section 5709.01 of the Revised 66590
Code is located in more than one taxing district, the penalty 66591
assessment shall be applied among taxing districts as if only five 66592
thousand dollars, or one half of the taxpayer's taxable valuation, 66593
whichever is less, had been exempt from taxation under such 66594
division.~~ 66595

~~(B) In the case of a taxpayer who fails to make a timely 66596
return, or fails to list or disclose any item he the taxpayer is 66597
required to return, the assessor shall add to the assessment of 66598
each class or item of taxable property ~~which~~ the taxpayer failed 66599
to return, list, or disclose ~~and to any amount added under~~ 66600
~~division (A) of this section,~~ a penalty of up to fifty per cent 66601
~~thereof~~ of the assessment; but if such taxpayer makes, within 66602
sixty days after the expiration of the time prescribed by such 66603
sections, a return or an amended or supplementary return and lists 66604~~

therein or discloses on an accompanying balance sheet or in other 66605
information filed with the return all items of taxable property 66606
~~which he~~ the taxpayer is required by such sections to list, and in 66607
all cases in which the taxpayer's only default is ~~his~~ the failure 66608
to pay the amounts specified in section 5719.02 of the Revised 66609
Code within the time therein specified, such penalty shall be five 66610
per cent of the assessment, and, if the assessment certificate has 66611
been issued, an amended assessment certificate shall be issued and 66612
substituted therefor. 66613

~~Either or both of the penalties~~ The penalty provided in this 66614
section may be abated in whole or in part by the assessor when it 66615
is shown that such failure is due to reasonable cause. The penalty 66616
assessment shall be entered on the proper tax list and duplicate, 66617
and taxes shall be levied thereon the same as on the assessment 66618
itself. 66619

~~If any taxpayer does so fail with respect to a return~~ 66620
~~required to be filed for tax year 1982 or any prior year, the~~ 66621
~~assessor shall add to the assessment of each class or item of~~ 66622
~~taxable property which the taxpayer failed to return, list or~~ 66623
~~disclose in addition to the penalties provided by law, an~~ 66624
~~additional charge at the rate of one half of one per cent per~~ 66625
~~month from the date such property should have been returned or~~ 66626
~~disclosed until the same is assessed, provided that said~~ 66627
~~additional charge shall not be added to an assessment for any~~ 66628
~~period of time in excess of ten years previous to the date of the~~ 66629
~~assessment.~~ 66630

A fiduciary against whom a penalty assessment is made shall 66631
be personally liable for the amount of taxes levied in respect to 66632
such penalty assessment and any additional charge, and in case of 66633
fraud or intent to evade taxes, such fiduciary shall have no right 66634
of reimbursement against the property held by ~~him~~ the fiduciary as 66635
such fiduciary nor against the person for whose benefit the same 66636

is held. 66637

Sec. 5711.33. (A)(1) When a county treasurer receives a 66638
certificate from a county auditor pursuant to division (A) of 66639
section 5711.32 of the Revised Code charging the treasurer with 66640
the collection of an amount of taxes due as the result of a 66641
deficiency assessment, the treasurer shall immediately prepare and 66642
mail a tax bill to the taxpayer owing such tax. The tax bill shall 66643
contain the name of the taxpayer; the taxable value, tax rate, and 66644
taxes charged for each year being assessed; the total amount of 66645
taxes due; the final date payment may be made without additional 66646
penalty; and any other information the treasurer considers 66647
pertinent or necessary. Taxes due and payable as a result of a 66648
deficiency assessment, less any amount specifically excepted from 66649
collection under division (B) of section 5711.32 of the Revised 66650
Code, shall be paid with interest thereon as prescribed by section 66651
5719.041 of the Revised Code on or before the sixtieth day 66652
following the date of issuance of the certificate by the county 66653
auditor. The balance of taxes found due and payable after a final 66654
determination by the tax commissioner or a final judgment of the 66655
board of tax appeals or any court to which such final judgment may 66656
be appealed, shall be paid with interest thereon as prescribed by 66657
section 5719.041 of the Revised Code on or before the sixtieth day 66658
following the date of certification by the auditor to the 66659
treasurer pursuant to division (C) of section 5711.32 of the 66660
Revised Code of such final determination or judgment. Such final 66661
dates for payment shall be determined and exhibited on the tax 66662
bill by the treasurer. 66663

(2) If, on or before the sixtieth day following the date of a 66664
certification of a deficiency assessment under division (A) of 66665
section 5711.32 of the Revised Code or of a certification of a 66666
final determination or judgment under division (C) of section 66667
5711.32 of the Revised Code, the taxpayer pays the full amount of 66668

taxes and interest due at the time of the receipt of certification 66669
with respect to that assessment, determination, or judgment, no 66670
interest shall accrue or be charged with respect to that 66671
assessment, determination, or judgment for the period that begins 66672
on the first day of the month in which the certification is made 66673
and that ends on the last day of the month preceding the month in 66674
which such sixtieth day occurs. 66675

(B) When the taxes charged, as mentioned in division (A) of 66676
this section, are not paid within the time prescribed by such 66677
division, a penalty of ten per cent of the amount due and unpaid 66678
and interest for the period described in division (A)(2) of this 66679
section shall accrue at the time the treasurer closes the 66680
treasurer's office for business on the last day so prescribed, but 66681
if the taxes are paid within ten days subsequent to the last day 66682
prescribed, the treasurer shall waive the collection of and the 66683
auditor shall remit one-half of the penalty. The treasurer shall 66684
not thereafter accept less than the full amount of taxes and 66685
penalty except as otherwise authorized by law. Such penalty shall 66686
be distributed in the same manner and at the same time as the tax 66687
upon which it has accrued. The whole amount collected shall be 66688
included in the next succeeding settlement of appropriate taxes. 66689

(C) When the taxes charged, as mentioned in division (A) of 66690
this section, remain unpaid after the final date for payment 66691
prescribed by such division, such charges shall be deemed to be 66692
delinquent taxes. The county auditor shall cause such charges, 66693
including the penalty that has accrued pursuant to this section, 66694
to be added to the delinquent tax duplicate in accordance with 66695
section 5719.04 of the Revised Code. 66696

(D) The county auditor, upon consultation with the county 66697
treasurer, shall remit a penalty imposed under division (B) of 66698
this section or division (C) of section 5719.03 of the Revised 66699
Code for the late payment of taxes when: 66700

(1) The taxpayer could not make timely payment of the tax because of the negligence or error of the county auditor or county treasurer in the performance of a statutory duty relating to the levy or collection of such tax.

(2) In cases other than those described in division (D)(1) of this section, the taxpayer failed to receive a tax bill or a correct tax bill, and the taxpayer made a good faith effort to obtain such bill within thirty days after the last day for payment of the tax.

(3) The tax was not timely paid because of the death or serious injury of the taxpayer, or the taxpayer's confinement in a hospital within sixty days preceding the last day for payment of the tax if, in any case, the tax was subsequently paid within sixty days after the last day for payment of such tax.

(4) The taxpayer demonstrates ~~to the satisfaction of the auditor~~ that the full payment was properly deposited in the mail in sufficient time for the envelope to be postmarked by the United States postal service on or before the last day for payment of such tax. A private meter postmark on an envelope is not a valid postmark for purposes of establishing the date of payment of such tax.

(5) In cases other than those described in divisions (D)(1) to (4) of this section, the taxpayer's failure to make timely payment of the tax is due to reasonable cause and not willful neglect.

(E) The taxpayer, upon application within sixty days after the mailing of the county auditor's decision, may request the tax commissioner to review the denial of the remission of a penalty by the county auditor. The application may be filed in person or by certified mail. If the application is filed by certified mail, the date of the United States postmark placed on the sender's receipt

by the postal service shall be treated as the date of filing. The 66732
commissioner shall consider the application, determine whether the 66733
penalty should be remitted, and certify the determination to the 66734
taxpayer and to the county treasurer and county auditor, who shall 66735
correct the tax list and duplicate accordingly. The commissioner 66736
~~shall~~ may issue orders and instructions for the uniform 66737
implementation of this section by all county auditors and county 66738
treasurers, and such orders and instructions shall be followed by 66739
such officers. 66740

Sec. 5713.07. The county auditor, at the time of making the 66741
assessment of real property subject to taxation, shall enter in a 66742
separate list pertinent descriptions of all burying grounds, 66743
public schoolhouses, houses used exclusively for public worship, 66744
institutions of purely public charity, real property used 66745
exclusively for a home for the aged, as defined in section 5701.13 66746
of the Revised Code, ~~and~~ public buildings and property used 66747
exclusively for any public purpose, and any other property, with 66748
the lot or tract of land on which such house, institution, ~~or~~ 66749
public building, or other property is situated, and which ~~are~~ 66750
~~exempt~~ have been exempted from taxation by either the tax 66751
commissioner under section 5715.27 of the Revised Code or by the 66752
housing officer under section 3735.67 of the Revised Code. ~~He~~ The 66753
auditor shall value such houses, buildings, property, and lots and 66754
tracts of land at their taxable value in the same manner as ~~he~~ the 66755
auditor is required to value other real property, designating in 66756
each case the township, municipal corporation, and number of the 66757
school district, or the name or designation of the school, 66758
religious society, or institution to which each house, lot, or 66759
tract belongs. If such property is held and used for other public 66760
purposes, ~~he~~ the auditor shall state by whom or how it is held. 66761

Sec. 5713.08. (A) The county auditor shall make a list of all 66762

real and personal property in the auditor's county, including 66763
money, credits, and investments in bonds, stocks, or otherwise, 66764
which is exempted from taxation. Such list shall show the name of 66765
the owner, the value of the property exempted, and a statement in 66766
brief form of the ground on which such exemption has been granted. 66767
It shall be corrected annually by adding thereto the items of 66768
property which have been exempted during the year, and by striking 66769
therefrom the items which in the opinion of the auditor have lost 66770
their right of exemption and which have been reentered on the 66771
taxable list. No additions shall be made to such exempt lists and 66772
no additional items of property shall be exempted from taxation 66773
without the consent of the tax commissioner as is provided for in 66774
section 5715.27 of the Revised Code, ~~but when~~ or without the 66775
consent of the housing officer under section 3735.67 of the 66776
Revised Code. When any personal property or endowment fund of an 66777
institution has once been held by the commissioner to be properly 66778
exempt from taxation, it is not necessary to obtain the 66779
commissioner's consent to the exemption of additional property or 66780
investments of the same kind belonging to the same institution, 66781
but such property shall appear on the abstract filed annually with 66782
the commissioner. The commissioner may revise at any time the list 66783
in every county so that no property is improperly or illegally 66784
exempted from taxation. The auditor shall follow the orders of the 66785
commissioner given under this section. An abstract of such list 66786
shall be filed annually with the commissioner, on a form approved 66787
by the commissioner, and a copy thereof shall be kept on file in 66788
the office of each auditor for public inspection. 66789

The commissioner shall not consider an application for 66790
exemption of property unless the application has attached thereto 66791
a certificate executed by the county treasurer certifying one of 66792
the following: 66793

(1) That all taxes, assessments, interest, and penalties 66794

levied and assessed against the property sought to be exempted 66795
have been paid in full to the date upon which the application for 66796
exemption is filed, except for such taxes, interest, and penalties 66797
that may be remitted under division (B) of this section; 66798

(2) That the applicant has entered into a valid delinquent 66799
tax contract with the county treasurer pursuant to division (A) of 66800
section 323.31 of the Revised Code to pay all of the delinquent 66801
taxes, assessments, interest, and penalties charged against the 66802
property, except for such taxes, interest, and penalties that may 66803
be remitted under division (B) of this section. If the auditor 66804
receives notice under section 323.31 of the Revised Code that such 66805
a written delinquent tax contract has become void, the auditor 66806
shall strike such property from the list of exempted property and 66807
reenter such property on the taxable list. If property is removed 66808
from the exempt list because a written delinquent tax contract has 66809
become void, current taxes shall first be extended against that 66810
property on the general tax list and duplicate of real and public 66811
utility property for the tax year in which the auditor receives 66812
the notice required by division (A) of section 323.31 of the 66813
Revised Code that the delinquent tax contract has become void or, 66814
if that notice is not timely made, for the tax year in which falls 66815
the latest date by which the treasurer is required by such section 66816
to give such notice. A county auditor shall not remove from any 66817
tax list and duplicate the amount of any unpaid delinquent taxes, 66818
assessments, interest, or penalties owed on property that is 66819
placed on the exempt list pursuant to this division. 66820

(3) That a tax certificate has been issued under section 66821
5721.32 or 5721.33 of the Revised Code with respect to the 66822
property that is the subject of the application, and the tax 66823
certificate is outstanding. 66824

(B) Any taxes, interest, and penalties which have become a 66825
lien after the property was first used for the exempt purpose, but 66826

in no case prior to the date of acquisition of the title to the 66827
property by the applicant, may be remitted by the commissioner, 66828
except as is provided in division (A) of section 5713.081 of the 66829
Revised Code. 66830

(C) Real property acquired by the state in fee simple is 66831
exempt from taxation from the date of acquisition of title or date 66832
of possession, whichever is the earlier date, provided that all 66833
taxes, interest, and penalties as provided in the apportionment 66834
provisions of section 319.20 of the Revised Code have been paid to 66835
the date of acquisition of title or date of possession by the 66836
state, whichever is earlier. The proportionate amount of taxes 66837
that are a lien but not yet determined, assessed, and levied for 66838
the year in which the property is acquired, shall be remitted by 66839
the county auditor for the balance of the year from date of 66840
acquisition of title or date of possession, whichever is earlier. 66841
This section shall not be construed to authorize the exemption of 66842
such property from taxation or the remission of taxes, interest, 66843
and penalties thereon until all private use has terminated. 66844

Sec. 5713.081. (A) No application for real property tax 66845
exemption and tax remission shall be filed with, or considered by, 66846
the tax commissioner in which tax remission is requested for more 66847
than three tax years, and the commissioner shall not remit more 66848
than three years' ~~delinquent~~ taxes, penalties, and interest. 66849

(B) All taxes, penalties, and interest, that have been 66850
delinquent for more than three years, appearing on the general tax 66851
list and duplicate of real property which have been levied and 66852
assessed against parcels of real property owned by the state, any 66853
political subdivision, or any other entity whose ownership of real 66854
property would constitute public ownership, shall be collected by 66855
the county auditor of the county where the real property is 66856
located. Such ~~official~~ auditor shall deduct from each distribution 66857

made by ~~him~~ the auditor, the amount necessary to pay the tax 66858
delinquency from any revenues or funds to the credit of the state, 66859
any political subdivision, or any other entity whose ownership of 66860
real property would constitute public ownership thereof, passing 66861
under ~~his~~ the auditor's control, or which come into ~~his~~ the 66862
auditor's possession, and such deductions shall be made on a 66863
continuing basis until all delinquent taxes, penalties, and 66864
interest noted in this section have been paid. 66865

(C) As used in division (B) of this section, "political 66866
subdivision" includes townships, municipalities, counties, school 66867
districts, boards of education, all state and municipal 66868
universities, park boards, and any other entity whose ownership of 66869
real property would constitute public ownership. 66870

Sec. 5713.082. (A) Whenever the county auditor reenters an 66871
item of property to the tax list as provided in section 5713.08 of 66872
the Revised Code and there has been no conveyance of the property 66873
between separate entities, the auditor shall send notice by 66874
certified mail to the owner of the property that it is now subject 66875
to property taxation as a result of such action. The auditor shall 66876
send the notice at the same time ~~he~~ the auditor certifies the real 66877
property tax duplicate to the county treasurer. The notice shall 66878
describe the property and indicate that the owner may reapply for 66879
tax exemption by filing an application for exemption as provided 66880
in section 5715.27 of the Revised Code, and that failure to file 66881
such an application within the proper time period will result in 66882
the owner having to pay the taxes even if the property continued 66883
to be used for an exempt purpose. 66884

(B) If the auditor failed to send the notice required by this 66885
section, and if the owner of the property subsequently files an 66886
application for tax exemption for the property for the current tax 66887
year, the tax commissioner may grant exemption to the property, 66888

and ~~he~~ the commissioner shall remit all ~~unpaid~~ taxes and penalties 66889
for each prior year since the property was reentered on the tax 66890
list notwithstanding the provisions of division (A) of section 66891
5713.081 of the Revised Code. 66892

Sec. 5713.30. As used in sections 5713.31 to 5713.37 and 66893
5715.01 of the Revised Code: 66894

(A) "Land devoted exclusively to agricultural use" means: 66895

(1) Tracts, lots, or parcels of land totaling not less than 66896
ten acres that, during the three calendar years prior to the year 66897
in which application is filed under section 5713.31 of the Revised 66898
Code, and through the last day of May of such year, were devoted 66899
exclusively to commercial animal or poultry husbandry, 66900
aquaculture, apiculture, the production for a commercial purpose 66901
of timber, field crops, tobacco, fruits, vegetables, nursery 66902
stock, ornamental trees, sod, or flowers, or the growth of timber 66903
for a noncommercial purpose, if the land on which the timber is 66904
grown is contiguous to or part of a parcel of land under common 66905
ownership that is otherwise devoted exclusively to agricultural 66906
use, or were devoted to and qualified for payments or other 66907
compensation under a land retirement or conservation program under 66908
an agreement with an agency of the federal government; 66909

(2) Tracts, lots, or parcels of land totaling less than ten 66910
acres that, during the three calendar years prior to the year in 66911
which application is filed under section 5713.31 of the Revised 66912
Code and through the last day of May of such year, were devoted 66913
exclusively to commercial animal or poultry husbandry, 66914
aquaculture, apiculture, the production for a commercial purpose 66915
of field crops, tobacco, fruits, vegetables, timber, nursery 66916
stock, ornamental trees, sod, or flowers where such activities 66917
produced an average yearly gross income of at least twenty-five 66918
hundred dollars during such three-year period or where there is 66919

evidence of an anticipated gross income of such amount from such 66920
activities during the tax year in which application is made, or 66921
were devoted to and qualified for payments or other compensation 66922
under a land retirement or conservation program under an agreement 66923
with an agency of the federal government; 66924

(3) A tract, lot, or parcel of land taxed under sections 66925
5713.22 to 5713.26 of the Revised Code is not land devoted 66926
exclusively to agricultural use; 66927

(4) Tracts, lots, or parcels of land, or portions thereof 66928
~~which that~~, during the previous three consecutive calendar years 66929
have been designated as land devoted exclusively to agricultural 66930
use, but such land has been lying idle or fallow for up to one 66931
year and no action has occurred to such land that is either 66932
inconsistent with the return of it to agricultural production or 66933
converts the land devoted exclusively to agricultural use as 66934
defined in this section. Such land shall remain designated as land 66935
devoted exclusively to agricultural use provided that beyond one 66936
year, but less than three years, the landowner proves good cause 66937
as determined by the board of revision. 66938

"Land devoted exclusively to agricultural use" includes 66939
tracts, lots, or parcels of land or portions thereof that are used 66940
for conservation practices, provided that the tracts, lots, or 66941
parcels of land or portions thereof comprise twenty-five per cent 66942
or less of the total of the tracts, lots, or parcels of land that 66943
satisfy the criteria established in division (A)(1), (2), or (4) 66944
of this section together with the tracts, lots, or parcels of land 66945
or portions thereof that are used for conservation practices. 66946

(B) "Conversion of land devoted exclusively to agricultural 66947
use" means any of the following: 66948

(1) The failure of the owner of land devoted exclusively to 66949
agricultural use during the next preceding calendar year to file a 66950

renewal application under section 5713.31 of the Revised Code 66951
without good cause as determined by the board of revision; 66952

(2) The failure of the new owner of such land to file an 66953
initial application under that section without good cause as 66954
determined by the board of revision; 66955

(3) The failure of such land or portion thereof to qualify as 66956
land devoted exclusively to agricultural use for the current 66957
calendar year as requested by an application filed under such 66958
section; 66959

(4) The failure of the owner of the land described in 66960
division (A)(4) of this section to act on such land in a manner 66961
that is consistent with the return of the land to agricultural 66962
production after three years. 66963

(C) "Tax savings" means the difference between the dollar 66964
amount of real property taxes levied in any year on land valued 66965
and assessed in accordance with its current agricultural use value 66966
and the dollar amount of real property taxes ~~which~~ that would have 66967
been levied upon such land if it had been valued and assessed for 66968
such year in accordance with Section 2 of Article XII, Ohio 66969
Constitution. 66970

(D) "Owner" includes, but is not limited to, any person 66971
owning a fee simple, fee tail, or life estate, or a buyer on a 66972
land installment contract. 66973

(E) "Conservation practices" includes, but is not limited to, 66974
the installation, construction, development, planting, or use of 66975
grass waterways, terraces, diversions, filter strips, field 66976
borders, windbreaks, riparian buffers, wetlands, ponds, and cover 66977
crops to abate soil erosion. 66978

(F) "Wetlands" has the same meaning as in section 6111.02 of 66979
the Revised Code. 66980

Sec. 5715.27. (A) The Except as provided in section 3735.67 66981
of the Revised Code, the owner of any property may file an 66982
application with the tax commissioner, on forms prescribed by the 66983
commissioner, requesting that such property be exempted from 66984
taxation and that ~~unpaid~~ taxes and penalties be remitted as 66985
provided in division (B) of section 5713.08 of the Revised Code. 66986

(B) The board of education of any school district may request 66987
the tax commissioner to provide it with notification of 66988
applications for exemption from taxation for property located 66989
within that district. If so requested, the commissioner shall send 66990
to the board for the quarters ending on the last day of March, 66991
June, September, and December of each year, reports that contain 66992
sufficient information to enable the board to identify each 66993
property that is the subject of an exemption application, 66994
including, but not limited to, the name of the property owner or 66995
applicant, the address of the property, and the auditor's parcel 66996
number. The commissioner shall mail the reports on or about the 66997
fifteenth day of the month following the end of the quarter. 66998

(C) A board of education that has requested notification 66999
under division (B) of this section may, with respect to any 67000
application for exemption of property located in the district and 67001
included in the commissioner's most recent report provided under 67002
that division, file a statement with the commissioner and with the 67003
applicant indicating its intent to submit evidence and participate 67004
in any hearing on the application. The statements shall be filed 67005
prior to the first day of the third month following the end of the 67006
quarter in which that application was docketed by the 67007
commissioner. A statement filed in compliance with this division 67008
entitles the district to submit evidence and to participate in any 67009
hearing on the property and makes the district a party for 67010
purposes of sections 5717.02 to 5717.04 of the Revised Code in any 67011

appeal of the commissioner's decision to the board of tax appeals. 67012

(D) The commissioner shall not hold a hearing on or grant or 67013
deny an application for exemption of property in a school district 67014
whose board of education has requested notification under division 67015
(B) of this section until the end of the period within which the 67016
board may submit a statement with respect to that application 67017
under division (C) of this section. The commissioner may act upon 67018
an application at any time prior to that date upon receipt of a 67019
written waiver from each such board of education, or, in the case 67020
of exemptions authorized by section 725.02, 1728.10, ~~3735.67,~~ 67021
5709.41, 5709.62, or 5709.63 of the Revised Code, upon the request 67022
of the property owner. Failure of a board of education to receive 67023
the report required in division (B) of this section shall not void 67024
an action of the commissioner with respect to any application. The 67025
commissioner may extend the time for filing a statement under 67026
division (C) of this section. 67027

(E) A complaint may also be filed with the commissioner by 67028
any person, board, or officer authorized by section 5715.19 of the 67029
Revised Code to file complaints with the county board of revision 67030
against the continued exemption of any property granted exemption 67031
by the commissioner under this section. 67032

(F) An application for exemption and a complaint against 67033
exemption shall be filed prior to the thirty-first day of December 67034
of the tax year for which exemption is requested or for which the 67035
liability of ~~any~~ the property to taxation in that year is 67036
requested. The commissioner shall consider such application or 67037
complaint in accordance with procedures established by the 67038
commissioner, determine whether the property is subject to 67039
taxation or exempt therefrom, and certify the commissioner's 67040
findings to the auditor, who shall correct the tax list and 67041
duplicate accordingly. If a tax certificate has been sold under 67042
section 5721.32 or 5721.33 of the Revised Code with respect to 67043

property for which an exemption has been requested, the tax 67044
commissioner shall also certify the findings to the county 67045
treasurer of the county in which the property is located. 67046

(G) Applications and complaints, and documents of any kind 67047
related to applications and complaints, filed with the tax 67048
commissioner under this section, are public records within the 67049
meaning of section 149.43 of the Revised Code. 67050

(H) If the commissioner determines that the use of property 67051
or other facts relevant to the taxability of property that is the 67052
subject of an application for exemption or a complaint under this 67053
section has changed while the application or complaint was 67054
pending, the commissioner may make the determination under 67055
division (F) of this section separately for each tax year 67056
beginning with the year in which the application or complaint was 67057
filed or the year for which remission of ~~unpaid~~ taxes under 67058
division (B) of section 5713.08 of the Revised Code was requested, 67059
and including each subsequent tax year during which the 67060
application or complaint is pending before the commissioner. 67061

Sec. 5715.39. (A) The tax commissioner may remit real 67062
property taxes, manufactured home taxes, penalties, and interest 67063
found by the commissioner to have been illegally assessed. The 67064
commissioner also may remit any penalty charged against any real 67065
property or manufactured or mobile home that was the subject of an 67066
application for exemption from taxation under section 5715.27 of 67067
the Revised Code if the commissioner determines that the applicant 67068
requested such exemption in good faith. The commissioner shall 67069
include notice of the remission in the commissioner's 67070
certification to the county auditor required under that section. 67071

(B) ~~The commissioner, on application by a taxpayer county~~ 67072
auditor, upon consultation with the county treasurer, shall remit 67073
a penalty for late payment of any real property taxes or 67074

manufactured home taxes when: 67075

~~(A)(1)~~ The taxpayer could not make timely payment of the tax 67076
because of the negligence or error of the county auditor or county 67077
treasurer in the performance of a statutory duty relating to the 67078
levy or collection of such tax. 67079

~~(B)(2)~~ In cases other than those described in division 67080
~~(A)(B)(1)~~ of this section, the taxpayer failed to receive a tax 67081
bill or a correct tax bill, and the taxpayer made a good faith 67082
effort to obtain such bill within thirty days after the last day 67083
for payment of the tax. 67084

~~(C)(3)~~ The tax was not timely paid because of the death or 67085
serious injury of the taxpayer, or the taxpayer's confinement in a 67086
hospital within sixty days preceding the last day for payment of 67087
the tax if, in any case, the tax was subsequently paid within 67088
sixty days after the last day for payment of such tax. 67089

~~(D)(4)~~ The taxpayer demonstrates ~~to the satisfaction of the~~ 67090
~~commissioner~~ that the full payment was properly deposited in the 67091
mail in sufficient time for the envelope to be postmarked by the 67092
United States postal service on or before the last day for payment 67093
of such tax. A private meter postmark on an envelope is not a 67094
valid postmark for purposes of establishing the date of payment of 67095
such tax. 67096

(5) In cases other than those described in division (B)(1) to 67097
(4) of this section, the taxpayer's failure to make timely payment 67098
of the tax is due to reasonable cause and not willful neglect. 67099

(C) The taxpayer, upon application within sixty days after 67100
the mailing of the county auditor's decision, may request the tax 67101
commissioner to review the denial of the remission of a penalty by 67102
the auditor. The application may be filed in person or by 67103
certified mail. If the application is filed by certified mail, the 67104
date of the United States postmark placed on the sender's receipt 67105

by the postal service shall be treated as the date of filing. The 67106
commissioner shall consider the application, determine whether the 67107
penalty should be remitted, and certify the determination to the 67108
taxpayer, to the county treasurer, and to the county auditor, who 67109
shall correct the tax list and duplicate accordingly. The 67110
commissioner may issue orders and instructions for the uniform 67111
implementation of this section by all county auditors and county 67112
treasurers, and such orders and instructions shall be followed by 67113
such officers. 67114

(D) This section shall not provide to the taxpayer any remedy 67115
with respect to any matter that the taxpayer may be authorized to 67116
complain of under section 4503.06, 5715.19, 5717.02, and or 67117
5727.47 of the Revised Code. 67118

(E) Applications for remission, and documents of any kind 67119
related to those applications, filed with the tax commissioner 67120
under this section, are public records within the meaning of 67121
section 149.43 of the Revised Code, unless otherwise excepted 67122
under that section. 67123

Sec. 5717.011. (A) As used in this chapter, "tax 67124
administrator" has the same meaning as in section 718.01 of the 67125
Revised Code. 67126

(B) Appeals from a municipal board of appeal created under 67127
section 718.11 of the Revised Code may be taken by the taxpayer or 67128
the tax administrator to the board of tax appeals or may be taken 67129
by the taxpayer or the tax administrator to a court of common 67130
pleas as otherwise provided by law. If the taxpayer or the tax 67131
administrator elects to make an appeal to the board of tax appeals 67132
or court of common pleas, the appeal shall be taken by the filing 67133
of a notice of appeal with the board of tax appeals or court of 67134
common pleas, the municipal board of appeal, and the opposing 67135
party. The notice of appeal shall be filed within sixty days after 67136

the day the appellant receives notice of the decision issued under 67137
section 718.11 of the Revised Code. The notice of appeal may be 67138
filed in person or by certified mail, express mail, or authorized 67139
delivery service as provided in section 5703.056 of the Revised 67140
Code. If the notice of appeal is filed by certified mail, express 67141
mail, or authorized delivery service as provided in section 67142
5703.056 of the Revised Code, the date of the United States 67143
postmark placed on the sender's receipt by the postal service or 67144
the date of receipt recorded by the authorized delivery service 67145
shall be treated as the date of filing. The notice of appeal shall 67146
have attached thereto and incorporated therein by reference a true 67147
copy of the decision issued under section 718.11 of the Revised 67148
Code and shall specify the errors therein complained of, but 67149
failure to attach a copy of such notice and incorporate it by 67150
reference in the notice of appeal does not invalidate the appeal. 67151

(C) Upon the filing of a notice of appeal with the board of 67152
tax appeals, the municipal board of appeal shall certify to the 67153
board of tax appeals a transcript of the record of the proceedings 67154
before it, together with all evidence considered by it in 67155
connection therewith. Such appeals may be heard by the board at 67156
its office in Columbus or in the county where the appellant 67157
resides, or it may cause its examiners to conduct such hearings 67158
and to report to it their findings for affirmation or rejection. 67159
The board may order the appeal to be heard upon the record and the 67160
evidence certified to it by the administrator, but upon the 67161
application of any interested party the board shall order the 67162
hearing of additional evidence, and the board may make such 67163
investigation concerning the appeal as it considers proper. 67164

Sec. 5717.03. (A) A decision of the board of tax appeals on 67165
an appeal filed with it pursuant to section 5717.01, 5717.011, or 67166
5717.02 of the Revised Code shall be entered of record on the 67167
journal together with the date when the order is filed with the 67168

secretary for journalization. 67169

(B) In case of an appeal from a decision of a county board of 67170
revision, the board of tax appeals shall determine the taxable 67171
value of the property whose valuation or assessment by the county 67172
board of revision is complained of, or in the event the complaint 67173
and appeal is against a discriminatory valuation, shall determine 67174
a valuation which shall correct such discrimination, and shall 67175
determine the liability of the property for taxation, if that 67176
question is in issue, and ~~it is~~ the board of tax appeals's decision 67177
and the date when it was filed with the secretary for 67178
journalization shall be certified by ~~it~~ the board by certified 67179
mail to all persons who were parties to the appeal before ~~it~~ the 67180
board, to the person in whose name the property is listed, or 67181
sought to be listed, if such person is not a party to the appeal, 67182
to the county auditor of the county in which the property involved 67183
in the appeal is located, and to the tax commissioner. 67184

In correcting a discriminatory valuation, the board of tax 67185
appeals shall increase or decrease the value of the property whose 67186
valuation or assessment by the county board of revision is 67187
complained of by a per cent or amount which will cause such 67188
property to be listed and valued for taxation by an equal and 67189
uniform rule. 67190

(C) In the case of an appeal from a review, redetermination, 67191
or correction of a tax assessment, valuation, determination, 67192
finding, computation, or order of the tax commissioner, the order 67193
of the board of tax appeals and the date of the entry thereof upon 67194
its journal shall be certified by ~~it~~ the board by certified mail 67195
to all persons who were parties to the appeal before ~~it~~ the board, 67196
the person in whose name the property is listed or sought to be 67197
listed, if the decision determines the valuation or liability of 67198
property for taxation and if such person is not a party to the 67199
appeal, the taxpayer or other person to whom notice of the tax 67200

assessment, valuation, determination, finding, computation, or 67201
order, or correction or redetermination thereof, by the tax 67202
commissioner was by law required to be given, the director of 67203
budget and management, if the revenues affected by such decision 67204
would accrue primarily to the state treasury, and the county 67205
auditors of the counties to the undivided general tax funds of 67206
which the revenues affected by such decision would primarily 67207
accrue. 67208

(D) In the case of an appeal from a municipal board of appeal 67209
created under section 718.11 of the Revised Code, the order of the 67210
board of tax appeals and the date of the entry thereof upon the 67211
board's journal shall be certified by the board by certified mail 67212
to all persons who were parties to the appeal before the board. 67213

(E) In the case of all other appeals or applications filed 67214
with and determined by the board ~~its~~, the board's order and the 67215
date when ~~it~~ the order was filed by the secretary for 67216
journalization shall be certified by ~~it~~ the board by certified 67217
mail to the person who is a party to such appeal or application, 67218
to such persons as the law requires, and to such other persons as 67219
the board deems proper. 67220

(F) The orders of the board may affirm, reverse, vacate, 67221
modify, or remand the tax assessments, valuations, determinations, 67222
findings, computations, or orders complained of in the appeals 67223
determined by ~~it~~ the board, and ~~its~~ the board's decision shall 67224
become final and conclusive for the current year unless reversed, 67225
vacated, or modified as provided in section 5717.04 of the Revised 67226
Code. When an order of the board becomes final the tax 67227
commissioner and all officers to whom such decision has been 67228
certified shall make the changes in their tax lists or other 67229
records which the decision requires. 67230

(G) If the board finds that issues not raised on the appeal 67231
are important to a determination of a controversy, ~~it~~ the board 67232

may remand the cause for an administrative determination and the 67233
issuance of a new tax assessment, valuation, determination, 67234
finding, computation, or order, unless the parties stipulate to 67235
the determination of such other issues without remand. An order 67236
remanding the cause is a final order, ~~which~~. If the order relates 67237
to any issue other than a municipal income tax matter appealed 67238
under sections 718.11 and 5717.011 of the Revised Code, the order 67239
may be appealed to the court of appeals in Franklin county. If the 67240
order relates to a municipal income tax matter appealed under 67241
sections 718.11 and 5717.011 of the Revised Code, the order may be 67242
appealed to the court of appeals for the county in which the 67243
municipal corporation in which the dispute arose is primarily 67244
situated. 67245

Sec. 5719.07. Subject to the rules prescribed by the tax 67246
commissioner, a county treasurer charged with the collection of 67247
delinquent taxes may issue a certificate of release of the lien 67248
provided for in section 5719.04 of the Revised Code if the amount 67249
secured thereby has been paid or omitted from the delinquent tax 67250
list and duplicate pursuant to section 5719.06 of the Revised 67251
Code. The treasurer shall issue a certificate of partial discharge 67252
of any part of the real property subject to the lien ~~if he finds~~ 67253
after finding that the value of the part of the property remaining 67254
subject to the lien is at least double the amount of the 67255
delinquent taxes and all prior liens upon such real property. Such 67256
certificate shall be filed and recorded with the county recorder 67257
of the county in which the notice of lien has been filed, for 67258
which recording the recorder shall charge a base fee of two 67259
dollars for services and a housing trust fund fee of two dollars 67260
pursuant to section 317.36 of the Revised Code. 67261

Sec. 5727.111. The taxable property of each public utility, 67262
except a railroad company, and of each interexchange 67263

telecommunications company shall be assessed at the following 67264
percentages of true value: 67265

(A)(1) Except as provided in division (A)(2) of this section, 67266
fifty per cent in the case of a rural electric company; 67267

(2) For tax year 2001 and thereafter, fifty per cent in the 67268
case of the taxable transmission and distribution property of a 67269
rural electric company, and twenty-five per cent for all its other 67270
taxable property; 67271

(B) In the case of a telephone or telegraph company, 67272
twenty-five per cent for taxable property first subject to 67273
taxation in this state for tax year 1995 or thereafter, and 67274
~~eighty-eight per cent~~ the following for all other taxable 67275
property+: 67276

(1) For tax years prior to 2005, eighty-eight per cent; 67277

(2) For tax year 2005, sixty-seven per cent; 67278

(3) For tax year 2006, forty-six per cent; 67279

(4) For tax year 2007 and thereafter, twenty-five per cent. 67280

~~(C)(1) Except as provided in division (C)(2) of this section,~~ 67281
~~eighty-eight per cent in the case of a natural gas company;~~ 67282

~~(2) For tax year 2001 and thereafter, twenty-five~~ Twenty-five 67283
per cent in the case of a natural gas company. 67284

(D) Eighty-eight per cent in the case of a pipe-line, 67285
water-works, or heating company; 67286

(E)(1) Except as provided in division (E)(2) or (3) of this 67287
section, one hundred per cent in the case of the taxable 67288
production equipment of an electric company and eighty-eight per 67289
cent for all its other taxable property; 67290

(2) For tax year 2001 and thereafter, eighty-eight per cent 67291
in the case of the taxable transmission and distribution property 67292

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 derived from amounts

billed to customers after June 30, 2004, are not subject to the 67323
annual excise tax imposed by this section. Notwithstanding any 67324
other provision of law, gross receipts derived from amounts billed 67325
by a telephone company to customers prior to July 1, 2004, shall 67326
be included in the telephone company's annual statement filed on 67327
or before August 1, 2004, which shall be the last statement or 67328
report filed under section 5727.31 of the Revised Code by a 67329
telephone company. A telephone company shall not deduct from its 67330
gross receipts included in that last statement any receipts it was 67331
unable to collect from its customers for the period of July 1, 67332
2003, to June 30, 2004. 67333

Sec. 5727.32. (A) For the purpose of the tax imposed by 67334
section 5727.30 of the Revised Code, the statement required by 67335
section 5727.31 of the Revised Code shall contain: 67336

(1) The name of the company; 67337

(2) The nature of the company, whether a person, association, 67338
or corporation, and under the laws of what state or country 67339
organized; 67340

(3) The location of its principal office; 67341

(4) The name and post-office address of the president, 67342
secretary, auditor, treasurer, and superintendent or general 67343
manager; 67344

(5) The name and post-office address of the chief officer or 67345
managing agent of the company in this state; 67346

(6) The amount of the excise taxes paid or to be paid with 67347
the reports made during the current calendar year as provided by 67348
section 5727.31 of the Revised Code; 67349

(7) In the case of telegraph ~~and telephone~~ companies: 67350

(a) The gross receipts from all sources, whether messages, 67351
telephone tolls, rentals, or otherwise, for business done within 67352

this state, including all sums earned or charged, whether actually received or not, for the year ending on the thirtieth day of June, and the company's proportion of gross receipts for business done by it within this state in connection with other companies, firms, corporations, persons, or associations, but excluding all of the following:

(i) All of the receipts derived wholly from interstate business or business done for or with the federal government;

(ii) The receipts of amounts billed on behalf of other entities;

~~(iii) The receipts from sales to other telephone companies for resale;~~

~~(iv) The receipts from sales to providers of telecommunications service for resale, receipts from incoming or outgoing wide area transmission service or wide area transmission type service, including eight hundred or eight hundred type service, and receipts from private communications service.~~

~~As used in this division, "receipts from sales to other telephone companies for resale" and "receipts from sales to providers of telecommunications service for resale" include but are not limited to, receipts of carrier access charges. "Carrier access charges" means compensation paid to the taxpayer telephone company by another telephone company or by a provider of telecommunications service for the use of the taxpayer's facilities to originate or terminate telephone calls or telecommunications service.~~

(b) The total gross receipts for such period from business done within this state.

(8) In the case of all public utilities subject to the tax imposed by section 5727.30 of the Revised Code, except telegraph and telephone companies:

(a) The gross receipts of the company, actually received, 67384
from all sources for business done within this state for the year 67385
next preceding the first day of May, including the company's 67386
proportion of gross receipts for business done by it within this 67387
state in connection with other companies, firms, corporations, 67388
persons, or associations, but excluding all both of the following: 67389

(i) Receipts from interstate business or business done for 67390
the federal government; 67391

(ii) Receipts from sales to another public utility for 67392
resale, provided such other public utility is subject to the tax 67393
levied by section 5727.24 or 5727.30 of the Revised Code; 67394

~~(iii) Receipts from the transmission or delivery of 67395
electricity to or for a rural electric company, provided that the 67396
electricity that has been so transmitted or delivered is for 67397
resale by the rural electric company. This division does not apply 67398
to tax years 2002 and thereafter. 67399~~

~~(iv) Receipts of an electric company, derived from the 67400
provision of electricity and other services to a qualified former 67401
owner of the production facilities that generated the electricity 67402
from which those receipts were derived. This division does not 67403
apply to tax years 2002 and thereafter. As used in this division, 67404
a "qualified former owner" means a person who meets both of the 67405
following conditions: 67406~~

~~(I) On or before October 11, 1991, the person had sold to an 67407
electric company part of the production facility at which the 67408
electricity is generated, and, for at least twenty years prior to 67409
that sale, the facility was used to generate electricity, but it 67410
was not owned in whole or in part during that period by an 67411
electric company. 67412~~

~~(II) At the time the electric company provided the 67413
electricity or other services for which the exclusion is claimed, 67414~~

~~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)~~(4) 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 67475
hundred or eight hundred type service; 67476~~

~~(4) Receipts from private communications service as described 67477
in division (AA)(2) of section 5739.01 of the Revised Code; 67478~~

~~(5) Receipts from sales to providers of telecommunications 67479
service for resale, as defined in division (A)(7) of section 67480
5727.32 of the Revised Code. 67481~~

~~(D) In ascertaining and determining the gross receipts of an 67482
electric company, receipts derived from the provision of 67483
electricity and other services to a qualified former owner of the 67484
production facilities that generated the electricity from which 67485
those receipts were derived are excluded. This division does not 67486
apply to tax years 2002 and thereafter. As used in this division, 67487
a "qualified former owner" means a person who meets both of the 67488
following conditions: 67489~~

~~(1) On or before October 11, 1991, the person had sold to an 67490
electric company part of the production facility at which the 67491
electricity is generated, and, for at least twenty years prior to 67492
that sale, the facility was used to generate electricity, but it 67493
was not owned in whole or part during that period by an electric 67494
company. 67495~~

~~(2) At the time the electric company provided the electricity 67496
or other services for which the exclusion is claimed, the person, 67497
or a successor or assign of the person, owned not less than a 67498
twenty per cent ownership of the production facility and the 67499
rights to not less than twenty per cent of the production of that 67500
facility. 67501~~

~~(E)(C) In ascertaining and determining the gross receipts of 67502
a natural gas company, receipts billed on behalf of other entities 67503
are excluded. The tax imposed by section 5729.811 of the Revised 67504
Code, along with transportation and billing and collection fees 67505~~

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 67536
secretary of state, as provided by law for failure to make any 67537
report or return or to pay any tax or fee, upon payment to the 67538
secretary of state of any additional fees and penalties required 67539
to be paid to ~~him~~ the secretary of state, and upon the filing with 67540
the secretary of state of a certificate from the tax commissioner 67541
that it has complied with all the requirements of law as to 67542
franchise or excise tax reports and paid all franchise or excise 67543
taxes, fees, or penalties due thereon for every year of its 67544
delinquency, and upon the payment to the secretary of state of an 67545
additional fee of ten dollars, shall be reinstated and again 67546
entitled to exercise its rights, privileges, and franchises in 67547
this state, and the secretary of state shall cancel the entry of 67548
cancellation or expiration to exercise its rights, privileges, and 67549
franchises. If the reinstatement is not made within one year from 67550
the date of the cancellation of its articles of incorporation or 67551
date of the cancellation or expiration of its license to do 67552
business, and it appears that articles of incorporation or license 67553
certificate have been issued to a corporation of the same or 67554
similar name, the applicant for reinstatement shall be required by 67555
the secretary of state, as a condition prerequisite to such 67556
reinstatement, to amend its articles by changing its name. A 67557
certificate of reinstatement may be filed in the county recorder's 67558
office of any county in the state, for which the recorder shall 67559
charge and collect a base fee of three dollars for services and a 67560
housing trust fund fee of three dollars pursuant to section 317.36 67561
of the Revised Code. 67562

If a domestic public utility applying for reinstatement has 67563
not previously designated an agent upon whom process may be served 67564
as required by section 1701.07 of the Revised Code, such public 67565
utility shall at the time of reinstatement and as a prerequisite 67566
thereto designate an agent in accordance with such section. 67567

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. 5727.84. (A) As used in this section and sections 5727.85, 5727.86, and 5727.87 of the Revised Code:

(1) "School district" means a city, local, or exempted village school district.

(2) "Joint vocational school district" means a joint vocational school district created under section 3311.16 of the Revised Code, and includes a cooperative education school district created under section 3311.52 or 3311.521 of the Revised Code and a county school financing district created under section 3311.50 of the Revised Code.

(3) "Local taxing unit" means a subdivision or taxing unit, as defined in section 5705.01 of the Revised Code, a park district created under Chapter 1545. of the Revised Code, or a township park district established under section 511.23 of the Revised Code, but excludes school districts and joint vocational school districts.

(4) "State education aid" means the sum of state aid amounts computed for a school district or joint vocational school district under Chapter 3317. of the Revised Code.

(5) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5727.85 of the Revised Code.

(6) "Recognized valuation" has the same meaning as in section 3317.02 of the Revised Code.

(7) "Electric company tax value loss" means the amount

determined under division (D) of this section. 67598

(8) "Natural gas company tax value loss" means the amount 67599
determined under division (E) of this section. 67600

(9) "Tax value loss" means the sum of the electric company 67601
tax value loss and the natural gas company tax value loss. 67602

(10) "Fixed-rate levy" means any tax levied on property other 67603
than a fixed-sum levy. 67604

(11) "Fixed-rate levy loss" means the amount determined under 67605
division (G) of this section. 67606

(12) "Fixed-sum levy" means a tax levied on property at 67607
whatever rate is required to produce a specified amount of tax 67608
money or levied in excess of the ten-mill limitation to pay debt 67609
charges, and includes school district emergency levies imposed 67610
pursuant to section 5705.194 of the Revised Code. 67611

(13) "Fixed-sum levy loss" means the amount determined under 67612
division (H) of this section. 67613

(14) "Consumer price index" means the consumer price index 67614
(all items, all urban consumers) prepared by the bureau of labor 67615
statistics of the United States department of labor. 67616

(B) The kilowatt-hour tax receipts fund is hereby created in 67617
the state treasury and shall consist of money arising from the tax 67618
imposed by section 5727.81 of the Revised Code. All money in the 67619
kilowatt-hour tax receipts fund shall be credited as follows: 67620

(1) Fifty-nine and nine hundred seventy-six one-thousandths 67621
per cent, shall be credited to the general revenue fund. 67622

(2) Two and six hundred forty-six one-thousandths per cent 67623
shall be credited to the local government fund, for distribution 67624
in accordance with section 5747.50 of the Revised Code. 67625

(3) Three hundred seventy-eight one-thousandths per cent 67626
shall be credited to the local government revenue assistance fund, 67627

for distribution in accordance with section 5747.61 of the Revised Code. 67628
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(4) Twenty-five and four-tenths per cent shall be credited to the school district property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.85 of the Revised Code. 67630
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(5) Eleven and six-tenths per cent shall be credited to the local government property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.86 of the Revised Code. 67634
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(6) In fiscal years 2002, 2003, 2004, 2005, and 2006, if the revenue arising from the tax levied by section 5727.81 of the Revised Code is less than five hundred fifty-two million dollars, the amount credited to the general revenue fund under division (B)(1) of this section shall be reduced by the amount necessary to credit to each of the funds in divisions (B)(2) and (3) of this section the amount it would have received if the tax did raise five hundred fifty-two million dollars for that fiscal year. The tax commissioner shall certify to the director of budget and management the amounts that shall be credited under this division. 67638
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(7) Beginning in fiscal year 2007, if the revenue arising from the tax levied by section 5727.81 of the Revised Code is less than five hundred fifty-two million dollars, the amount credited to the general revenue fund under division (B)(1) of this section shall be reduced by the amount necessary to credit to each of the funds in divisions (B)(2), (3), (4), and (5) of this section the amount that it would have received if the tax did raise five hundred fifty-two million dollars for that fiscal year. The tax commissioner shall certify to the director of budget and management the amounts to be credited under division (B)(7) of this section. 67648
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(C) The natural gas tax receipts fund is hereby created in 67659
the state treasury and shall consist of money arising from the tax 67660
imposed by section 5727.811 of the Revised Code. All money in the 67661
fund shall be credited as follows: 67662

(1) Sixty-eight and seven-tenths per cent shall be credited 67663
to the school district property tax replacement fund for the 67664
purpose of making the payments described in section 5727.85 of the 67665
Revised Code. 67666

(2) Thirty-one and three-tenths per cent shall be credited to 67667
the local government property tax replacement fund for the purpose 67668
of making the payments described in section 5727.86 of the Revised 67669
Code. 67670

(3) Beginning in fiscal year 2007, if the revenue arising 67671
from the tax levied by section 5727.811 of the Revised Code is 67672
less than ninety million dollars, an amount equal to the 67673
difference between the amount collected and ninety million dollars 67674
shall be transferred from the general revenue fund to each of the 67675
funds in divisions (C)(1) and (2) of this section in the same 67676
percentages as if that amount had been collected as taxes under 67677
section 5727.811 of the Revised Code. The tax commissioner shall 67678
certify to the director of budget and management the amounts that 67679
shall be transferred under this division. 67680

(D) Not later than January 1, 2002, the tax commissioner 67681
shall determine for each taxing district its electric company tax 67682
value loss, which is the sum of the applicable amounts described 67683
in divisions (D)(1) ~~and (2)~~ to (3) of this section: 67684

(1) The difference obtained by subtracting the amount 67685
described in division (D)(1)(b) from the amount described in 67686
division (D)(1)(a) of this section. 67687

(a) The value of electric company and rural electric company 67688
tangible personal property as assessed by the tax commissioner for 67689

tax year 1998 on a preliminary assessment, or an amended 67690
preliminary assessment if issued prior to March 1, 1999, and as 67691
apportioned to the taxing district for tax year 1998; 67692

(b) The value of electric company and rural electric company 67693
tangible personal property as assessed by the tax commissioner for 67694
tax year 1998 had the property been apportioned to the taxing 67695
district for tax year 2001, and assessed at the rates in effect 67696
for tax year 2001. 67697

(2) The difference obtained by subtracting the amount 67698
described in division (D)(2)(b) from the amount described in 67699
division (D)(2)(a) of this section. 67700

(a) The three-year average for tax years 1996, 1997, and 1998 67701
of the assessed value from nuclear fuel materials and assemblies 67702
assessed against a person under Chapter 5711. of the Revised Code 67703
from the leasing of them to an electric company for those 67704
respective tax years, as reflected in the preliminary assessments; 67705

(b) The three-year average assessed value from nuclear fuel 67706
materials and assemblies assessed under division (D)(2)(a) of this 67707
section for tax years 1996, 1997, and 1998, as reflected in the 67708
preliminary assessments, using an assessment rate of twenty-five 67709
per cent. 67710

(3) In the case of a taxing district having a nuclear power 67711
plant within its territory, any amount, resulting in an electric 67712
company tax value loss, obtained by subtracting the amount 67713
described in division (D)(1) of this section from the difference 67714
obtained by subtracting the amount described in division (D)(3)(b) 67715
of this section from the amount described in division (D)(3)(a) of 67716
this section. 67717

(a) The value of electric company tangible personal property 67718
as assessed by the tax commissioner for tax year 2000 on a 67719
preliminary assessment, or an amended preliminary assessment if 67720

issued prior to March 1, 2001, and as apportioned to the taxing district for tax year 2000; 67721
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(b) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2001 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2002, and as apportioned to the taxing district for tax year 2001. 67723
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(E) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its natural gas company tax value loss, which is the sum of the amounts described in divisions (E)(1) and (2) of this section: 67728
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(1) The difference obtained by subtracting the amount described in division (E)(1)(b) from the amount described in division (E)(1)(a) of this section. 67732
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(a) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2000, and apportioned to the taxing district for tax year 1999; 67735
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(b) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001. 67741
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(2) The difference in the value of current gas obtained by subtracting the amount described in division (E)(2)(b) from the amount described in division (E)(2)(a) of this section. 67746
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(a) The three-year average assessed value of current gas as assessed by the tax commissioner for tax years 1997, 1998, and 1999 on a preliminary assessment, or an amended preliminary 67749
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67751

assessment if issued prior to March 1, 2001, and as apportioned in 67752
the taxing district for those respective years; 67753

(b) The three-year average assessed value from current gas 67754
under division (E)(2)(a) of this section for tax years 1997, 1998, 67755
and 1999, as reflected in the preliminary assessment, using an 67756
assessment rate of twenty-five per cent. 67757

(F) The tax commissioner may request that natural gas 67758
companies, electric companies, and rural electric companies file a 67759
report to help determine the tax value loss under divisions (D) 67760
and (E) of this section. The report shall be filed within thirty 67761
days of the commissioner's request. A company that fails to file 67762
the report or does not timely file the report is subject to the 67763
penalty in section 5727.60 of the Revised Code. 67764

(G) Not later than January 1, 2002, the tax commissioner 67765
shall determine for each school district, joint vocational school 67766
district, and local taxing unit its fixed-rate levy loss, which is 67767
the sum of its electric company tax value loss multiplied by the 67768
tax rate in effect in tax year 1998 for fixed-rate levies and its 67769
natural gas company tax value loss multiplied by the tax rate in 67770
effect in tax year 1999 for fixed-rate levies. 67771

(H) Not later than January 1, 2002, the tax commissioner 67772
shall determine for each school district, joint vocational school 67773
district, and local taxing unit its fixed-sum levy loss, which is 67774
the amount obtained by subtracting the amount described in 67775
division (H)(2) of this section from the amount described in 67776
division (H)(1) of this section: 67777

(1) The sum of the electric company tax value loss multiplied 67778
by the tax rate in effect in tax year 1998, and the natural gas 67779
company tax value loss multiplied by the tax rate in effect in tax 67780
year 1999, for fixed-sum levies for all taxing districts within 67781
each school district, joint vocational school district, and local 67782

taxing unit. For the years 2002 through 2006, this computation 67783
shall include school district emergency levies that existed in 67784
1998 in the case of the electric company tax value loss, and 1999 67785
in the case of the natural gas company tax value loss, and all 67786
other fixed-sum levies that existed in 1998 in the case of the 67787
electric company tax value loss and 1999 in the case of the 67788
natural gas company tax value loss and continue to be charged in 67789
the tax year preceding the distribution year. For the years 2007 67790
through 2016 in the case of school district emergency levies, and 67791
for all years after 2006 in the case of all other fixed-sum 67792
levies, this computation shall exclude all fixed-sum levies that 67793
existed in 1998 in the case of the electric company tax value loss 67794
and 1999 in the case of the natural gas company tax value loss, 67795
but are no longer in effect in the tax year preceding the 67796
distribution year. For the purposes of this section, an emergency 67797
levy that existed in 1998 in the case of the electric company tax 67798
value loss, and 1999 in the case of the natural gas company tax 67799
value loss, continues to exist in a year beginning on or after 67800
January 1, 2007, but before January 1, 2017, if, in that year, the 67801
board of education levies a school district emergency levy for an 67802
annual sum at least equal to the annual sum levied by the board in 67803
tax year 1998 or 1999, respectively, less the amount of the 67804
payment certified under this division for 2002. 67805

(2) The total taxable value in tax year 1999 less the tax 67806
value loss in each school district, joint vocational school 67807
district, and local taxing unit multiplied by one-fourth of one 67808
mill. 67809

If the amount computed under division (H) of this section for 67810
any school district, joint vocational school district, or local 67811
taxing unit is greater than zero, that amount shall equal the 67812
fixed-sum levy loss reimbursed pursuant to division (E) of section 67813
5727.85 of the Revised Code or division (A)(2) of section 5727.86 67814

of the Revised Code, and the one-fourth of one mill that is 67815
subtracted under division (H)(2) of this section shall be 67816
apportioned among all contributing fixed-sum levies in the 67817
proportion of each levy to the sum of all fixed-sum levies within 67818
each school district, joint vocational school district, or local 67819
taxing unit. 67820

(I) Notwithstanding divisions (D), (E), (G), and (H) of this 67821
section, in computing the tax value loss, fixed-rate levy loss, 67822
and fixed-sum levy loss, the tax commissioner shall use the 67823
greater of the 1998 tax rate or the 1999 tax rate in the case of 67824
levy losses associated with the electric company tax value loss, 67825
but the 1999 tax rate shall not include for this purpose any tax 67826
levy approved by the voters after June 30, 1999, and the tax 67827
commissioner shall use the greater of the 1999 or the 2000 tax 67828
rate in the case of levy losses associated with the natural gas 67829
company tax value loss. 67830

(J) Not later than January 1, 2002, the tax commissioner 67831
shall certify to the department of education the tax value loss 67832
determined under divisions (D) and (E) of this section for each 67833
taxing district, the fixed-rate levy loss calculated under 67834
division (G) of this section, and the fixed-sum levy loss 67835
calculated under division (H) of this section. The calculations 67836
under divisions (G) and (H) of this section shall separately 67837
display the levy loss for each levy eligible for reimbursement. 67838

(K) Not later than September 1, 2001, the tax commissioner 67839
shall certify the amount of the fixed-sum levy loss to the county 67840
auditor of each county in which a school district with a fixed-sum 67841
levy loss has territory. 67842

Sec. 5728.04. (A) It is unlawful for any person to operate a 67843
commercial car with three or more axles when operated alone or as 67844
part of a commercial tandem, a commercial car with two axles that 67845

is to be operated as part of a commercial tandem with a gross 67846
vehicle weight or a registered gross vehicle weight exceeding 67847
twenty-six thousand pounds, or a commercial tractor when operated 67848
alone or as part of a commercial tractor combination or commercial 67849
tandem on a public highway ~~without~~ under either of the following 67850
circumstances: 67851

(1) Without a ~~valid~~ fuel use permit for such commercial car 67852
or commercial tractor. 67853

(2) With a suspended or surrendered fuel use permit for such 67854
commercial car or commercial tractor. 67855

(B) The judge or magistrate of any court finding any person 67856
guilty of unlawfully operating a commercial car or commercial 67857
tractor as provided for in this section shall immediately notify 67858
the tax commissioner of such violation and shall transmit to the 67859
tax commissioner the name and the permanent address of the owner 67860
of the commercial car or commercial tractor operated in violation 67861
of this section, the registration number, the state of 67862
registration, and the certificate of title number of the 67863
commercial car or commercial tractor. The commercial car or 67864
commercial tractor involved in a violation of division (A)(1) or 67865
(2) of this section may be detained until a valid fuel use permit 67866
is obtained or reinstated. 67867

Sec. 5728.06. (A) For the following purposes, an excise tax 67868
is hereby imposed on the use of motor fuel to operate on the 67869
public highways of this state a commercial car with three or more 67870
axles operated alone or as part of a commercial tandem, a 67871
commercial car with two axles operated as part of a commercial 67872
tandem having a gross vehicle weight or registered gross vehicle 67873
weight exceeding twenty-six thousand pounds, or a commercial 67874
tractor operated alone or as part of a commercial tractor 67875
combination or commercial tandem: to provide revenue for 67876

maintaining the state highway system, to widen existing surfaces 67877
on such highways, to resurface such highways, to enable the 67878
counties of the state properly to plan for, maintain, and repair 67879
their roads, to enable the municipal corporations to plan, 67880
construct, reconstruct, repave, widen, maintain, repair, clear, 67881
and clean public highways, roads, and streets; to pay that portion 67882
of the construction cost of a highway project that a county, 67883
township, or municipal corporation normally would be required to 67884
pay, but that the director of transportation, pursuant to division 67885
(B) of section 5531.08 of the Revised Code, determines instead 67886
will be paid from moneys in the highway operating fund; to 67887
maintain and repair bridges and viaducts; to purchase, erect, and 67888
maintain street and traffic signs and markers; to purchase, erect, 67889
and maintain traffic lights and signals; to pay the costs 67890
apportioned to the public under section 4907.47 of the Revised 67891
Code; and to supplement revenue already available for such 67892
purposes, to distribute equitably among those persons using the 67893
privilege of driving motor vehicles upon such highways and streets 67894
the cost of maintaining and repairing the same, and to pay the 67895
interest, principal, and charges on bonds and other obligations 67896
issued pursuant to Section 2i of Article VIII, Ohio Constitution, 67897
and sections 5528.30 and 5528.31 of the Revised Code. The tax is 67898
imposed in the same amount as the motor fuel tax imposed under 67899
Chapter 5735. of the Revised Code plus an additional tax of three 67900
cents per gallon of motor fuel used before July 1, 2004, ~~and an~~ 67901
provided that the additional tax of shall be reduced to two cents 67902
per gallon of motor fuel used ~~before~~ from July 1, 2004 through 67903
June 30, 2005, as determined by the gallons consumed while 67904
operated on the public highways of this state. Subject to section 67905
5735.292 of the Revised Code, on and after July 1, 2005, the tax 67906
shall be imposed in the same amount as the motor fuel tax imposed 67907
under Chapter 5735. of the Revised Code. Payment of the fuel use 67908
tax shall be made by the purchase of motor fuel within Ohio of 67909

such gallons as is equivalent to the gallons consumed while 67910
operating such a motor vehicle on the public highways of this 67911
state, or by direct remittance to the treasurer of state with the 67912
fuel use tax return filed pursuant to section 5728.08 of the 67913
Revised Code. 67914

Any person subject to the tax imposed under this section who 67915
purchases motor fuel in this state for use in another state in 67916
excess of the amount consumed while operating such motor vehicle 67917
on the public highways of this state shall be allowed a credit 67918
against the tax imposed by this section or a refund equal to the 67919
motor fuel tax paid to this state on such excess. No such credit 67920
or refund shall be allowed for taxes paid to any state that 67921
imposes a tax on motor fuel purchased or obtained in this state 67922
and used on the highways of such other state but does not allow a 67923
similar credit or refund for the tax paid to this state on motor 67924
fuel purchased or acquired in the other state and used on the 67925
public highways of this state. 67926

The tax commissioner is authorized to determine whether such 67927
credits or refunds are available and to prescribe such rules as 67928
are required for the purpose of administering this chapter. 67929

(B) Within sixty days after the last day of each month, the 67930
tax commissioner shall determine the amount of motor fuel tax 67931
allowed as a credit against the tax imposed by this section. The 67932
commissioner shall certify the amount to the director of budget 67933
and management and the treasurer of state, who shall credit the 67934
amount in accordance with section 5728.08 of the Revised Code from 67935
current revenue arising from the tax levied by section 5735.05 of 67936
the Revised Code. 67937

(C) The owner of each commercial car and commercial tractor 67938
subject to sections 5728.01 to 5728.14 of the Revised Code is 67939
liable for the payment of the full amount of the taxes imposed by 67940
this section. 67941

An owner who is a person regularly engaged, for compensation, 67942
in the business of leasing or renting motor vehicles without 67943
furnishing drivers may designate that the lessee of a motor 67944
vehicle leased for a period of thirty days or more shall report 67945
and pay the tax incurred during the duration of the lease. An 67946
owner who is an independent contractor that furnishes both the 67947
driver and motor vehicle, may designate that the person so 67948
furnished with the driver and motor vehicle for a period of thirty 67949
days or more shall report and pay the tax incurred during that 67950
period. An independent contractor that is not an owner, but that 67951
furnishes both the driver and motor vehicle and that has been 67952
designated by the owner of the motor vehicle to report and pay the 67953
tax, may designate that the person so furnished with driver and 67954
motor vehicle for a period of thirty days or more shall report and 67955
pay the tax incurred during that period. 67956

Sec. 5728.99. (A)(1) Except as provided in division (A)(2) of 67957
this section, whoever violates any provision of sections 5728.01 67958
to 5728.14 of the Revised Code, or any rule promulgated by the tax 67959
commissioner under the authority of any provision of those 67960
sections, for the violation of which no penalty is provided 67961
elsewhere, shall be fined not less than twenty-five nor more than 67962
one hundred dollars. 67963

(2) Division (A)(1) of this section does not apply to the 67964
filing of any false or fraudulent return, application, or permit 67965
under section 5728.02, 5728.03, or 5728.08 of the Revised Code. 67966
The filing of any false or fraudulent return, application, or 67967
permit under any of those sections is a violation of section 67968
2921.13 of the Revised Code. 67969

(B)(1) Whoever violates division (A)(1) of section 5728.04 of 67970
the Revised Code is guilty of a misdemeanor of the fourth degree. 67971

(2) Whoever violates division (A)(2) of section 5728.04 of 67972

<u>the Revised Code is guilty of a felony of the fifth degree.</u>	67973
Sec. 5733.04. As used in this chapter:	67974
(A) "Issued and outstanding shares of stock" applies to nonprofit corporations, as provided in section 5733.01 of the Revised Code, and includes, but is not limited to, membership certificates and other instruments evidencing ownership of an interest in such nonprofit corporations, and with respect to a financial institution that does not have capital stock, "issued and outstanding shares of stock" includes, but is not limited to, ownership interests of depositors in the capital employed in such an institution.	67975 67976 67977 67978 67979 67980 67981 67982 67983
(B) "Taxpayer" means a corporation subject to the tax imposed by section 5733.06 of the Revised Code.	67984 67985
(C) "Resident" means a corporation organized under the laws of this state.	67986 67987
(D) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.	67988 67989 67990
(E) "Taxable year" means the period prescribed by division (A) of section 5733.031 of the Revised Code upon the net income of which the value of the taxpayer's issued and outstanding shares of stock is determined under division (B) of section 5733.05 of the Revised Code or the period prescribed by division (A) of section 5733.031 of the Revised Code that immediately precedes the date as of which the total value of the corporation is determined under division (A) or (C) of section 5733.05 of the Revised Code.	67991 67992 67993 67994 67995 67996 67997 67998
(F) "Tax year" means the calendar year in and for which the tax imposed by section 5733.06 of the Revised Code is required to be paid.	67999 68000 68001
(G) "Internal Revenue Code" means the "Internal Revenue Code	68002

of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 68003

(H) "Federal income tax" means the income tax imposed by the 68004
Internal Revenue Code. 68005

(I) Except as provided in section 5733.058 of the Revised 68006
Code, "net income" means the taxpayer's taxable income before 68007
operating loss deduction and special deductions, as required to be 68008
reported for the taxpayer's taxable year under the Internal 68009
Revenue Code, subject to the following adjustments: 68010

(1)(a) Deduct any net operating loss incurred in any taxable 68011
years ending in 1971 or thereafter, but exclusive of any net 68012
operating loss incurred in taxable years ending prior to January 68013
1, 1971. This deduction shall not be allowed in any tax year 68014
commencing before December 31, 1973, but shall be carried over and 68015
allowed in tax years commencing after December 31, 1973, until 68016
fully utilized in the next succeeding taxable year or years in 68017
which the taxpayer has net income, but in no case for more than 68018
the designated carryover period as described in division (I)(1)(b) 68019
of this section. The amount of such net operating loss, as 68020
determined under the allocation and apportionment provisions of 68021
section 5733.051 and division (B) of section 5733.05 of the 68022
Revised Code for the year in which the net operating loss occurs, 68023
shall be deducted from net income, as determined under the 68024
allocation and apportionment provisions of section 5733.051 and 68025
division (B) of section 5733.05 of the Revised Code, to the extent 68026
necessary to reduce net income to zero with the remaining unused 68027
portion of the deduction, if any, carried forward to the remaining 68028
years of the designated carryover period as described in division 68029
(I)(1)(b) of this section, or until fully utilized, whichever 68030
occurs first. 68031

(b) For losses incurred in taxable years ending on or before 68032
December 31, 1981, the designated carryover period shall be the 68033
five consecutive taxable years after the taxable year in which the 68034

net operating loss occurred. For losses incurred in taxable years 68035
ending on or after January 1, 1982, and beginning before August 6, 68036
1997, the designated carryover period shall be the fifteen 68037
consecutive taxable years after the taxable year in which the net 68038
operating loss occurs. For losses incurred in taxable years 68039
beginning on or after August 6, 1997, the designated carryover 68040
period shall be the twenty consecutive taxable years after the 68041
taxable year in which the net operating loss occurs. 68042

(c) The tax commissioner may require a taxpayer to furnish 68043
any information necessary to support a claim for deduction under 68044
division (I)(1)(a) of this section and no deduction shall be 68045
allowed unless the information is furnished. 68046

(2) Deduct any amount included in net income by application 68047
of section 78 or 951 of the Internal Revenue Code, amounts 68048
received for royalties, technical or other services derived from 68049
sources outside the United States, and dividends received from a 68050
subsidiary, associate, or affiliated corporation that neither 68051
transacts any substantial portion of its business nor regularly 68052
maintains any substantial portion of its assets within the United 68053
States. For purposes of determining net foreign source income 68054
deductible under division (I)(2) of this section, the amount of 68055
gross income from all such sources other than dividend income and 68056
income derived by application of section 78 or 951 of the Internal 68057
Revenue Code shall be reduced by: 68058

(a) The amount of any reimbursed expenses for personal 68059
services performed by employees of the taxpayer for the 68060
subsidiary, associate, or affiliated corporation; 68061

(b) Ten per cent of the amount of royalty income and 68062
technical assistance fees; 68063

(c) Fifteen per cent of the amount of all other income. 68064

The amounts described in divisions (I)(2)(a) to (c) of this 68065

section are deemed to be the expenses attributable to the 68066
production of deductible foreign source income unless the taxpayer 68067
shows, by clear and convincing evidence, less actual expenses, or 68068
the tax commissioner shows, by clear and convincing evidence, more 68069
actual expenses. 68070

(3) Add any loss or deduct any gain resulting from the sale, 68071
exchange, or other disposition of a capital asset, or an asset 68072
described in section 1231 of the Internal Revenue Code, to the 68073
extent that such loss or gain occurred prior to the first taxable 68074
year on which the tax provided for in section 5733.06 of the 68075
Revised Code is computed on the corporation's net income. For 68076
purposes of division (I)(3) of this section, the amount of the 68077
prior loss or gain shall be measured by the difference between the 68078
original cost or other basis of the asset and the fair market 68079
value as of the beginning of the first taxable year on which the 68080
tax provided for in section 5733.06 of the Revised Code is 68081
computed on the corporation's net income. At the option of the 68082
taxpayer, the amount of the prior loss or gain may be a percentage 68083
of the gain or loss, which percentage shall be determined by 68084
multiplying the gain or loss by a fraction, the numerator of which 68085
is the number of months from the acquisition of the asset to the 68086
beginning of the first taxable year on which the fee provided in 68087
section 5733.06 of the Revised Code is computed on the 68088
corporation's net income, and the denominator of which is the 68089
number of months from the acquisition of the asset to the sale, 68090
exchange, or other disposition of the asset. The adjustments 68091
described in this division do not apply to any gain or loss where 68092
the gain or loss is recognized by a qualifying taxpayer, as 68093
defined in section 5733.0510 of the Revised Code, with respect to 68094
a qualifying taxable event, as defined in that section. 68095

(4) Deduct the dividend received deduction provided by 68096
section 243 of the Internal Revenue Code. 68097

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

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

(7) To the extent not otherwise allowed, deduct any dividends or distributions received by a taxpayer from a public utility, excluding an electric company and a combined company, and, for tax years 2005 and thereafter, a telephone company, if the taxpayer owns at least eighty per cent of the issued and outstanding common stock of the public utility. As used in division (I)(7) of this section, "public utility" means a public utility as defined in Chapter 5727. of the Revised Code, whether or not the public utility is doing business in the state.

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

(9) Deduct expenditures for modifying existing buildings or structures to meet American national standards institute standard A-117.1-1961 (R-1971), as amended; provided, that no deduction shall be allowed to the extent that such deduction is not permitted under federal law or under rules of the tax commissioner. Those deductions as are allowed may be taken over a period of five years. The tax commissioner shall adopt rules under

Chapter 119. of the Revised Code establishing reasonable 68129
limitations on the extent that expenditures for modifying existing 68130
buildings or structures are attributable to the purpose of making 68131
the buildings or structures accessible to and usable by physically 68132
handicapped persons. 68133

(10) Deduct the amount of wages and salaries, if any, not 68134
otherwise allowable as a deduction but that would have been 68135
allowable as a deduction in computing federal taxable income 68136
before operating loss deduction and special deductions for the 68137
taxable year, had the targeted jobs credit allowed and determined 68138
under sections 38, 51, and 52 of the Internal Revenue Code not 68139
been in effect. 68140

(11) Deduct net interest income on obligations of the United 68141
States and its territories and possessions or of any authority, 68142
commission, or instrumentality of the United States to the extent 68143
the laws of the United States prohibit inclusion of the net 68144
interest for purposes of determining the value of the taxpayer's 68145
issued and outstanding shares of stock under division (B) of 68146
section 5733.05 of the Revised Code. As used in division (I)(11) 68147
of this section, "net interest" means interest net of any expenses 68148
taken on the federal income tax return that would not have been 68149
allowed under section 265 of the Internal Revenue Code if the 68150
interest were exempt from federal income tax. 68151

(12)(a) Except as set forth in division (I)(12)(d) of this 68152
section, to the extent not included in computing the taxpayer's 68153
federal taxable income before operating loss deduction and special 68154
deductions, add gains and deduct losses from direct or indirect 68155
sales, exchanges, or other dispositions, made by a related entity 68156
who is not a taxpayer, of the taxpayer's indirect, beneficial, or 68157
constructive investment in the stock or debt of another entity, 68158
unless the gain or loss has been included in computing the federal 68159
taxable income before operating loss deduction and special 68160

deductions of another taxpayer with a more closely related 68161
investment in the stock or debt of the other entity. The amount of 68162
gain added or loss deducted shall not exceed the product obtained 68163
by multiplying such gain or loss by the taxpayer's proportionate 68164
share, directly, indirectly, beneficially, or constructively, of 68165
the outstanding stock of the related entity immediately prior to 68166
the direct or indirect sale, exchange, or other disposition. 68167

(b) Except as set forth in division (I)(12)(e) of this 68168
section, to the extent not included in computing the taxpayer's 68169
federal taxable income before operating loss deduction and special 68170
deductions, add gains and deduct losses from direct or indirect 68171
sales, exchanges, or other dispositions made by a related entity 68172
who is not a taxpayer, of intangible property other than stock, 68173
securities, and debt, if such property was owned, or used in whole 68174
or in part, at any time prior to or at the time of the sale, 68175
exchange, or disposition by either the taxpayer or by a related 68176
entity that was a taxpayer at any time during the related entity's 68177
ownership or use of such property, unless the gain or loss has 68178
been included in computing the federal taxable income before 68179
operating loss deduction and special deductions of another 68180
taxpayer with a more closely related ownership or use of such 68181
intangible property. The amount of gain added or loss deducted 68182
shall not exceed the product obtained by multiplying such gain or 68183
loss by the taxpayer's proportionate share, directly, indirectly, 68184
beneficially, or constructively, of the outstanding stock of the 68185
related entity immediately prior to the direct or indirect sale, 68186
exchange, or other disposition. 68187

(c) As used in division (I)(12) of this section, "related 68188
entity" means those entities described in divisions (I)(12)(c)(i) 68189
to (iii) of this section: 68190

(i) An individual stockholder, or a member of the 68191
stockholder's family enumerated in section 318 of the Internal 68192

Revenue Code, if the stockholder and the members of the 68193
stockholder's family own, directly, indirectly, beneficially, or 68194
constructively, in the aggregate, at least fifty per cent of the 68195
value of the taxpayer's outstanding stock; 68196

(ii) A stockholder, or a stockholder's partnership, estate, 68197
trust, or corporation, if the stockholder and the stockholder's 68198
partnerships, estates, trusts, and corporations own directly, 68199
indirectly, beneficially, or constructively, in the aggregate, at 68200
least fifty per cent of the value of the taxpayer's outstanding 68201
stock; 68202

(iii) A corporation, or a party related to the corporation in 68203
a manner that would require an attribution of stock from the 68204
corporation to the party or from the party to the corporation 68205
under division (I)(12)(c)(iv) of this section, if the taxpayer 68206
owns, directly, indirectly, beneficially, or constructively, at 68207
least fifty per cent of the value of the corporation's outstanding 68208
stock. 68209

(iv) The attribution rules of section 318 of the Internal 68210
Revenue Code apply for purposes of determining whether the 68211
ownership requirements in divisions (I)(12)(c)(i) to (iii) of this 68212
section have been met. 68213

(d) For purposes of the adjustments required by division 68214
(I)(12)(a) of this section, the term "investment in the stock or 68215
debt of another entity" means only those investments where the 68216
taxpayer and the taxpayer's related entities directly, indirectly, 68217
beneficially, or constructively own, in the aggregate, at any time 68218
during the twenty-four month period commencing one year prior to 68219
the direct or indirect sale, exchange, or other disposition of 68220
such investment at least fifty per cent or more of the value of 68221
either the outstanding stock or such debt of such other entity. 68222

(e) For purposes of the adjustments required by division 68223

(I)(12)(b) of this section, the term "related entity" excludes all 68224
of the following: 68225

(i) Foreign corporations as defined in section 7701 of the 68226
Internal Revenue Code; 68227

(ii) Foreign partnerships as defined in section 7701 of the 68228
Internal Revenue Code; 68229

(iii) Corporations, partnerships, estates, and trusts created 68230
or organized in or under the laws of the Commonwealth of Puerto 68231
Rico or any possession of the United States; 68232

(iv) Foreign estates and foreign trusts as defined in section 68233
7701 of the Internal Revenue Code. 68234

The exclusions described in divisions (I)(12)(e)(i) to (iv) 68235
of this section do not apply if the corporation, partnership, 68236
estate, or trust is described in any one of divisions (C)(1) to 68237
(5) of section 5733.042 of the Revised Code. 68238

(f) Nothing in division (I)(12) of this section shall require 68239
or permit a taxpayer to add any gains or deduct any losses 68240
described in divisions (I)(12)(f)(i) and (ii) of this section: 68241

(i) Gains or losses recognized for federal income tax 68242
purposes by an individual, estate, or trust without regard to the 68243
attribution rules described in division (I)(12)(c) of this 68244
section; 68245

(ii) A related entity's gains or losses described in division 68246
(I)(12)(b) of this section if the taxpayer's ownership of or use 68247
of such intangible property was limited to a period not exceeding 68248
nine months and was attributable to a transaction or a series of 68249
transactions executed in accordance with the election or elections 68250
made by the taxpayer or a related entity pursuant to section 338 68251
of the Internal Revenue Code. 68252

(13) Any adjustment required by section 5733.042 of the 68253

Revised Code.	68254
(14) Add any amount claimed as a credit under section	68255
5733.0611 of the Revised Code to the extent that such amount	68256
satisfies either of the following:	68257
(a) It was deducted or excluded from the computation of the	68258
corporation's taxable income before operating loss deduction and	68259
special deductions as required to be reported for the	68260
corporation's taxable year under the Internal Revenue Code;	68261
(b) It resulted in a reduction of the corporation's taxable	68262
income before operating loss deduction and special deductions as	68263
required to be reported for any of the corporation's taxable years	68264
under the Internal Revenue Code.	68265
(15) Deduct the amount contributed by the taxpayer to an	68266
individual development account program established by a county	68267
department of job and family services pursuant to sections 329.11	68268
to 329.14 of the Revised Code for the purpose of matching funds	68269
deposited by program participants. On request of the tax	68270
commissioner, the taxpayer shall provide any information that, in	68271
the tax commissioner's opinion, is necessary to establish the	68272
amount deducted under division (I)(15) of this section.	68273
(16) Any adjustment required by section 5733.0510 <u>or</u>	68274
<u>5733.0511</u> of the Revised Code.	68275
(17)(a) Add five-sixths of the amount of depreciation expense	68276
allowed under subsection (k) of section 168 of the Internal	68277
Revenue Code, including a person's proportionate or distributive	68278
share of the amount of depreciation expense allowed by that	68279
subsection to any pass-through entity in which the person has	68280
direct or indirect ownership. The tax commissioner, under	68281
procedures established by the commissioner, may waive the add-back	68282
related to a pass-through entity if the person owns, directly or	68283
indirectly, less than five per cent of the pass-through entity.	68284

(b) Nothing in division (I)(17) of this section shall be 68285
construed to adjust or modify the adjusted basis of any asset. 68286

(c) To the extent the add-back is attributable to property 68287
generating income or loss allocable under section 5733.051 of the 68288
Revised Code, the add-back shall be allocated to the same location 68289
as the income or loss generated by that property. Otherwise, the 68290
add-back shall be apportioned, subject to division (B)(2)(d) of 68291
section 5733.05 of the Revised Code. 68292

(18)(a) If a person is required to make the add-back under 68293
division (I)(17)(a) of this section for a tax year, the person 68294
shall deduct one-fifth of the amount added back for each of the 68295
succeeding five tax years. 68296

(b) If the amount deducted under division (I)(18)(a) of this 68297
section is attributable to an add-back allocated under division 68298
(I)(17)(c) of this section, the amount deducted shall be allocated 68299
to the same location. Otherwise, the amount shall be apportioned 68300
using the apportionment factors for the taxable year in which the 68301
deduction is taken, subject to division (B)(2)(d) of section 68302
5733.05 of the Revised Code. 68303

(J) Any term used in this chapter has the same meaning as 68304
when used in comparable context in the laws of the United States 68305
relating to federal income taxes unless a different meaning is 68306
clearly required. Any reference in this chapter to the Internal 68307
Revenue Code includes other laws of the United States relating to 68308
federal income taxes. 68309

(K) "Financial institution" has the meaning given by section 68310
5725.01 of the Revised Code but does not include a production 68311
credit association as described in 85 Stat. 597, 12 U.S.C.A. 2091. 68312

(L)(1) A "qualifying holding company" is any corporation 68313
satisfying all of the following requirements: 68314

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

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

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

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

(c) The corporation is not a financial institution on the last day of the taxable year ending prior to the first day of the tax year;

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

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

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

this chapter. 68345

(2)(a)(i) For purposes of making the ninety per cent 68346
computation under division (L)(1)(a) of this section, the net book 68347
value of the corporation's assets shall not include the net book 68348
value of aircraft or real property described in division 68349
(L)(1)(b)(i) of this section. 68350

(ii) For purposes of making the fifty per cent computation 68351
under division (L)(1)(a) of this section, the net book value of 68352
assets shall include the net book value of aircraft or real 68353
property described in division (L)(1)(b)(i) of this section. 68354

(b)(i) As used in division (L) of this section, "intangible 68355
asset" includes, but is not limited to, the corporation's direct 68356
interest in each pass-through entity only if at all times during 68357
the corporation's taxable year ending prior to the first day of 68358
the tax year the corporation's and the corporation's related 68359
members' combined direct and indirect interests in the capital or 68360
profits of such pass-through entity do not exceed fifty per cent. 68361
If the corporation's interest in the pass-through entity is an 68362
intangible asset for that taxable year, then the distributive 68363
share of any income from the pass-through entity shall be income 68364
from an intangible asset for that taxable year. 68365

(ii) If a corporation's and the corporation's related 68366
members' combined direct and indirect interests in the capital or 68367
profits of a pass-through entity exceed fifty per cent at any time 68368
during the corporation's taxable year ending prior to the first 68369
day of the tax year, "intangible asset" does not include the 68370
corporation's direct interest in the pass-through entity, and the 68371
corporation shall include in its assets its proportionate share of 68372
the assets of any such pass-through entity and shall include in 68373
its gross income its distributive share of the gross income of 68374
such pass-through entity in the same form as was earned by the 68375
pass-through entity. 68376

(iii) A pass-through entity's direct or indirect 68377
proportionate share of any other pass-through entity's assets 68378
shall be included for the purpose of computing the corporation's 68379
proportionate share of the pass-through entity's assets under 68380
division (L)(2)(b)(ii) of this section, and such pass-through 68381
entity's distributive share of any other pass-through entity's 68382
gross income shall be included for purposes of computing the 68383
corporation's distributive share of the pass-through entity's 68384
gross income under division (L)(2)(b)(ii) of this section. 68385

(c) For the purposes of divisions (L)(1)(b)(i), (1)(b)(ii), 68386
(2)(a)(i), and (2)(a)(ii) of this section, real property is 68387
described in division (L)(2)(c) of this section only if all of the 68388
following conditions are present at all times during the taxable 68389
year ending prior to the first day of the tax year: 68390

(i) The real property serves as the headquarters of the 68391
corporation's trade or business, or is the place from which the 68392
corporation's trade or business is principally managed or 68393
directed; 68394

(ii) Not more than ten per cent of the value of the real 68395
property and not more than ten per cent of the square footage of 68396
the building or buildings that are part of the real property is 68397
used, made available, or occupied for the purpose of providing, 68398
acquiring, transferring, selling, or disposing of tangible 68399
property or services in the normal course of business to persons 68400
other than related members, the corporation's employees and their 68401
families, and such related members' employees and their families. 68402

(d) As used in division (L) of this section, "related member" 68403
has the same meaning as in division (A)(6) of section 5733.042 of 68404
the Revised Code without regard to division (B) of that section. 68405

(3) The percentages described in division (L)(1)(a) of this 68406
section shall be equal to the quarterly average of those 68407

percentages as calculated during the corporation's taxable year 68408
ending prior to the first day of the tax year. 68409

(4) With respect to the election described in division 68410
(L)(1)(e) of this section: 68411

(a) The election need not accompany a timely filed report; 68412

(b) The election need not accompany the report; rather, the 68413
election may accompany a subsequently filed but timely application 68414
for refund and timely amended report, or a subsequently filed but 68415
timely petition for reassessment; 68416

(c) The election is not irrevocable; 68417

(d) The election applies only to the tax year specified by 68418
the corporation; 68419

(e) The corporation's related members comply with division 68420
(L)(1)(d) of this section. 68421

Nothing in division (L)(4) of this section shall be construed 68422
to extend any statute of limitations set forth in this chapter. 68423

(M) "Qualifying controlled group" means two or more 68424
corporations that satisfy the ownership and control requirements 68425
of division (A) of section 5733.052 of the Revised Code. 68426

(N) "Limited liability company" means any limited liability 68427
company formed under Chapter 1705. of the Revised Code or under 68428
the laws of any other state. 68429

(O) "Pass-through entity" means a corporation that has made 68430
an election under subchapter S of Chapter 1 of Subtitle A of the 68431
Internal Revenue Code for its taxable year under that code, or a 68432
partnership, limited liability company, or any other person, other 68433
than an individual, trust, or estate, if the partnership, limited 68434
liability company, or other person is not classified for federal 68435
income tax purposes as an association taxed as a corporation. 68436

(P) "Electric company₁" ~~and~~ "combined company₁" and 68437

"telephone company" have the same meanings as in section 5727.01 68438
of the Revised Code. 68439

Sec. 5733.05. As used in this section, "qualified research" 68440
means laboratory research, experimental research, and other 68441
similar types of research; research in developing or improving a 68442
product; or research in developing or improving the means of 68443
producing a product. It does not include market research, consumer 68444
surveys, efficiency surveys, management studies, ordinary testing 68445
or inspection of materials or products for quality control, 68446
historical research, or literary research. "Product" as used in 68447
this paragraph does not include services or intangible property. 68448

The annual report determines the value of the issued and 68449
outstanding shares of stock of the taxpayer, which under division 68450
(A) or divisions (B) and (C) of this section is the base or 68451
measure of the franchise tax liability. Such determination shall 68452
be made as of the date shown by the report to have been the 68453
beginning of the corporation's annual accounting period that 68454
includes the first day of January of the tax year. For the 68455
purposes of this chapter, the value of the issued and outstanding 68456
shares of stock of any corporation that is a financial institution 68457
shall be deemed to be the value as calculated in accordance with 68458
division (A) of this section. For the purposes of this chapter, 68459
the value of the issued and outstanding shares of stock of any 68460
corporation that is not a financial institution shall be deemed to 68461
be the values as calculated in accordance with divisions (B) and 68462
(C) of this section. Except as otherwise required by this section 68463
or section 5733.056 of the Revised Code, the value of a taxpayer's 68464
issued and outstanding shares of stock under division (A) or (C) 68465
of this section does not include any amount that is treated as a 68466
liability under generally accepted accounting principles. 68467

(A) The total value, as shown by the books of the financial 68468

institution, of its capital, surplus, whether earned or unearned, 68469
undivided profits, and reserves shall be determined as prescribed 68470
by section 5733.056 of the Revised Code for tax years 1998 and 68471
thereafter. 68472

(B) The sum of the corporation's net income during the 68473
corporation's taxable year, allocated or apportioned to this state 68474
as prescribed in divisions (B)(1) and (2) of this section, and 68475
subject to sections 5733.052, 5733.053, 5733.057, 5733.058, 68476
5733.059, and 5733.0510 of the Revised Code: 68477

(1) The net income allocated to this state as provided by 68478
section 5733.051 of the Revised Code. 68479

(2) The amount of Ohio apportioned net income from sources 68480
other than those allocated under section 5733.051 of the Revised 68481
Code, which shall be determined by multiplying the corporation's 68482
net income by a fraction. The numerator of the fraction is the sum 68483
of the following products: the property factor multiplied by 68484
twenty, the payroll factor multiplied by twenty, and the sales 68485
factor multiplied by sixty. The denominator of the fraction is one 68486
hundred, provided that the denominator shall be reduced by twenty 68487
if the property factor has a denominator of zero, by twenty if the 68488
payroll factor has a denominator of zero, and by sixty if the 68489
sales factor has a denominator of zero. 68490

The property, payroll, and sales factors shall be determined 68491
as follows: 68492

(a) The property factor is a fraction the numerator of which 68493
is the average value of the corporation's real and tangible 68494
personal property owned or rented, and used in the trade or 68495
business in this state during the taxable year, and the 68496
denominator of which is the average value of all the corporation's 68497
real and tangible personal property owned or rented, and used in 68498
the trade or business everywhere during such year. There shall be 68499

excluded from the numerator and denominator of the property factor 68500
the original cost of all of the following property within Ohio: 68501
property with respect to which a "pollution control facility" 68502
certificate has been issued pursuant to section 5709.21 of the 68503
Revised Code; property with respect to which an "industrial water 68504
pollution control certificate" has been issued pursuant to that 68505
section or former section 6111.31 of the Revised Code; and 68506
property used exclusively during the taxable year for qualified 68507
research. 68508

(i) Property owned by the corporation is valued at its 68509
original cost. Property rented by the corporation is valued at 68510
eight times the net annual rental rate. "Net annual rental rate" 68511
means the annual rental rate paid by the corporation less any 68512
annual rental rate received by the corporation from subrentals. 68513

(ii) The average value of property shall be determined by 68514
averaging the values at the beginning and the end of the taxable 68515
year, but the tax commissioner may require the averaging of 68516
monthly values during the taxable year, if reasonably required to 68517
reflect properly the average value of the corporation's property. 68518

(b) The payroll factor is a fraction the numerator of which 68519
is the total amount paid in this state during the taxable year by 68520
the corporation for compensation, and the denominator of which is 68521
the total compensation paid everywhere by the corporation during 68522
such year. There shall be excluded from the numerator and the 68523
denominator of the payroll factor the total compensation paid in 68524
this state to employees who are primarily engaged in qualified 68525
research. 68526

(i) Compensation means any form of remuneration paid to an 68527
employee for personal services. 68528

(ii) Compensation is paid in this state if: (1) the 68529
recipient's service is performed entirely within this state, (2) 68530

the recipient's service is performed both within and without this 68531
state, but the service performed without this state is incidental 68532
to the recipient's service within this state, (3) some of the 68533
service is performed within this state and either the base of 68534
operations, or if there is no base of operations, the place from 68535
which the service is directed or controlled is within this state, 68536
or the base of operations or the place from which the service is 68537
directed or controlled is not in any state in which some part of 68538
the service is performed, but the recipient's residence is in this 68539
state. 68540

(iii) Compensation is paid in this state to any employee of a 68541
common or contract motor carrier corporation, who performs the 68542
employee's regularly assigned duties on a motor vehicle in more 68543
than one state, in the same ratio by which the mileage traveled by 68544
such employee within the state bears to the total mileage traveled 68545
by such employee everywhere during the taxable year. 68546

(c) Except as provided in section 5733.059 of the Revised 68547
Code, the sales factor is a fraction the numerator of which is the 68548
total sales in this state by the corporation during the taxable 68549
year, and the denominator of which is the total sales by the 68550
corporation everywhere during such year. In determining the 68551
numerator and denominator of the sales factor, receipts from the 68552
sale or other disposal of a capital asset or an asset described in 68553
section 1231 of the Internal Revenue Code shall be eliminated. 68554
Also, in determining the numerator and denominator of the sales 68555
factor, in the case of a reporting corporation owning at least 68556
eighty per cent of the issued and outstanding common stock of one 68557
or more insurance companies or public utilities, except an 68558
electric company and a combined company, and, for tax years 2005 68559
and thereafter, a telephone company, or owning at least 68560
twenty-five per cent of the issued and outstanding common stock of 68561
one or more financial institutions, receipts received by the 68562

reporting corporation from such utilities, insurance companies, 68563
and financial institutions shall be eliminated. 68564

For the purpose of this section and section 5733.03 of the 68565
Revised Code, sales of tangible personal property are in this 68566
state where such property is received in this state by the 68567
purchaser. In the case of delivery of tangible personal property 68568
by common carrier or by other means of transportation, the place 68569
at which such property is ultimately received after all 68570
transportation has been completed shall be considered as the place 68571
at which such property is received by the purchaser. Direct 68572
delivery in this state, other than for purposes of transportation, 68573
to a person or firm designated by a purchaser constitutes delivery 68574
to the purchaser in this state, and direct delivery outside this 68575
state to a person or firm designated by a purchaser does not 68576
constitute delivery to the purchaser in this state, regardless of 68577
where title passes or other conditions of sale. 68578

Except as provided in section 5733.059 of the Revised Code, 68579
sales, other than sales of tangible personal property, are in this 68580
state if either: 68581

(i) The income-producing activity is performed solely in this 68582
state; 68583

(ii) The income-producing activity is performed both within 68584
and without this state and a greater proportion of the 68585
income-producing activity is performed within this state than in 68586
any other state, based on costs of performance. 68587

(d) If the allocation and apportionment provisions of 68588
division (B) of this section do not fairly represent the extent of 68589
the taxpayer's business activity in this state, the taxpayer may 68590
request, which request must be in writing and must accompany the 68591
report, timely filed petition for reassessment, or timely filed 68592
amended report, or the tax commissioner may require, in respect to 68593

all or any part of the taxpayer's allocated or apportioned base, 68594
if reasonable, any one or more of the following: 68595

(i) Separate accounting; 68596

(ii) The exclusion of any one or more of the factors; 68597

(iii) The inclusion of one or more additional factors that 68598
will fairly represent the taxpayer's allocated or apportioned base 68599
in this state. 68600

An alternative method will be effective only with approval by 68601
the tax commissioner. 68602

Nothing in this section shall be construed to extend any 68603
statute of limitations set forth in this chapter. 68604

(e) The tax commissioner may adopt rules providing for 68605
alternative allocation and apportionment methods, and alternative 68606
calculations of a corporation's base, that apply to corporations 68607
engaged in telecommunications. 68608

(C)(1) Subject to divisions (C)(2) and (3) of this section, 68609
the total value, as shown on the books of each corporation that is 68610
not a qualified holding company, of the net book value of a 68611
corporation's assets less the net carrying value of its 68612
liabilities, and excluding from the corporation's assets land 68613
devoted exclusively to agricultural use as of the first Monday of 68614
June in the corporation's taxable year as determined by the county 68615
auditor of the county in which the land is located pursuant to 68616
section 5713.31 of the Revised Code. For the purposes of 68617
determining that total value, any reserves shown on the 68618
corporation's books shall be considered liabilities or contra 68619
assets, except for any reserves that are deemed appropriations of 68620
retained earnings under generally accepted accounting principles. 68621

(2)(a) If, on the last day of the taxpayer's taxable year 68622
preceding the tax year, the taxpayer is a related member to a 68623

corporation that elects to be a qualifying holding company for the 68624
tax year beginning after the last day of the taxpayer's taxable 68625
year, or if, on the last day of the taxpayer's taxable year 68626
preceding the tax year, a corporation that elects to be a 68627
qualifying holding company for the tax year beginning after the 68628
last day of the taxpayer's taxable year is a related member to the 68629
taxpayer, then the taxpayer's total value shall be adjusted by the 68630
qualifying amount. Except as otherwise provided under division 68631
(C)(2)(b) of this section, "qualifying amount" means the amount 68632
that, when added to the taxpayer's total value, and when 68633
subtracted from the net carrying value of the taxpayer's 68634
liabilities computed without regard to division (C)(2) of this 68635
section, or when subtracted from the taxpayer's total value and 68636
when added to the net carrying value of the taxpayer's liabilities 68637
computed without regard to division (C)(2) of this section, 68638
results in the taxpayer's debt-to-equity ratio equaling the 68639
debt-to-equity ratio of the qualifying controlled group on the 68640
last day of the taxable year ending prior to the first day of the 68641
tax year computed on a consolidated basis in accordance with 68642
general accepted accounting principles. For the purposes of 68643
division (C)(2)(a) of this section, the corporation's total value, 68644
after the adjustment required by that division, shall not exceed 68645
the net book value of the corporation's assets. 68646

(b)(i) The amount added to the taxpayer's total value and 68647
subtracted from the net carrying value of the taxpayer's 68648
liabilities shall not exceed the amount of the net carrying value 68649
of the taxpayer's liabilities owed to the taxpayer's related 68650
members. 68651

(ii) A liability owed to the taxpayer's related members 68652
includes, but is not limited to, any amount that the corporation 68653
owes to a person that is not a related member if the corporation's 68654
related member or related members in whole or in part guarantee 68655

any portion or all of that amount, or pledge, hypothecate, 68656
mortgage, or carry out any similar transactions to secure any 68657
portion or all of that amount. 68658

(3) The base upon which the tax is levied under division (C) 68659
of section 5733.06 of the Revised Code shall be computed by 68660
multiplying the amount determined under divisions (C)(1) and (2) 68661
of this section by the fraction determined under divisions 68662
(B)(2)(a) to (c) of this section and, if applicable, divisions 68663
(B)(2)(d)(ii) to (iv) of this section but without regard to 68664
section 5733.052 of the Revised Code. 68665

(4) For purposes of division (C) of this section, "related 68666
member" has the same meaning as in division (A)(6) of section 68667
5733.042 of the Revised Code without regard to division (B) of 68668
that section. 68669

Sec. 5733.051. Subject to section 5733.0510 of the Revised 68670
Code, net income of a corporation subject to the tax imposed by 68671
section 5733.06 of the Revised Code shall be allocated and 68672
apportioned to this state as follows: 68673

(A) Net rents and royalties from real property located in 68674
this state are allocable to this state. 68675

(B) Net rents and royalties from tangible personal property, 68676
to the extent such property is utilized in this state, are 68677
allocable to this state if the taxpayer is otherwise subject to 68678
the tax imposed by section 5733.06 of the Revised Code. 68679

(C) Capital gains and losses from the sale or other 68680
disposition of real property located in this state are allocable 68681
to this state. 68682

(D) Capital gains and losses from the sale or other 68683
disposition of tangible personal property are allocable to this 68684
state if the property had a situs in this state at the time of 68685

sale and the taxpayer is otherwise subject to the tax imposed by 68686
section 5733.06 of the Revised Code. 68687

(E) Capital gains and losses from the sale or other 68688
disposition of intangible property which may produce income 68689
enumerated in division (F) of this section are allocable on the 68690
same basis as set forth in that division. Capital gains and losses 68691
from the sale or other disposition of all other intangible 68692
property are apportionable under division (I) of this section. 68693

(F) Dividends or distributions which are not otherwise 68694
deducted or excluded from net income, other than dividends or 68695
distributions from a domestic international sales corporation, are 68696
allocable to this state in accordance with the ratio of the book 68697
value of the physical assets of the payor of the dividends or 68698
distributions located in this state divided by the book value of 68699
the total physical assets of the payor located everywhere. 68700
Dividends or distributions received from a domestic international 68701
sales corporation, or from a payor the location of whose physical 68702
assets is unavailable to the taxpayer, are apportionable under 68703
division (I) of this section. 68704

(G) Patent and copyright royalties and technical assistance 68705
fees, not representing the principal source of gross receipts of 68706
the taxpayer, are allocable to this state to the extent that the 68707
activity of the payor thereof giving rise to the payment takes 68708
place in this state. If the location of the payor's activity is 68709
unavailable to the taxpayer, such royalties and fees are 68710
apportionable under division (I) of this section. 68711

(H) The following amounts ~~described in division (B)(5) of~~ 68712
~~section 5747.20 of the Revised Code~~ are allocable to this state: 68713

(1)(a) All lottery prize awards paid by the state lottery 68714
commission pursuant to Chapter 3770. of the Revised Code. 68715

(b) All earnings, profit, income, and gain from the sale, 68716

exchange, or other disposition of lottery prize awards paid or to 68717
be paid to any person by the state lottery commission pursuant to 68718
Chapter 3770. of the Revised Code. 68719

(c) All earnings, profit, income, and gain from the direct or 68720
indirect ownership of lottery prize awards paid or to be paid to 68721
any person by the state lottery commission pursuant to Chapter 68722
3770. of the Revised Code. 68723

(d) All earnings, profit, income, and gain from the direct or 68724
indirect interest in any right in or to any lottery prize awards 68725
paid or to be paid to any person by the state lottery commission 68726
pursuant to Chapter 3770. of the Revised Code. 68727

(2) Lottery prize awards and related earnings, profit, 68728
income, or gain with regard to lotteries sponsored by persons or 68729
agencies outside this state are allocable outside this state. 68730

(I) Any other net income, from sources other than those 68731
enumerated in divisions (A) to (H) of this section, is 68732
apportionable to this state on the basis of the mechanism provided 68733
in division (B)(2) of section 5733.05 of the Revised Code. 68734

Sec. 5733.056. (A) As used in this section: 68735

(1) "Billing address" means the address where any notice, 68736
statement, or bill relating to a customer's account is mailed, as 68737
indicated in the books and records of the taxpayer on the first 68738
day of the taxable year or on such later date in the taxable year 68739
when the customer relationship began. 68740

(2) "Borrower or credit card holder located in this state" 68741
means: 68742

(a) A borrower, other than a credit card holder, that is 68743
engaged in a trade or business and maintains its commercial 68744
domicile in this state; or 68745

(b) A borrower that is not engaged in a trade or business, or 68746

a credit card holder, whose billing address is in this state. 68747

(3) "Branch" means a "domestic branch" as defined in section 68748
3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 68749
1813(o), as amended. 68750

(4) "Compensation" means wages, salaries, commissions, and 68751
any other form of remuneration paid to employees for personal 68752
services that are included in such employee's gross income under 68753
the Internal Revenue Code. In the case of employees not subject to 68754
the Internal Revenue Code, such as those employed in foreign 68755
countries, the determination of whether such payments would 68756
constitute gross income to such employees under the Internal 68757
Revenue Code shall be made as though such employees were subject 68758
to the Internal Revenue Code. 68759

(5) "Credit card" means a credit, travel, or entertainment 68760
card. 68761

(6) "Credit card issuer's reimbursement fee" means the fee a 68762
taxpayer receives from a merchant's bank because one of the 68763
persons to whom the taxpayer has issued a credit card has charged 68764
merchandise or services to the credit card. 68765

(7) "Deposits" has the meaning given in section 3 of the 68766
"Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 1813(1), 68767
as amended. 68768

(8) "Employee" means, with respect to a particular taxpayer, 68769
any individual who under the usual common law rules applicable in 68770
determining the employer-employee relationship, has the status of 68771
an employee of that taxpayer. 68772

(9) "Gross rents" means the actual sum of money or other 68773
consideration payable for the use or possession of property. 68774
"Gross rents" includes: 68775

(a) Any amount payable for the use or possession of real 68776

property or tangible personal property whether designated as a 68777
fixed sum of money or as a percentage of receipts, profits, or 68778
otherwise; 68779

(b) Any amount payable as additional rent or in lieu of rent, 68780
such as interest, taxes, insurance, repairs, or any other amount 68781
required to be paid by the terms of a lease or other arrangement; 68782
and 68783

(c) A proportionate part of the cost of any improvement to 68784
real property made by or on behalf of the taxpayer which reverts 68785
to the owner or lessor upon termination of a lease or other 68786
arrangement. The amount to be included in gross rents is the 68787
amount of amortization or depreciation allowed in computing the 68788
taxable income base for the taxable year. However, where a 68789
building is erected on leased land, by or on behalf of the 68790
taxpayer, the value of the land is determined by multiplying the 68791
gross rent by eight, and the value of the building is determined 68792
in the same manner as if owned by the taxpayer. 68793

(d) The following are not included in the term "gross rents": 68794

(i) Reasonable amounts payable as separate charges for water 68795
and electric service furnished by the lessor; 68796

(ii) Reasonable amounts payable as service charges for 68797
janitorial services furnished by the lessor; 68798

(iii) Reasonable amounts payable for storage, provided such 68799
amounts are payable for space not designated and not under the 68800
control of the taxpayer; and 68801

(iv) That portion of any rental payment which is applicable 68802
to the space subleased from the taxpayer and not used by it. 68803

(10) "Loan" means any extension of credit resulting from 68804
direct negotiations between the taxpayer and its customer, or the 68805
purchase, in whole or in part, of such extension of credit from 68806

another. Loans include debt obligations of subsidiaries, 68807
participations, syndications, and leases treated as loans for 68808
federal income tax purposes. "Loan" does not include: properties 68809
treated as loans under section 595 of the Internal Revenue Code; 68810
futures or forward contracts; options; notional principal 68811
contracts such as swaps; credit card receivables, including 68812
purchased credit card relationships; non-interest bearing balances 68813
due from depositor institutions; cash items in the process of 68814
collection; federal funds sold; securities purchased under 68815
agreements to resell; assets held in a trading account; 68816
securities; interests in a real estate mortgage investment conduit 68817
or other mortgage-backed or asset-backed security; and other 68818
similar items. 68819

(11) "Loan secured by real property" means that fifty per 68820
cent or more of the aggregate value of the collateral used to 68821
secure a loan or other obligation, when valued at fair market 68822
value as of the time the original loan or obligation was incurred, 68823
was real property. 68824

(12) "Merchant discount" means the fee, or negotiated 68825
discount, charged to a merchant by the taxpayer for the privilege 68826
of participating in a program whereby a credit card is accepted in 68827
payment for merchandise or services sold to the card holder. 68828

(13) "Participation" means an extension of credit in which an 68829
undivided ownership interest is held on a pro rata basis in a 68830
single loan or pool of loans and related collateral. In a loan 68831
participation, the credit originator initially makes the loan and 68832
then subsequently resells all or a portion of it to other lenders. 68833
The participation may or may not be known to the borrower. 68834

(14) "Principal base of operations" with respect to 68835
transportation property means the place of more or less permanent 68836
nature from which the property is regularly directed or 68837
controlled. With respect to an employee, the "principal base of 68838

operations" means the place of more or less permanent nature from 68839
which the employee regularly (a) starts work and to which the 68840
employee customarily returns in order to receive instructions from 68841
the employer or (b) communicates with the employee's customers or 68842
other persons or (c) performs any other functions necessary to the 68843
exercise of the trade or profession at some other point or points. 68844

(15) "Qualified institution" means a financial institution 68845
that on or after June 1, 1997: 68846

(a)(i) Has consummated one or more approved transactions with 68847
insured banks with different home states that would qualify under 68848
section 102 of the "Riegle-Neal Interstate Banking and Branching 68849
Efficiency Act of 1994," Public Law 103-328, 108 Stat. 2338; 68850

(ii) Is a federal savings association or federal savings bank 68851
that has consummated one or more interstate acquisitions that 68852
result in a financial institution that has branches in more than 68853
one state; or 68854

(iii) Has consummated one or more approved interstate 68855
acquisitions under authority of Title XI of the Revised Code that 68856
result in a financial institution that has branches in more than 68857
one state; and 68858

(b) Has at least nine per cent of its deposits in this state 68859
as of the last day of June prior to the beginning of the tax year. 68860

(16) "Real property owned" and "tangible personal property 68861
owned" mean real and tangible personal property, respectively, on 68862
which the taxpayer may claim depreciation for federal income tax 68863
purposes, or to which the taxpayer holds legal title and on which 68864
no other person may claim depreciation for federal income tax 68865
purposes, or could claim depreciation if subject to federal income 68866
tax. Real and tangible personal property do not include coin, 68867
currency, or property acquired in lieu of or pursuant to a 68868
foreclosure. 68869

(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 (A) of section 5733.05, and division (D) of section 5733.06 of the Revised Code, the value of the issued and outstanding shares of stock of the financial institution shall include the total value, as shown by the books of the financial institution, of its capital, surplus, whether earned or unearned, undivided profits, and reserves, but exclusive of:

(1) Reserves for accounts receivable, depreciation, depletion, and any other valuation reserves with respect to

specific assets;	68901
(2) Taxes due and payable during the year for which such report was made;	68902 68903
(3) Voting stock and participation certificates in corporations chartered pursuant to the "Farm Credit Act of 1971," 85 Stat. 597, 12 U.S.C. 2091, as amended;	68904 68905 68906
(4) Good will, appreciation, and abandoned property as set up in the annual report of the financial institution, provided a certified balance sheet of the company is made available upon the request of the tax commissioner. Such balance sheet shall not be a part of the public records, but shall be a confidential report for use of the tax commissioner only.	68907 68908 68909 68910 68911 68912
(5) A portion of the value of the issued and outstanding shares of stock of such financial institution equal to the amount obtained by multiplying such value by the quotient obtained by:	68913 68914 68915
(a) Dividing (1) the amount of the financial institution's assets, as shown on its books, represented by investments in the capital stock and indebtedness of public utilities, <u>except electric companies and combined companies, and, for tax years 2005 and thereafter, telephone companies,</u> of which at least eighty per cent of the utility's issued and outstanding common stock is owned by the financial institution by (2) the total assets of such financial institution as shown on its books;	68916 68917 68918 68919 68920 68921 68922 68923
(b) Dividing (1) the amount of the financial institution's assets, as shown on its books, represented by investments in the capital stock and indebtedness of insurance companies of which at least eighty per cent of the insurance company's issued and outstanding common stock is owned by the financial institution by (2) the total assets of such financial institution as shown on its books;	68924 68925 68926 68927 68928 68929 68930
(c) Dividing (1) the amount of the financial institution's	68931

assets, as shown on its books, represented by investments in the 68932
capital stock and indebtedness of other financial institutions of 68933
which at least twenty-five per cent of the other financial 68934
institution's issued and outstanding common stock is owned by the 68935
financial institution by (2) the total assets of the financial 68936
institution as shown on its books. Division (B)(5)(c) of this 68937
section applies only with respect to such other financial 68938
institutions that for the tax year immediately following the 68939
taxpayer's taxable year will pay the tax imposed by division (D) 68940
of section 5733.06 of the Revised Code. 68941

(6) Land that has been determined pursuant to section 5713.31 68942
of the Revised Code by the county auditor of the county in which 68943
the land is located to be devoted exclusively to agricultural use 68944
as of the first Monday of June in the financial institution's 68945
taxable year. 68946

(7) Property within this state used exclusively during the 68947
taxable year for qualified research as defined in section 5733.05 68948
of the Revised Code. 68949

(C) The base upon which the tax levied under division (D) of 68950
section 5733.06 of the Revised Code shall be computed by 68951
multiplying the value of a financial institution's issued and 68952
outstanding shares of stock as determined in division (B) of this 68953
section by a fraction. The numerator of the fraction is the sum of 68954
the following: the property factor multiplied by fifteen, the 68955
payroll factor multiplied by fifteen, and the sales factor 68956
multiplied by seventy. The denominator of the fraction is one 68957
hundred, provided that the denominator shall be reduced by fifteen 68958
if the property factor has a denominator of zero, by fifteen if 68959
the payroll factor has a denominator of zero, and by seventy if 68960
the sales factor has a denominator of zero. 68961

(D) A financial institution shall calculate the property 68962
factor as follows: 68963

(1) The property factor is a fraction, the numerator of which is the average value of real property and tangible personal property rented to the taxpayer that is located or used within this state during the taxable year, the average value of real and tangible personal property owned by the taxpayer that is located or used within this state during the taxable year, and the average value of the taxpayer's loans and credit card receivables that are located within this state during the taxable year; and the denominator of which is the average value of all such property located or used within and without this state during the taxable year.

(2)(a) The value of real property and tangible personal property owned by the taxpayer is the original cost or other basis of such property for federal income tax purposes without regard to depletion, depreciation, or amortization.

(b) Loans are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a loan is charged-off in whole or in part for federal income tax purposes, the portion of the loan charged-off is not outstanding. A specifically allocated reserve established pursuant to financial accounting guidelines which is treated as charged-off for federal income tax purposes shall be treated as charged-off for purposes of this section.

(c) Credit card receivables are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a credit card receivable is charged-off in whole or in part for federal income tax purposes, the portion of the receivable charged-off is not outstanding.

(3) The average value of property owned by the taxpayer is computed on an annual basis by adding the value of the property on the first day of the taxable year and the value on the last day of

the taxable year and dividing the sum by two. If averaging on this 68995
basis does not properly reflect average value, the tax 68996
commissioner may require averaging on a more frequent basis. The 68997
taxpayer may elect to average on a more frequent basis. When 68998
averaging on a more frequent basis is required by the tax 68999
commissioner or is elected by the taxpayer, the same method of 69000
valuation must be used consistently by the taxpayer with respect 69001
to property within and without this state and on all subsequent 69002
returns unless the taxpayer receives prior permission from the tax 69003
commissioner or the tax commissioner requires a different method 69004
of determining value. 69005

(4)(a) The average value of real property and tangible 69006
personal property that the taxpayer has rented from another and is 69007
not treated as property owned by the taxpayer for federal income 69008
tax purposes, shall be determined annually by multiplying the 69009
gross rents payable during the taxable year by eight. 69010

(b) Where the use of the general method described in division 69011
(D)(4)(a) of this section results in inaccurate valuations of 69012
rented property, any other method which properly reflects the 69013
value may be adopted by the tax commissioner or by the taxpayer 69014
when approved in writing by the tax commissioner. Once approved, 69015
such other method of valuation must be used on all subsequent 69016
returns unless the taxpayer receives prior approval from the tax 69017
commissioner or the tax commissioner requires a different method 69018
of valuation. 69019

(5)(a) Except as described in division (D)(5)(b) of this 69020
section, real property and tangible personal property owned by or 69021
rented to the taxpayer is considered to be located within this 69022
state if it is physically located, situated, or used within this 69023
state. 69024

(b) Transportation property is included in the numerator of 69025
the property factor to the extent that the property is used in 69026

this state. The extent an aircraft will be deemed to be used in 69027
this state and the amount of value that is to be included in the 69028
numerator of this state's property factor is determined by 69029
multiplying the average value of the aircraft by a fraction, the 69030
numerator of which is the number of landings of the aircraft in 69031
this state and the denominator of which is the total number of 69032
landings of the aircraft everywhere. If the extent of the use of 69033
any transportation property within this state cannot be 69034
determined, then the property will be deemed to be used wholly in 69035
the state in which the property has its principal base of 69036
operations. A motor vehicle will be deemed to be used wholly in 69037
the state in which it is registered. 69038

(6)(a)(i) A loan, other than a loan or advance described in 69039
division (D)(6)(d) of this section, is considered to be located 69040
within this state if it is properly assigned to a regular place of 69041
business of the taxpayer within this state. 69042

(ii) A loan is properly assigned to the regular place of 69043
business with which it has a preponderance of substantive 69044
contacts. A loan assigned by the taxpayer to a regular place of 69045
business without the state shall be presumed to have been properly 69046
assigned if: 69047

(I) The taxpayer has assigned, in the regular course of its 69048
business, such loan on its records to a regular place of business 69049
consistent with federal or state regulatory requirements; 69050

(II) Such assignment on its records is based upon substantive 69051
contacts of the load to such regular place of business; and 69052

(III) The taxpayer uses the records reflecting assignment of 69053
loans for the filing of all state and local tax returns for which 69054
an assignment of loans to a regular place of business is required. 69055

(iii) The presumption of proper assignment of a loan provided 69056
in division (D)(6)(a)(ii) of this section may be rebutted upon a 69057

showing by the tax commissioner, supported by a preponderance of 69058
the evidence, that the preponderance of substantive contacts 69059
regarding such loan did not occur at the regular place of business 69060
to which it was assigned on the taxpayer's records. When such 69061
presumption has been rebutted, the loan shall then be located 69062
within this state if (1) the taxpayer had a regular place of 69063
business within this state at the time the loan was made; and (2) 69064
the taxpayer fails to show, by a preponderance of the evidence, 69065
that the preponderance of substantive contacts regarding such loan 69066
did not occur within this state. 69067

(b) In the case of a loan which is assigned by the taxpayer 69068
to a place without this state which is not a regular place of 69069
business, it shall be presumed, subject to rebuttal by the 69070
taxpayer on a showing supported by the preponderance of evidence, 69071
that the preponderance of substantive contacts regarding the loan 69072
occurred within this state if, at the time the loan was made the 69073
taxpayer's commercial domicile was within this state. 69074

(c) To determine the state in which the preponderance of 69075
substantive contacts relating to a loan have occurred, the facts 69076
and circumstances regarding the loan at issue shall be reviewed on 69077
a case-by-case basis and consideration shall be given to such 69078
activities as the solicitation, investigation, negotiation, 69079
approval, and administration of the loan. The terms 69080
"solicitation," "investigation," "negotiation," "approval," and 69081
"administration" are defined as follows: 69082

(i) "Solicitation" is either active or passive. Active 69083
solicitation occurs when an employee of the taxpayer initiates the 69084
contact with the customer. Such activity is located at the regular 69085
place of business which the taxpayer's employee is regularly 69086
connected with or working out of, regardless of where the services 69087
of such employee were actually performed. Passive solicitation 69088
occurs when the customer initiates the contact with the taxpayer. 69089

If the customer's initial contact was not at a regular place of 69090
business of the taxpayer, the regular place of business, if any, 69091
where the passive solicitation occurred is determined by the facts 69092
in each case. 69093

(ii) "Investigation" is the procedure whereby employees of 69094
the taxpayer determine the creditworthiness of the customer as 69095
well as the degree of risk involved in making a particular 69096
agreement. Such activity is located at the regular place of 69097
business which the taxpayer's employees are regularly connected 69098
with or working out of, regardless of where the services of such 69099
employees were actually performed. 69100

(iii) Negotiation is the procedure whereby employees of the 69101
taxpayer and its customer determine the terms of the agreement, 69102
such as the amount, duration, interest rate, frequency of 69103
repayment, currency denomination, and security required. Such 69104
activity is located at the regular place of business to which the 69105
taxpayer's employees are regularly connected or working from, 69106
regardless of where the services of such employees were actually 69107
performed. 69108

(iv) "Approval" is the procedure whereby employees or the 69109
board of directors of the taxpayer make the final determination 69110
whether to enter into the agreement. Such activity is located at 69111
the regular place of business to which the taxpayer's employees 69112
are regularly connected or working from, regardless of where the 69113
services of such employees were actually performed. If the board 69114
of directors makes the final determination, such activity is 69115
located at the commercial domicile of the taxpayer. 69116

(v) "Administration" is the process of managing the account. 69117
This process includes bookkeeping, collecting the payments, 69118
corresponding with the customer, reporting to management regarding 69119
the status of the agreement, and proceeding against the borrower 69120
or the security interest if the borrower is in default. Such 69121

activity is located at the regular place of business that oversees 69122
this activity. 69123

(d) A loan or advance to a subsidiary corporation at least 69124
fifty-one per cent of whose common stock is owned by the financial 69125
institution shall be allocated in and out of the state by the 69126
application of a ratio whose numerator is the sum of the net book 69127
value of the subsidiary's real property owned in this state and 69128
the subsidiary's tangible personal property owned in this state 69129
and whose denominator is the sum of the subsidiary's real property 69130
owned wherever located and the subsidiary's tangible personal 69131
property owned wherever located. For purposes of calculating this 69132
ratio, the taxpayer shall determine net book value in accordance 69133
with generally accepted accounting principles. If the subsidiary 69134
corporation owns at least fifty-one per cent of the common stock 69135
of another corporation, the ratio shall be calculated by including 69136
the other corporation's real property and tangible personal 69137
property. The calculation of the ratio applies with respect to all 69138
lower-tiered subsidiaries, provided that the immediate parent 69139
corporation of the subsidiary owns at least fifty-one per cent of 69140
the common stock of that subsidiary. 69141

(7) For purposes of determining the location of credit card 69142
receivables, credit card receivables shall be treated as loans and 69143
shall be subject to division (D)(6) of this section. 69144

(8) A loan that has been properly assigned to a state shall, 69145
absent any change of material fact, remain assigned to that state 69146
for the length of the original term of the loan. Thereafter, the 69147
loan may be properly assigned to another state if the loan has a 69148
preponderance of substantive contact to a regular place of 69149
business there. 69150

(E) A financial institution shall calculate the payroll 69151
factor as follows: 69152

(1) The payroll factor is a fraction, the numerator of which 69153
is the total amount paid in this state during the taxable year by 69154
the taxpayer for compensation, and the denominator of which is the 69155
total compensation paid both within and without this state during 69156
the taxable year. 69157

(2) Compensation is paid in this state if any one of the 69158
following tests, applied consecutively, is met: 69159

(a) The employee's services are performed entirely within 69160
this state. 69161

(b) The employee's services are performed both within and 69162
without this state, but the service performed without this state 69163
is incidental to the employee's service within this state. The 69164
term "incidental" means any service which is temporary or 69165
transitory in nature, or which is rendered in connection with an 69166
isolated transaction. 69167

(c) The employee's services are performed both within and 69168
without this state, and: 69169

(i) The employee's principal base of operations is within 69170
this state; or 69171

(ii) There is no principal base of operations in any state in 69172
which some part of the services are performed, but the place from 69173
which the services are directed or controlled is in this state; or 69174

(iii) The principal base of operations and the place from 69175
which the services are directed or controlled are not in any state 69176
in which some part of the service is performed but the employee's 69177
residence is in this state. 69178

(F) A financial institution shall calculate the sales factor 69179
as follows: 69180

(1) The sales factor is a fraction, the numerator of which is 69181
the receipts of the taxpayer in this state during the taxable year 69182

and the denominator of which is the receipts of the taxpayer 69183
within and without this state during the taxable year. The method 69184
of calculating receipts for purposes of the denominator is the 69185
same as the method used in determining receipts for purposes of 69186
the numerator. 69187

(2) The numerator of the sales factor includes receipts from 69188
the lease or rental of real property owned by the taxpayer if the 69189
property is located within this state, or receipts from the 69190
sublease of real property if the property is located within this 69191
state. 69192

(3)(a) Except as described in division (F)(3)(b) of this 69193
section the numerator of the sales factor includes receipts from 69194
the lease or rental of tangible personal property owned by the 69195
taxpayer if the property is located within this state when it is 69196
first placed in service by the lessee. 69197

(b) Receipts from the lease or rental of transportation 69198
property owned by the taxpayer are included in the numerator of 69199
the sales factor to the extent that the property is used in this 69200
state. The extent an aircraft will be deemed to be used in this 69201
state and the amount of receipts that is to be included in the 69202
numerator of this state's sales factor is determined by 69203
multiplying all the receipts from the lease or rental of the 69204
aircraft by a fraction, the numerator of which is the number of 69205
landings of the aircraft in this state and the denominator of 69206
which is the total number of landings of the aircraft. If the 69207
extent of the use of any transportation property within this state 69208
cannot be determined, then the property will be deemed to be used 69209
wholly in the state in which the property has its principal base 69210
of operations. A motor vehicle will be deemed to be used wholly in 69211
the state in which it is registered. 69212

(4)(a) The numerator of the sales factor includes interest 69213
and fees or penalties in the nature of interest from loans secured 69214

by real property if the property is located within this state. If 69215
the property is located both within this state and one or more 69216
other states, the receipts described in this paragraph are 69217
included in the numerator of the sales factor if more than fifty 69218
per cent of the fair market value of the real property is located 69219
within this state. If more than fifty per cent of the fair market 69220
value of the real property is not located within any one state, 69221
then the receipts described in this paragraph shall be included in 69222
the numerator of the sales factor if the borrower is located in 69223
this state. 69224

(b) The determination of whether the real property securing a 69225
loan is located within this state shall be made as of the time the 69226
original agreement was made and any and all subsequent 69227
substitutions of collateral shall be disregarded. 69228

(5) The numerator of the sales factor includes interest and 69229
fees or penalties in the nature of interest from loans not secured 69230
by real property if the borrower is located in this state. 69231

(6) The numerator of the sales factor includes net gains from 69232
the sale of loans. Net gains from the sale of loans includes 69233
income recorded under the coupon stripping rules of section 1286 69234
of the Internal Revenue Code. 69235

(a) The amount of net gains, but not less than zero, from the 69236
sale of loans secured by real property included in the numerator 69237
is determined by multiplying such net gains by a fraction the 69238
numerator of which is the amount included in the numerator of the 69239
sales factor pursuant to division (F)(4) of this section and the 69240
denominator of which is the total amount of interest and fees or 69241
penalties in the nature of interest from loans secured by real 69242
property. 69243

(b) The amount of net gains, but not less than zero, from the 69244
sale of loans not secured by real property included in the 69245

numerator is determined by multiplying such net gains by a 69246
fraction the numerator of which is the amount included in the 69247
numerator of the sales factor pursuant to division (F)(5) of this 69248
section and the denominator of which is the total amount of 69249
interest and fees or penalties in the nature of interest from 69250
loans not secured by real property. 69251

(7) The numerator of the sales factor includes interest and 69252
fees or penalties in the nature of interest from credit card 69253
receivables and receipts from fees charged to card holders, such 69254
as annual fees, if the billing address of the card holder is in 69255
this state. 69256

(8) The numerator of the sales factor includes net gains, but 69257
not less than zero, from the sale of credit card receivables 69258
multiplied by a fraction, the numerator of which is the amount 69259
included in the numerator of the sales factor pursuant to division 69260
(F)(7) of this section and the denominator of which is the 69261
taxpayer's total amount of interest and fees or penalties in the 69262
nature of interest from credit card receivables and fees charged 69263
to card holders. 69264

(9) The numerator of the sales factor includes all credit 69265
card issuer's reimbursement fees multiplied by a fraction, the 69266
numerator of which is the amount included in the numerator of the 69267
sales factor pursuant to division (F)(7) of this section and the 69268
denominator of which is the taxpayer's total amount of interest 69269
and fees or penalties in the nature of interest from credit card 69270
receivables and fees charged to card holders. 69271

(10) The numerator of the sales factor includes receipts from 69272
merchant discount if the commercial domicile of the merchant is in 69273
this state. Such receipts shall be computed net of any card holder 69274
charge backs, but shall not be reduced by any interchange 69275
transaction fees or by any issuer's reimbursement fees paid to 69276
another for charges made by its card holders. 69277

(11)(a)(i) The numerator of the sales factor includes loan servicing fees derived from loans secured by real property multiplied by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(4) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

(ii) The numerator of the sales factor includes loan servicing fees derived from loans not secured by real property multiplied by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(5) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(b) In circumstances in which the taxpayer receives loan servicing fees for servicing either the secured or the unsecured loans of another, the numerator of the sales factor shall include such fees if the borrower is located in this state.

(12) The numerator of the sales factor includes receipts from services not otherwise apportioned under this section if the service is performed in this state. If the service is performed both within and without this state, the numerator of the sales factor includes receipts from services not otherwise apportioned under this section, if a greater proportion of the income producing activity is performed in this state based on cost of performance.

(13)(a) Interest, dividends, net gains, but not less than zero, and other income from investment assets and activities and from trading assets and activities shall be included in the sales factor. Investment assets and activities and trading assets and activities include but are not limited to: investment securities;

trading account assets; federal funds; securities purchased and 69309
sold under agreements to resell or repurchase; options; futures 69310
contracts; forward contracts; notional principal contracts such as 69311
swaps; equities; and foreign currency transactions. With respect 69312
to the investment and trading assets and activities described in 69313
divisions (F)(13)(a)(i) and (ii) of this section, the sales factor 69314
shall include the amounts described in such divisions. 69315

(i) The sales factor shall include the amount by which 69316
interest from federal funds sold and securities purchased under 69317
resale agreements exceeds interest expense on federal funds 69318
purchased and securities sold under repurchase agreements. 69319

(ii) The sales factor shall include the amount by which 69320
interest, dividends, gains, and other income from trading assets 69321
and activities, including, but not limited to, assets and 69322
activities in the matched book, in the arbitrage book, and foreign 69323
currency transactions, exceed amounts paid in lieu of interest, 69324
amounts paid in lieu of dividends, and losses from such assets and 69325
activities. 69326

(b) The numerator of the sales factor includes interest, 69327
dividends, net gains, but not less than zero, and other income 69328
from investment assets and activities and from trading assets and 69329
activities described in division (F)(13)(a) of this section that 69330
are attributable to this state. 69331

(i) The amount of interest, other than interest described in 69332
division (F)(13)(b)(iv) of this section, dividends, other than 69333
dividends described in that division, net gains, but not less than 69334
zero, and other income from investment assets and activities in 69335
the investment account to be attributed to this state and included 69336
in the numerator is determined by multiplying all such income from 69337
such assets and activities by a fraction, the numerator of which 69338
is the average value of such assets which are properly assigned to 69339
a regular place of business of the taxpayer within this state and 69340

the denominator of which is the average value of all such assets. 69341

(ii) The amount of interest from federal funds sold and 69342
purchased and from securities purchased under resale agreements 69343
and securities sold under repurchase agreements attributable to 69344
this state and included in the numerator is determined by 69345
multiplying the amount described in division (F)(13)(a)(i) of this 69346
section from such funds and such securities by a fraction, the 69347
numerator of which is the average value of federal funds sold and 69348
securities purchased under agreements to resell which are properly 69349
assigned to a regular place of business of the taxpayer within 69350
this state and the denominator of which is the average value of 69351
all such funds and such securities. 69352

(iii) The amount of interest, dividends, gains, and other 69353
income from trading assets and activities, including but not 69354
limited to assets and activities in the matched book, in the 69355
arbitrage book, and foreign currency transaction, but excluding 69356
amounts described in division (F)(13)(b)(i) or (ii) of this 69357
section, attributable to this state and included in the numerator 69358
is determined by multiplying the amount described in division 69359
(F)(13)(a)(ii) of this section by a fraction, the numerator of 69360
which is the average value of such trading assets which are 69361
properly assigned to a regular place of business of the taxpayer 69362
within this state and the denominator of which is the average 69363
value of all such assets. 69364

(iv) The amount of dividends received on the capital stock 69365
of, and the amount of interest received from loans and advances 69366
to, subsidiary corporations at least fifty-one per cent of whose 69367
common stock is owned by the reporting financial institution shall 69368
be allocated in and out of this state by the application of a 69369
ratio whose numerator is the sum of the net book value of the 69370
payor's real property owned in this state and the payor's tangible 69371
personal property owned in this state and whose denominator is the 69372

sum of the net book value of the payor's real property owned 69373
wherever located and the payor's tangible personal property owned 69374
wherever located. For purposes of calculating this ratio, the 69375
taxpayer shall determine net book value in accordance with 69376
generally accepted accounting principles. 69377

(v) For purposes of this division, average value shall be 69378
determined using the rules for determining the average value of 69379
tangible personal property set forth in division (D)(2) and (3) of 69380
this section. 69381

(c) In lieu of using the method set forth in division 69382
(F)(13)(b) of this section, the taxpayer may elect, or the tax 69383
commissioner may require in order to fairly represent the business 69384
activity of the taxpayer in this state, the use of the method set 69385
forth in division (F)(13)(c) of this section. 69386

(i) The amount of interest, other than interest described in 69387
division (F)(13)(b)(iv) of this section, dividends, other than 69388
dividends described in that division, net gains, but not less than 69389
zero, and other income from investment assets and activities in 69390
the investment account to be attributed to this state and included 69391
in the numerator is determined by multiplying all such income from 69392
such assets and activities by a fraction, the numerator of which 69393
is the gross income from such assets and activities which are 69394
properly assigned to a regular place of business of the taxpayer 69395
within this state, and the denominator of which is the gross 69396
income from all such assets and activities. 69397

(ii) The amount of interest from federal funds sold and 69398
purchased and from securities purchased under resale agreements 69399
and securities sold under repurchase agreements attributable to 69400
this state and included in the numerator is determined by 69401
multiplying the amount described in division (F)(13)(a)(i) of this 69402
section from such funds and such securities by a fraction, the 69403
numerator of which is the gross income from such funds and such 69404

securities which are properly assigned to a regular place of 69405
business of the taxpayer within this state and the denominator of 69406
which is the gross income from all such funds and such securities. 69407

(iii) The amount of interest, dividends, gains, and other 69408
income from trading assets and activities, including, but not 69409
limited to, assets and activities in the matched book, in the 69410
arbitrage book, and foreign currency transactions, but excluding 69411
amounts described in division (F)(13)(a)(i) or (ii) of this 69412
section, attributable to this state and included in the numerator, 69413
is determined by multiplying the amount described in division 69414
(F)(13)(a)(ii) of this section by a fraction, the numerator of 69415
which is the gross income from such trading assets and activities 69416
which are properly assigned to a regular place of business of the 69417
taxpayer within this state and the denominator of which is the 69418
gross income from all such assets and activities. 69419

(iv) The amount of dividends received on the capital stock 69420
of, and the amount of interest received from loans and advances 69421
to, subsidiary corporations at least fifty-one per cent of whose 69422
common stock is owned by the reporting financial institution shall 69423
be allocated in and out of this state by the application of a 69424
ratio whose numerator is the sum of the net book value of the 69425
payor's real property owned in this state and the payor's tangible 69426
personal property owned in this state and whose denominator is the 69427
sum of the payor's real property owned wherever located and the 69428
payor's tangible personal property owned wherever located. For 69429
purposes of calculating this ratio, the taxpayer shall determine 69430
net book value in accordance with generally accepted accounting 69431
principles. 69432

(d) If the taxpayer elects or is required by the tax 69433
commissioner to use the method set forth in division (F)(13)(c) of 69434
this section, it shall use this method on all subsequent returns 69435
unless the taxpayer receives prior permission from the tax 69436

commissioner to use or the tax commissioner requires a different 69437
method. 69438

(e) The taxpayer shall have the burden of proving that an 69439
investment asset or activity or trading asset or activity was 69440
properly assigned to a regular place of business outside of this 69441
state by demonstrating that the day-to-day decisions regarding the 69442
asset or activity occurred at a regular place of business outside 69443
this state. Where the day-to-day decisions regarding an investment 69444
asset or activity or trading asset or activity occur at more than 69445
one regular place of business and one such regular place of 69446
business is in this state and one such regular place of business 69447
is outside this state such asset or activity shall be considered 69448
to be located at the regular place of business of the taxpayer 69449
where the investment or trading policies or guidelines with 69450
respect to the asset or activity are established. Unless the 69451
taxpayer demonstrates to the contrary, such policies and 69452
guidelines shall be presumed to be established at the commercial 69453
domicile of the taxpayer. 69454

(14) The numerator of the sales factor includes all other 69455
receipts if either: 69456

(a) The income-producing activity is performed solely in this 69457
state; or 69458

(b) The income-producing activity is performed both within 69459
and without this state and a greater proportion of the 69460
income-producing activity is performed within this state than in 69461
any other state, based on costs of performance. 69462

(G) A qualified institution may calculate the base upon which 69463
the fee provided for in division (D) of section 5733.06 of the 69464
Revised Code is determined for each tax year by multiplying the 69465
value of its issued and outstanding shares of stock determined 69466
under division (B) of this section by a single deposits fraction 69467

whose numerator is the deposits assigned to branches in this state 69468
and whose denominator is the deposits assigned to branches 69469
everywhere. Deposits shall be assigned to branches in the same 69470
manner in which the assignment is made for regulatory purposes. If 69471
the base calculated under this division is less than the base 69472
calculated under division (C) of this section, then the qualifying 69473
institution may elect to substitute the base calculated under this 69474
division for the base calculated under division (C) of this 69475
section. Such election may be made annually for each tax year on 69476
the corporate report. The election need not accompany the report; 69477
rather, the election may accompany a subsequently filed but timely 69478
application for refund, a subsequently filed but timely amended 69479
report, or a subsequently filed but timely petition for 69480
reassessment. The election is not irrevocable and it applies only 69481
to the specified tax year. Nothing in this division shall be 69482
construed to extend any statute of limitations set forth in this 69483
chapter. 69484

(H) If the apportionment provisions of this section do not 69485
fairly represent the extent of the taxpayer's business activity in 69486
this state, the taxpayer may petition for or the tax commissioner 69487
may require, in respect to all or any part of the taxpayer's 69488
business activity, if reasonable: 69489

(1) Separate accounting; 69490

(2) The exclusion of any one or more of the factors; 69491

(3) The inclusion of one or more additional factors which 69492
will fairly represent the taxpayer's business activity in this 69493
state; or 69494

(4) The employment of any other method to effectuate an 69495
equitable allocation and apportionment of the taxpayer's value. 69496

Sec. 5733.059. (A) As used in this section: 69497

(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.

(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.

(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:

(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.

(2) Sales of the distribution of electricity are in this state in proportion to the ratio of the wire mileage of the taxpayer's distribution lines located in this state divided by the wire mileage of the taxpayer's distribution lines located everywhere. Distribution wire mileage shall not be weighted for the voltage capacity of each line.

(C) This division applies only to a person that has transmission or distribution lines in this state. If a contract for the sale of electricity includes the seller's or the seller's related member's obligation to transmit or distribute the electricity and if the sales contract separately identifies the price charged for the transmission or distribution of electricity, the price charged for the transmission and distribution of electricity shall be apportioned to this state in accordance with

division (B) of this section. Any remaining portion of the sales price of the electricity shall be situated to this state in accordance with division (D) of this section.

If the sales contract does not separately identify the price charged for the transmission or distribution of electricity, the sales price of the electricity shall be situated to this state in accordance with division (D) of this section.

(D) Any person who makes a sale of electricity shall situate the following to this state:

(1) A sale of electricity directly or indirectly to a customer to the extent the customer consumes the electricity in this state;

(2) A sale of electricity directly or indirectly to a related member where the related member directly or indirectly sells electricity to a customer to the extent the customer consumes the electricity in this state;

(3) A sale of electricity if the seller or the seller's related member directly or indirectly delivers the electricity to a location in this state or directly or indirectly delivers the electricity exactly to the border of this state and another state;

(4) A sale of electricity if the seller or the seller's related member directly or indirectly directs the delivery of the electricity to a location in this state or directly or indirectly directs the delivery of the electricity exactly to the border of this state and another state.

(E) If the siting provisions of this section do not fairly represent the extent of the taxpayer's or the taxpayer's related member's activity in this state, the taxpayer may request, or the tax commissioner may require, in respect to all or part of a taxpayer's or related member's sales, if reasonable, any of the following:

(1) Separate accounting; 69560

(2) The exclusion of one or more additional situsing factors 69561
that will fairly represent the taxpayer's and the related member's 69562
sales in this state; 69563

(3) The inclusion of one or more additional situsing factors 69564
that will fairly represent the taxpayer's and the related member's 69565
sales in this state. 69566

The taxpayer's request shall be in writing and shall be filed 69567
with the report required by section 5733.02 of the Revised Code, a 69568
timely filed petition for reassessment, or a timely filed amended 69569
report. An alternative situsing method shall be effective with the 69570
approval of the tax commissioner. 69571

Nothing in this section shall be construed to extend any 69572
statute of limitations set forth in this chapter. 69573

(F) If the situsing provisions of this section do not fairly 69574
represent activity in this state, the tax commissioner may 69575
promulgate rules to situs sales using a methodology that fairly 69576
reflects sales in this state. 69577

(G) Notwithstanding ~~sections 5733.111 and 5747.131~~ section 69578
5703.56 of the Revised Code to the contrary, a person situsing a 69579
sale outside this state has the burden to establish by a 69580
preponderance of the evidence that the doctrines enumerated in 69581
~~those sections~~ that section do not apply. 69582

Sec. 5733.0511. (A) As used in this section: 69583

(1) "Qualifying telephone company taxpayer" means either of 69584
the following: 69585

(a) A telephone company, but only if the telephone company 69586
was subject to the tax imposed by section 5727.30 of the Revised 69587
Code for gross receipts received during the period from July 1, 69588

2003, to June 30, 2004, and the telephone company's property 69589
subject to taxation under Chapter 5727. of the Revised Code for 69590
tax years 2003 through 2006 was assessed using the true value 69591
percentages provided for in division (B) of section 5727.111 of 69592
the Revised Code. 69593

(b) Any taxpayer not described in division (A)(1)(a) of this 69594
section if a telephone company described in division (A)(1)(a) of 69595
this section transfers all or a portion of its assets and equity 69596
directly or indirectly to the taxpayer, the transfer occurred as 69597
part of an entity organization or reorganization, or subsequent 69598
entity organization or reorganization, and the gain or loss with 69599
respect to the transfer is not recognized in whole or in part for 69600
federal income tax purposes under the Internal Revenue Code on 69601
account of a transfer as part of an entity organization or 69602
reorganization, or subsequent entity organization or 69603
reorganization. 69604

(2) "Qualifying telephone company asset" means any asset 69605
shown on the qualifying telephone company taxpayer's books and 69606
records on December 31, 2003, in accordance with generally 69607
accepted accounting principles. 69608

(3) "Net income" has the same meaning as in division (I) of 69609
section 5733.04 of the Revised Code. 69610

(4) "Book-tax difference" means the difference, if any, 69611
between a qualifying telephone company asset's net book value 69612
shown on the qualifying telephone company taxpayer's books and 69613
records on December 31, 2003, in accordance with generally 69614
accepted accounting principles, and such asset's adjusted basis on 69615
December 31, 2003. The book-tax difference may be a negative 69616
number. 69617

(5) Solely for purposes of division (A)(1)(a) of this 69618
section, "tax year" has the same meaning as used in section 69619

5727.01 of the Revised Code. 69620

(B) In computing net income under division (I) of section 5733.04 of the Revised Code, a qualifying telephone company taxpayer shall adjust net income to reflect a ten-year amortization of the book-tax difference for each qualifying telephone company asset, in equal installments over each of the ten tax years beginning with 2010. If the net book value exceeds the adjusted basis of the asset as of December 31, 2003, net income shall be reduced in each of the ten years beginning with tax year 2010 by one-tenth of the book-tax difference. If the adjusted basis exceeds the net book value of the asset as of December 31, 2003, net income shall be increased in each of the ten years beginning with tax year 2010 by one-tenth of the absolute value of the book-tax difference. The adjustment to net income provided for by this division shall apply without regard to the disposal of those assets after December 31, 2003. 69621
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(C) The allocation and apportionment of this amortization of the book-tax difference under this section shall be governed by division (B) of section 5733.05 and by section 5733.051 of the Revised Code. The tax commissioner may prescribe rules regarding the apportionment of the amortization of the book-tax difference under this section. 69636
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(D) Nothing in this section shall allow for an adjustment more than once with respect to the same qualifying asset or allow more than one corporation to claim an adjustment with respect to the same qualifying telephone company asset. 69642
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Sec. 5733.06. The tax hereby charged each corporation subject to this chapter shall be the greater of the sum of divisions (A) and (B) of this section, after the reduction, if any, provided by division (J) of this section, or division (C) of this section, after the reduction, if any, provided by division (J) of this 69646
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section, except that the tax hereby charged each financial 69651
institution subject to this chapter shall be the amount computed 69652
under division (D) of this section: 69653

(A) Except as set forth in division (F) of this section, five 69654
and one-tenth per cent upon the first fifty thousand dollars of 69655
the value of the taxpayer's issued and outstanding shares of stock 69656
as determined under division (B) of section 5733.05 of the Revised 69657
Code; 69658

(B) Except as set forth in division (F) of this section, 69659
eight and one-half per cent upon the value so determined in excess 69660
of fifty thousand dollars; or 69661

(C)(1) Except as otherwise provided under division (G) of 69662
this section, four mills times that portion of the value of the 69663
issued and outstanding shares of stock as determined under 69664
division (C) of section 5733.05 of the Revised Code. For the 69665
purposes of division (C) of this section, division (C)(2) of 69666
section 5733.065, and division (C) of section 5733.066 of the 69667
Revised Code, the value of the issued and outstanding shares of 69668
stock of an eligible corporation for tax year 2003 through tax 69669
year 2007, or of a qualified holding company, is zero. 69670

(2) As used in division (C) of this section, "eligible 69671
corporation" means a person treated as a corporation for federal 69672
income tax purposes that meets all of the following criteria: 69673

(a) The corporation conducts business for an entire taxable 69674
year as a qualified trade or business as defined by division (C) 69675
of section 122.15 of the Revised Code. 69676

(b) The corporation uses more than fifty per cent of the 69677
corporation's assets, based on net book value, that are located in 69678
Ohio solely to conduct activities that constitute a qualified 69679
trade or business as defined by section 122.15 of the Revised 69680
Code. 69681

(c) The corporation has been formed or organized not more than three years before the report required to be filed by section 5733.02 of the Revised Code is due, without regard to any extensions.

(d) The corporation is not a related member, as defined in section 5733.042 of the Revised Code, at any time during the taxable year with respect to another person treated as a corporation for federal income tax purposes. A corporation is not a related member if during the entire taxable year at least seventy-five per cent of the corporation's stock is owned directly or through a pass-through entity by individuals, estates, and grantor trusts, and the individuals, estates, and grantor trusts do not directly or indirectly own more than twenty per cent of the value of another person treated as a corporation for federal income tax purposes that is conducting a qualified trade or business.

(D) The tax charged each financial institution subject to this chapter shall be that portion of the value of the issued and outstanding shares of stock as determined under division (A) of section 5733.05 of the Revised Code, multiplied by the following amounts:

- (1) For tax years prior to the 1999 tax year, fifteen mills;
- (2) For the 1999 tax year, fourteen mills;
- (3) For tax year 2000 and thereafter, thirteen mills.

(E) No tax shall be charged from any corporation that has been adjudicated bankrupt, or for which a receiver has been appointed, or that has made a general assignment for the benefit of creditors, except for the portion of the then current tax year during which the tax commissioner finds such corporation had the power to exercise its corporate franchise unimpaired by such proceedings or act. The minimum payment for ~~all corporations~~ each

corporation shall be fifty dollars as follows: 69713

(1) One thousand dollars in the case of a corporation having 69714
gross receipts for the taxable year equal to at least five million 69715
dollars from activities within or outside this state or in the 69716
case of a corporation employing at least three hundred employees 69717
at some time during the taxable year within or outside this state; 69718

(2) Fifty dollars in the case of any other corporation. 69719

The tax charged to corporations under this chapter for the 69720
privilege of engaging in business in this state, which is an 69721
excise tax levied on the value of the issued and outstanding 69722
shares of stock, shall in no manner be construed as prohibiting or 69723
otherwise limiting the powers of municipal corporations, joint 69724
economic development zones created under section 715.691 of the 69725
Revised Code, and joint economic development districts created 69726
under section 715.70 or 715.71 or sections 715.72 to 715.81 of the 69727
Revised Code in this state to impose an income tax on the income 69728
of such corporations. 69729

(F) If two or more taxpayers satisfy the ownership or control 69730
requirements of division (A) of section 5733.052 of the Revised 69731
Code, each such taxpayer shall substitute "the taxpayer's pro-rata 69732
amount" for "fifty thousand dollars" in divisions (A) and (B) of 69733
this section. For purposes of this division, "the taxpayer's 69734
pro-rata amount" is an amount that, when added to the other such 69735
taxpayers' pro-rata amounts, does not exceed fifty thousand 69736
dollars. For the purpose of making that computation, the 69737
taxpayer's pro-rata amount shall not be less than zero. Nothing in 69738
this division derogates from or eliminates the requirement to make 69739
the alternative computation of tax under division (C) of this 69740
section. 69741

(G) The tax liability of any corporation under division (C) 69742
of this section shall not exceed one hundred fifty thousand 69743

dollars. 69744

(H)(1) For the purposes of division (H) of this section, 69745
"exiting corporation" means a corporation that satisfies all of 69746
the following conditions: 69747

(a) The corporation had nexus with or in this state under the 69748
Constitution of the United States during any portion of a calendar 69749
year; 69750

(b) The corporation was not a corporation described in 69751
division (A) of section 5733.01 of the Revised Code on the first 69752
day of January immediately following that calendar year; 69753

(c) The corporation was not a financial institution on the 69754
first day of January immediately following that calendar year; 69755

(d) If the corporation was a transferor as defined in section 69756
5733.053 of the Revised Code, the corporation's transferee was not 69757
required to add to the transferee's net income the income of the 69758
transferor pursuant to division (B) of that section; 69759

(e) During any portion of that calendar year, or any portion 69760
of the immediately preceding calendar year, the corporation had 69761
net income that was not included in a report filed by the 69762
corporation or its transferee pursuant to section 5733.02, 69763
5733.021, 5733.03, 5733.031, or 5733.053 of the Revised Code; 69764

(f) The corporation would have been subject to the tax 69765
computed under divisions (A), (B), (C), (F), and (G) of this 69766
section if the corporation is assumed to be a corporation 69767
described in division (A) of section 5733.01 of the Revised Code 69768
on the first day of January immediately following the calendar 69769
year to which division (H)(1)(a) of this section refers. 69770

(2) For the purposes of division (H) of this section, 69771
"unreported net income" means net income that was not previously 69772
included in a report filed pursuant to section 5733.02, 5733.021, 69773

5733.03, 5733.031, or 5733.053 of the Revised Code and that was 69774
realized or recognized during the calendar year to which division 69775
(H)(1) of this section refers or the immediately preceding 69776
calendar year. 69777

(3) Each exiting corporation shall pay a tax computed by 69778
first allocating and apportioning the unreported net income 69779
pursuant to division (B) of section 5733.05 and section 5733.051 69780
and, if applicable, section 5733.052 of the Revised Code. The 69781
exiting corporation then shall compute the tax due on its 69782
unreported net income allocated and apportioned to this state by 69783
applying divisions (A), (B), and (F) of this section to that 69784
income. 69785

(4) Divisions (C) and (G) of this section, division (D)(2) of 69786
section 5733.065, and division (C) of section 5733.066 of the 69787
Revised Code do not apply to an exiting corporation, but exiting 69788
corporations are subject to every other provision of this chapter. 69789

(5) Notwithstanding division (B) of section 5733.01 or 69790
sections 5733.02, 5733.021, and 5733.03 of the Revised Code to the 69791
contrary, each exiting corporation shall report and pay the tax 69792
due under division (H) of this section on or before the 69793
thirty-first day of May immediately following the calendar year to 69794
which division (H)(1)(a) of this section refers. The exiting 69795
corporation shall file that report on the form most recently 69796
prescribed by the tax commissioner for the purposes of complying 69797
with sections 5733.02 and 5733.03 of the Revised Code. Upon 69798
request by the corporation, the tax commissioner may extend the 69799
date for filing the report. 69800

(6) If, on account of the application of section 5733.053 of 69801
the Revised Code, net income is subject to the tax imposed by 69802
divisions (A) and (B) of this section, such income shall not be 69803
subject to the tax imposed by division (H)(3) of this section. 69804

(7) The amendments made to division (H) of this section by 69805
Am. Sub. S.B. 287 of the 123rd general assembly do not apply to 69806
any transfer, as defined in section 5733.053 of the Revised Code, 69807
for which negotiations began prior to January 1, 2001, and that 69808
was commenced in and completed during calendar year 2001, unless 69809
the taxpayer makes an election prior to December 31, 2001, to 69810
apply those amendments. 69811

(8) The tax commissioner may adopt rules governing division 69812
(H) of this section. 69813

(I) Any reference in the Revised Code to "the tax imposed by 69814
section 5733.06 of the Revised Code" or "the tax due under section 69815
5733.06 of the Revised Code" includes the taxes imposed under 69816
sections 5733.065 and 5733.066 of the Revised Code. 69817

(J)(1) Division (J) of this section applies solely to a 69818
combined company. Section 5733.057 of the Revised Code shall apply 69819
when calculating the adjustments required by division (J) of this 69820
section. 69821

(2) Subject to division (J)(4) of this section, the total tax 69822
calculated in divisions (A) and (B) of this section shall be 69823
reduced by an amount calculated by multiplying such tax by a 69824
fraction, the numerator of which is the total taxable gross 69825
receipts attributed to providing public utility activity other 69826
than as an electric company under section 5727.03 of the Revised 69827
Code for the year upon which the taxable gross receipts are 69828
measured immediately preceding the tax year, and the denominator 69829
of which is the total gross receipts from all sources for the year 69830
upon which the taxable gross receipts are measured immediately 69831
preceding the tax year. Nothing herein shall be construed to 69832
exclude from the denominator any item of income described in 69833
section 5733.051 of the Revised Code. 69834

(3) Subject to division (J)(4) of this section, the total tax 69835

calculated in division (C) of this section shall be reduced by an amount calculated by multiplying such tax by the fraction described in division (J)(2) of this section.

(4) In no event shall the reduction provided by division (J)(2) or (J)(3) of this section exceed the amount of the excise tax paid in accordance with section 5727.38 of the Revised Code, for the year upon which the taxable gross receipts are measured immediately preceding the tax year.

Sec. 5733.0611. (A) There is hereby allowed a nonrefundable credit against the tax imposed under section 5733.06 of the Revised Code. The credit shall be equal to the taxpayer's proportionate share of the lesser of either the tax due or the tax paid by any qualifying entity under section 5733.41 of the Revised Code for the qualifying taxable year of the qualifying entity that ends in the taxable year of the taxpayer. The taxpayer shall claim the credit for the taxpayer's taxable year in which ends the qualifying entity's qualifying taxable year.

In claiming the credit and determining its proportionate share of the tax due and the tax paid by the qualifying entity, the person claiming the credit shall follow the concepts set forth in subchapter K of the Internal Revenue Code. Nothing in this division shall be construed to limit or disallow pass-through treatment of a pass-through entity's income, deductions, credits, or other amounts necessary to compute the tax imposed and the credits allowed under this chapter.

The credit shall be claimed in the order required under section 5733.98 of the Revised Code. Any unused credit shall be allowed as a credit in the ensuing tax year. Any such amount allowed as a credit in an ensuing tax year shall be deducted from the balance carried forward to the next ensuing tax year.

(B) Any person that is not a taxpayer solely by reason of

division (A) or (C) of section 5733.09 of the Revised Code or a 69867
person described in section 501(c) of the Internal Revenue Code or 69868
division (F) of section 3334.01 of the Revised Code, but that 69869
would be entitled to claim the nonrefundable credit under this 69870
section if that person were a taxpayer, may file an application 69871
for refund pursuant to section 5733.12 of the Revised Code. Upon 69872
proper application for refund under that section, the tax 69873
commissioner shall issue a refund in the amount of the credit to 69874
which that person would have been entitled under division (A)(1) 69875
of this section if the person had been a taxpayer, and as if the 69876
credit were a refundable credit. 69877

(C) If an organization described in section 401(a) of the 69878
Internal Revenue Code or a trust or fund is entitled to a 69879
proportionate share of the lesser of either the tax due or the tax 69880
paid by any qualifying entity under section 5733.41 of the Revised 69881
Code, and if that proportionate share is then or could be 69882
allocable to an exempt person as defined in division (D) of this 69883
section, then the organization, trust, or fund may file an 69884
application for refund with respect to such allocable amounts 69885
pursuant to section 5733.12 of the Revised Code. Upon proper 69886
application for refund under that section, the tax commissioner 69887
shall issue a refund in the amount of the credit to which the 69888
organization, trust, or fund would have been entitled under 69889
division (A)(1) of this section had the organization, trust, or 69890
fund been a taxpayer, and as if the credit were a refundable 69891
credit. To the extent that such an organization, trust, or fund is 69892
permitted to apply for a refund under this division, or to the 69893
extent that such an organization, trust, or fund has applied for 69894
such a refund, exempt persons are not entitled to the credit 69895
authorized under this section or section 5747.059 of the Revised 69896
Code. 69897

(D)(1) For the purposes of division (C) of this section only, 69898

"exempt person" means any of the following: 69899

(a) A person that is or may be the beneficiary of a trust if 69900
the trust is subject to Subchapter D of Chapter 1 of Subtitle A of 69901
the Internal Revenue Code. 69902

(b) A person that is or may be the beneficiary of or the 69903
recipient of payments from a nuclear decommissioning reserve fund, 69904
a designated settlement fund, or any other trust or fund 69905
established to resolve and satisfy claims that may otherwise be 69906
asserted by the beneficiary or a member of the beneficiary's 69907
family. Sections 267(c)(4), 468A(e), and 468B(d)(2) of the 69908
Internal Revenue Code apply to the determination of whether such a 69909
person is an exempt person under division (D) of this section. 69910

(c) A person, other than a person that is treated as a C 69911
corporation for federal income tax purposes, who is or may be the 69912
beneficiary of a trust that, under its governing instrument, is 69913
not required to distribute all of its income currently. Division 69914
(D)(1)(c) of this section applies only if the trust irrevocably 69915
agrees that for the taxable year during or for which the trust 69916
distributes any of its income to any of the beneficiaries, the 69917
trust is a qualifying trust as defined in section 5733.40 of the 69918
Revised Code and will pay the estimated tax, and will withhold and 69919
pay the withheld tax as required under section 5733.41 and 69920
sections 5747.40 to 5747.453 of the Revised Code. 69921

(2) An exempt person does not include any person that would 69922
not qualify as an exempt person under the doctrines of "economic 69923
reality," "sham transaction," "step doctrine," or "substance over 69924
form." Notwithstanding ~~sections 5733.111 and 5747.131~~ section 69925
5703.56 of the Revised Code to the contrary, an organization, 69926
trust, or fund described in division (C) of this section bears the 69927
burden of establishing by a preponderance of the evidence that any 69928
transaction giving rise to a claim for a refundable credit under 69929
this section does not have as a principal purpose a claim for that 69930

credit. Nothing in this section shall be construed to limit solely 69931
to this section the application of the doctrines referred to in 69932
division (D)(2) of this section. 69933

(E) Nothing in this section shall be construed to allow a 69934
refund more than once with respect to the taxes imposed under 69935
section 5733.41 or 5747.41 of the Revised Code. 69936

Sec. 5733.09. (A) ~~An~~ (1) Except as provided in divisions 69937
(A)(2) and (3) of this section, an incorporated company, whether 69938
foreign or domestic, owning and operating a public utility in this 69939
state, and required by law to file reports with the tax 69940
commissioner and to pay an excise tax upon its gross receipts, and 69941
insurance, fraternal, beneficial, bond investment, and other 69942
corporations required by law to file annual reports with the 69943
superintendent of insurance and dealers in intangibles, the shares 69944
of which are, or the capital or ownership in capital employed by 69945
such dealer is, subject to the taxes imposed by section 5707.03 of 69946
the Revised Code, shall not be subject to this chapter, except for 69947
sections 5733.031, 5733.042, 5733.05, 5733.052, 5733.053, 69948
5733.069, 5733.0611, 5733.40, 5733.41, and sections 5747.40 to 69949
5747.453 of the Revised Code. However, for reports required to be 69950
filed under section 5725.14 of the Revised Code in 2003 and 69951
thereafter, nothing in this section shall be construed to exempt 69952
the property of any dealer in intangibles under section 5725.13 of 69953
the Revised Code from the tax imposed under section 5707.03 of the 69954
Revised Code. ~~An~~ 69955

(2) An electric company subject to the filing requirements of 69956
section 5727.08 of the Revised Code or otherwise having nexus with 69957
or in this state under the Constitution of the United States, or 69958
any other corporation having any gross receipts directly 69959
attributable to providing public utility service as an electric 69960
company or having any property directly attributable to providing 69961

public utility service as an electric company, is subject to this chapter. 69962
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(3) A telephone company that no longer pays an excise tax under section 5727.30 of the Revised Code on its gross receipts billed after June 30, 2004, is first subject to taxation under this chapter for tax year 2005. For that tax year, a telephone company with a taxable year ending in 2004 shall compute the tax imposed under this chapter, and shall compute the net operating loss carry forward for tax year 2005, by multiplying the tax owed under this chapter, net of all nonrefundable credits, or the loss for the taxable year, by fifty per cent. 69964
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(B) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year under such code is exempt from the tax imposed by section 5733.06 of the Revised Code that is based on that taxable year. 69973
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A corporation that makes such an election shall file a notice of such election with the tax commissioner between the first day of January and the thirty-first day of March of each tax year that the election is in effect. 69978
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(C) An entity defined to be a "real estate investment trust" by section 856 of the Internal Revenue Code, a "regulated investment company" by section 851 of the Internal Revenue Code, or a "real estate mortgage investment conduit" by section 860D of the Internal Revenue Code, is exempt from taxation for a tax year as a corporation under this chapter and is exempt from taxation for a return year as a dealer in intangibles under Chapter 5725. of the Revised Code if it provides the report required by this division. By the last day of March of the tax or return year the entity shall submit to the tax commissioner the name of the entity with a list of the names, addresses, and social security or federal identification numbers of all investors, shareholders, and 69982
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other similar investors who owned any interest or invested in the 69994
entity during the preceding calendar year. The commissioner may 69995
extend the date by which the report must be submitted for 69996
reasonable cause shown by the entity. The commissioner may 69997
prescribe the form of the report required for exemption under this 69998
division. 69999

(D)(1) As used in this division: 70000

(a) "Commercial printer" means a person primarily engaged in 70001
the business of commercial printing. However, "commercial printer" 70002
does not include a person primarily engaged in the business of 70003
providing duplicating services using photocopy machines or other 70004
xerographic processes. 70005

(b) "Commercial printing" means printing by one or more 70006
common processes such as letterpress, lithography, gravure, 70007
screen, or digital imaging, and includes related activities such 70008
as binding, platemaking, prepress operation, cartographic 70009
composition, and typesetting. 70010

(c) "Contract for printing" means an oral or written 70011
agreement for the purchase of printed materials produced by a 70012
commercial printer. 70013

(d) "Intangible property located at the premises of a 70014
commercial printer" means intangible property of any kind owned or 70015
licensed by a customer of the commercial printer and furnished to 70016
the commercial printer for use in commercial printing. 70017

(e) "Printed material" means any tangible personal property 70018
produced or processed by a commercial printer pursuant to a 70019
contract for printing. 70020

(f) "Related member" has the same meaning as in ~~division~~ 70021
~~(A)(6)~~ of section 5733.042 of the Revised Code without regard to 70022
division (B) of that section. 70023

(2) Except as provided in divisions (D)(3) and (4) of this section, a corporation not otherwise subject to the tax imposed by section 5733.06 of the Revised Code for a tax year does not become subject to that tax for the tax year solely by reason of any one or more of the following occurring in this state during the taxable year that ends immediately prior to the tax year:

(a) Ownership by the corporation or a related member of the corporation of tangible personal property or intangible property located during all or any portion of the taxable year or on the first day of the tax year at the premises of a commercial printer with which the corporation or the corporation's related member has a contract for printing with respect to such property or the premises of a commercial printer's related member with which the corporation or the corporation's related member has a contract for printing with respect to such property;

(b) Sales by the corporation or a related member of the corporation of property produced at and shipped or distributed from the premises of a commercial printer with which the corporation or the corporation's related member has a contract for printing with respect to such property or the premises of a commercial printer's related member with which the corporation or the corporation's related member has a contract for printing with respect to such property;

(c) Activities of employees, officers, agents, or contractors of the corporation or a related member of the corporation on the premises of a commercial printer with which the corporation or the corporation's related member has a contract for printing or the premises of a commercial printer's related member with which the corporation or the corporation's related member has a contract for printing, where the activities are directly and solely related to quality control, distribution, or printing services, or any combination thereof, performed by or at the direction of the

commercial printer or the commercial printer's related member. 70056

(3) The exemption under this division does not apply for a 70057
taxable year to any corporation having on the first day of January 70058
of the tax year or at any time during the taxable year ending 70059
immediately preceding the first day of January of the tax year a 70060
related member which, on the first day of January of the tax year 70061
or during any portion of such taxable year of the corporation, has 70062
nexus in or with this state under the Constitution of the United 70063
States or holds a certificate of compliance with the laws of this 70064
state authorizing it to do business in this state. 70065

(4) With respect to allowing the exemption under this 70066
division, the tax commissioner shall be guided by the doctrines of 70067
"economic reality," "sham transaction," "step transaction," and 70068
"substance over form." A corporation shall bear the burden of 70069
establishing by a preponderance of the evidence that any 70070
transaction giving rise to an exemption claimed under this 70071
division did not have as a principal purpose the avoidance of any 70072
portion of the tax imposed by section 5733.06 of the Revised Code. 70073

Application of the doctrines listed in division (D)(4) of 70074
this section is not limited to this division. 70075

Sec. 5733.121. If a corporation entitled to a refund under 70076
section 5733.11 or 5733.12 of the Revised Code is indebted to this 70077
state for any tax, workers' compensation premium due under section 70078
4123.35 of the Revised Code, unemployment compensation 70079
contribution due under section 4141.25 of the Revised Code, or 70080
unemployment compensation payment in lieu of contribution under 70081
section 4141.241 of the Revised Code or fee administered by the 70082
~~tax commissioner~~ that is paid to the state or to the clerk of 70083
courts pursuant to section 4505.06 of the Revised Code, or any 70084
charge, penalty, or interest arising from such a tax, workers' 70085
compensation premium, unemployment compensation contribution, or 70086

unemployment compensation payment in lieu of contribution under 70087
section 4141.241 of the Revised Code or fee, the amount refundable 70088
may be applied in satisfaction of the debt. If the amount 70089
refundable is less than the amount of the debt, it may be applied 70090
in partial satisfaction of the debt. If the amount refundable is 70091
greater than the amount of the debt, the amount remaining after 70092
satisfaction of the debt shall be refunded. If the corporation has 70093
more than one such debt, any debt subject to section 5739.33 or 70094
division (G) of section 5747.07 of the Revised Code shall be 70095
satisfied first. This section applies only to debts that have 70096
become final. 70097

The tax commissioner may, with the consent of the taxpayer, 70098
provide for the crediting, against tax due for any tax year, of 70099
the amount of any refund due the taxpayer under this chapter for a 70100
preceding tax year. 70101

Sec. 5733.18. Annually, on the day fixed for the payment of 70102
any excise or franchise tax required to be paid by law, such tax, 70103
together with any penalties subsequently accruing thereon, shall 70104
become a lien on all property in this state of a corporation, 70105
whether such property is employed by the corporation in the 70106
prosecution of its business or is in the hands of an assignee, 70107
trustee, or receiver for the benefit of the creditors and 70108
stockholders. Such lien shall continue until such taxes, together 70109
with any penalties subsequently accruing, are paid. 70110

Upon failure of such corporation to pay such tax on the day 70111
fixed for payment, the tax commissioner may file, for which filing 70112
no fee shall be charged, in the office of the county recorder in 70113
each county in this state in which such corporation owns or has a 70114
beneficial interest in real estate, notice of such lien containing 70115
a brief description of such real estate. Such lien shall not be 70116
valid as against any mortgagee, purchaser, or judgment creditor 70117

whose rights have attached prior to the time such notice is so 70118
filed in the county in which the real estate which is the subject 70119
of such mortgage, purchase, or judgment lien is located. Such 70120
notice shall be recorded in a book kept by the recorder, called 70121
the corporation franchise lien record, and indexed under the name 70122
of the corporation charged with such tax. When such tax, together 70123
with any penalties subsequently accruing thereon, has been paid, 70124
the tax commissioner shall furnish to the corporation an 70125
acknowledgment of such payment which the corporation may record 70126
with the recorder of each county in which notice of such lien has 70127
been filed, for which recording the recorder shall charge and 70128
receive a base fee of two dollars for services and a housing trust 70129
fund fee of two dollars pursuant to section 317.36 of the Revised 70130
Code. 70131

Sec. 5733.22. (A)(1) Any corporation whose articles of 70132
incorporation or license certificate to do or transact business in 70133
this state has been canceled by the secretary of state pursuant to 70134
section 5733.20 of the Revised Code for failure to make any report 70135
or return or to pay any tax or fee, shall be reinstated and again 70136
entitled to exercise its rights, privileges, and franchises in 70137
this state, and the secretary of state shall cancel the entry of 70138
cancellation to exercise its rights, privileges, and franchises 70139
upon compliance with all of the following: 70140

(a) Payment to the secretary of state of any additional fees 70141
and penalties required to be paid to the secretary of state; 70142

(b) Filing with the secretary of state a certificate from the 70143
tax commissioner that it has complied with all the requirements of 70144
law as to franchise or excise tax reports and paid all franchise 70145
or excise taxes, fees, or penalties due thereon for every year of 70146
its delinquency; 70147

(c) Payment to the secretary of state of an additional fee of 70148

ten dollars. 70149

(2) The applicant for reinstatement shall be required by the 70150
secretary of state, as a condition prerequisite to such 70151
reinstatement, to amend its articles by changing its name if all 70152
of the following apply: 70153

(a) The reinstatement is not made within one year from the 70154
date of the cancellation of its articles of incorporation or date 70155
of the cancellation of its license to do business; 70156

(b) It appears that the applicant's articles of incorporation 70157
or license certificate has been issued to another entity and is 70158
not distinguishable upon the record from the name of the 70159
applicant; 70160

(c) It appears that the articles of organization of a limited 70161
liability company, registration of a foreign limited liability 70162
company, certificate of limited partnership, registration of a 70163
foreign limited partnership, registration of a domestic or foreign 70164
limited liability partnership, or registration of a trade name has 70165
been issued to another entity and is not distinguishable upon the 70166
record from the name of the applicant. A certificate of 70167
reinstatement may be filed in the recorder's office of any county 70168
in the state, for which the recorder shall charge and collect a 70169
base fee of three dollars for services and a housing trust fund 70170
fee of three dollars pursuant to section 317.36 of the Revised 70171
Code. 70172

Any officer, shareholder, creditor, or receiver of any such 70173
corporation may at any time take all steps required by this 70174
section to effect such reinstatement. 70175

(B) The rights, privileges, and franchises of a corporation 70176
whose articles of incorporation have been reinstated in accordance 70177
with this section, are subject to section 1701.922 of the Revised 70178
Code. 70179

(C) Notwithstanding a violation of section 5733.21 of the Revised Code, upon reinstatement of a corporation's articles of incorporation in accordance with this section, neither section 5733.20 nor section 5733.21 of the Revised Code shall be applied to invalidate the exercise or attempt to exercise any right, privilege, or franchise on behalf of the corporation by an officer, agent, or employee of the corporation after cancellation and prior to the reinstatement of the articles, if the conditions set forth in divisions (B)(1)(a) and (b) of section 1701.922 of the Revised Code are met.

Sec. 5733.45. (A) For purposes of this section, a "qualifying dealer in intangibles" is a dealer in intangibles that is a member of a qualifying controlled group of which a financial institution is also a member on the first day of the financial institution's tax year.

(B) For tax years 2002 and thereafter, there is hereby allowed to each financial institution a nonrefundable credit against the tax imposed by section 5733.06 of the Revised Code. The amount of the credit shall be computed in accordance with division (C) of this section. The credit shall be claimed in the order prescribed by section 5733.98 of the Revised Code. The credit shall not exceed the amount of tax otherwise due under section 5733.06 of the Revised Code after deducting any other credits that precede the credit claimed under this section in that order.

(C) Subject to division (D) of this section, the amount of the nonrefundable credit is the lesser of the amount described in division (C)(1) of this section or the amount described in division (C)(2) of this section.

(1) The amount of tax that a qualifying dealer in intangibles paid under Chapter 5707. of the Revised Code during the calendar

year immediately preceding the financial institution's tax year. 70211
Such amount shall be reduced, but not below zero, by any refunds 70212
of such tax received by the qualifying dealer in intangibles under 70213
Chapter 5703. of the Revised Code during that calendar year. 70214

(2) The product of the amounts described in division 70215
(C)(2)(a) to (C)(2)(c) of this section. The amount described in 70216
division (C)(2)(a) of this section shall be ascertained on the 70217
last day of the financial institution's taxable year immediately 70218
preceding the tax year. 70219

(a) The cost of the financial institution's direct investment 70220
in the capital stock of the qualifying dealer in intangibles. The 70221
cost does not include any appreciation or goodwill to the extent 70222
those amounts are allowed as an exempted asset on the financial 70223
institution's annual report. 70224

(b) The ratio described in section 5725.15 of the Revised 70225
Code for the calendar year immediately preceding the financial 70226
institution's tax year; 70227

(c) The tax rate imposed under division (D) of section 70228
5707.03 of the Revised Code for the calendar year immediately 70229
preceding the financial institution's tax year. 70230

(D)(1) The principles and concepts set forth in section 70231
5733.057 of the Revised Code shall apply to ascertain if a dealer 70232
in intangibles is a member of a qualifying controlled group of 70233
which the financial institution also is a member and to ascertain 70234
the cost of the financial institution's direct investment in the 70235
capital stock of the qualifying dealer in intangibles. 70236

(2) Notwithstanding section ~~5733.111~~ 5703.56 of the Revised 70237
Code to the contrary, a financial institution claiming the credit 70238
provided by this section has the burden to establish by a 70239
preponderance of the evidence that none of the doctrines 70240
enumerated in that section would apply to deny to the financial 70241

institution all or a part of the credit otherwise provided by this 70242
section. 70243

(E) For tax years 2002 and 2003, the credit allowed by this 70244
section applies only if the qualifying dealer in intangibles on 70245
account of which the financial institution is claiming the credit 70246
submits to the ~~Tax Commissioner~~ tax commissioner, not later than 70247
January 15, 2002, a written statement that the qualifying dealer 70248
in intangibles irrevocably agrees that it will not seek a refund 70249
of the tax paid by the dealer under section 5707.03 of the Revised 70250
Code in 2000 and 2001, and irrevocably agrees to continue paying 70251
that tax in 2002, regardless of the amendment of section 5725.26 70252
of the Revised Code by Am. Sub. H.B. 405 of the 124th general 70253
assembly. 70254

Sec. 5733.55. (A) As used in this section: 70255

(1) "9-1-1 system" has the same meaning as in section 4931.40 70256
of the Revised Code. 70257

(2) "Nonrecurring 9-1-1 charges" means nonrecurring charges 70258
approved by the public utilities commission for the telephone 70259
network portion of a 9-1-1 system pursuant to section 4931.47 of 70260
the Revised Code. 70261

(3) "Eligible nonrecurring 9-1-1 charges" means all 70262
nonrecurring 9-1-1 charges for a 9-1-1 system, except: 70263

(a) Charges for a system that was not established pursuant to 70264
a plan adopted under section 4931.44 of the Revised Code or an 70265
agreement under section 4931.48 of the Revised Code; 70266

(b) Charges for that part of a system established pursuant to 70267
such a plan or agreement that are excluded from the credit by 70268
division (C)(2) of section 4931.47 of the Revised Code. 70269

(4) "Telephone company" has the same meaning as in section 70270
5727.01 of the Revised Code. 70271

(B) Beginning in tax year 2005, a telephone company shall be 70272
allowed a nonrefundable credit against the tax imposed by section 70273
5733.06 of the Revised Code equal to the amount of its eligible 70274
nonrecurring 9-1-1 charges. The credit shall be claimed for the 70275
company's taxable year that covers the period in which the 9-1-1 70276
service for which the credit is claimed becomes available for use. 70277
The credit shall be claimed in the order required by section 70278
5733.98 of the Revised Code. If the credit exceeds the total taxes 70279
due under section 5733.06 of the Revised Code for the tax year, 70280
the commissioner shall credit the excess against taxes due under 70281
that section for succeeding tax years until the full amount of the 70282
credit is granted. 70283

(C) After the last day a return, with any extensions, may be 70284
filed by any telephone company that is eligible to claim a credit 70285
under this section, the commissioner shall determine whether the 70286
sum of the credits allowed for prior tax years commencing with tax 70287
year 2005 plus the sum of the credits claimed for the current tax 70288
year exceeds fifteen million dollars. If it does, the credits 70289
allowed under this section for the current tax year shall be 70290
reduced by a uniform percentage such that the sum of the credits 70291
allowed for the current tax year do not exceed fifteen million 70292
dollars claimed by all telephone companies for all tax years. 70293
Thereafter, no credit shall be granted under this section, except 70294
for the remaining portions of any credits allowed under division 70295
(B) of this section. 70296

(D) A telephone company that is entitled to carry forward a 70297
credit against its public utility excise tax liability under 70298
section 5727.39 of the Revised Code is entitled to carry forward 70299
any amount of that credit remaining after its last public utility 70300
excise tax payment for the period of July 1, 2003, through June 70301
30, 2004, and claim that amount as a credit against its 70302
corporation franchise tax liability under this section. Nothing in 70303

this section authorizes a telephone company to claim a credit 70304
under this section for any eligible nonrecurring 9-1-1 charges for 70305
which it has already claimed a credit under section 5727.39 of the 70306
Revised Code. 70307

Sec. 5733.56. Beginning in tax year 2005, a telephone company 70308
that provides any telephone service program to aid the 70309
communicatively impaired in accessing the telephone network under 70310
section 4905.79 of the Revised Code is allowed a nonrefundable 70311
credit against the tax imposed by section 5733.06 of the Revised 70312
Code. The amount of the credit is the cost incurred by the company 70313
for providing the telephone service program during its taxable 70314
year, excluding any costs incurred prior to July 1, 2004. If the 70315
tax commissioner determines that the credit claimed under this 70316
section by a telephone company was not correct, the commissioner 70317
shall determine the proper credit. 70318

A telephone company shall claim the credit in the order 70319
required by section 5733.98 of the Revised Code. If the credit 70320
exceeds the total taxes due under section 5733.06 of the Revised 70321
Code for the tax year, the commissioner shall credit the excess 70322
against taxes due under that section for succeeding tax years 70323
until the full amount of the credit is granted. Nothing in this 70324
section authorizes a telephone company to claim a credit under 70325
this section for any costs incurred for providing a telephone 70326
service program for which it is claiming a credit under section 70327
5727.44 of the Revised Code. 70328

Sec. 5733.57. (A) As used in this section: 70329

(1) "Small telephone company" means a telephone company, 70330
existing as such as of January 1, 2003, with twenty-five thousand 70331
or fewer access lines as shown on the company's annual report 70332
filed under section 4905.14 of the Revised Code for the calendar 70333

year immediately preceding the tax year, and is an "incumbent 70334
local exchange carrier" under 47 U.S.C. 251(h). 70335

(2) "Gross receipts tax amount" means the product obtained by 70336
multiplying four and three-fourths per cent by the amount of a 70337
small telephone company's taxable gross receipts, excluding the 70338
deduction of twenty-five thousand dollars, that the tax 70339
commissioner would have determined under section 5727.33 of the 70340
Revised Code for that small telephone company for the annual 70341
period ending on the thirtieth day of June of the calendar year 70342
immediately preceding the tax year, as that section applied in the 70343
measurement period from July 1, 2002, to June 30, 2003. 70344

(3) "Applicable percentage" means one hundred per cent for 70345
tax year 2005; eighty per cent for tax year 2006; sixty per cent 70346
for tax year 2007; forty per cent for tax year 2008; twenty per 70347
cent for tax year 2009; and zero per cent for each subsequent tax 70348
year thereafter. 70349

(4) "Applicable amount" means the amount resulting from 70350
subtracting the gross receipts tax amount from the tax imposed by 70351
sections 5733.06, 5733.065, and 5733.066 of the Revised Code for 70352
the tax year, without regard to any credits available to the small 70353
telephone company. 70354

(B)(1) Except as provided in division (B)(2) of this section, 70355
beginning in tax year 2005, a small telephone company is hereby 70356
allowed a nonrefundable credit against the tax imposed by sections 70357
5733.06, 5733.065, and 5733.066 of the Revised Code, equal to the 70358
product obtained by multiplying the applicable percentage by the 70359
applicable amount. The credit shall be claimed in the order 70360
required by section 5733.98 of the Revised Code. 70361

(2) If the applicable amount for a tax year is less than 70362
zero, a small telephone company shall not be allowed for that tax 70363
year the credit provided under this section. 70364

Sec. 5733.98. (A) To provide a uniform procedure for 70365
calculating the amount of tax imposed by section 5733.06 of the 70366
Revised Code that is due under this chapter, a taxpayer shall 70367
claim any credits to which it is entitled in the following order, 70368
except as otherwise provided in section 5733.058 of the Revised 70369
Code: 70370

(1) The credit for taxes paid by a qualifying pass-through 70371
entity allowed under section 5733.0611 of the Revised Code; 70372

(2) The credit allowed for financial institutions under 70373
section 5733.45 of the Revised Code; 70374

(3) The credit for qualifying affiliated groups under section 70375
5733.068 of the Revised Code; 70376

(4) The subsidiary corporation credit under section 5733.067 70377
of the Revised Code; 70378

(5) The savings and loan assessment credit under section 70379
5733.063 of the Revised Code; 70380

(6) The credit for recycling and litter prevention donations 70381
under section 5733.064 of the Revised Code; 70382

(7) The credit for employers that enter into agreements with 70383
child day-care centers under section 5733.36 of the Revised Code; 70384

(8) The credit for employers that reimburse employee child 70385
day-care expenses under section 5733.38 of the Revised Code; 70386

(9) The credit for maintaining railroad active grade crossing 70387
warning devices under section 5733.43 of the Revised Code; 70388

(10) The credit for purchases of lights and reflectors under 70389
section 5733.44 of the Revised Code; 70390

(11) The job retention credit under division (B) of section 70391
5733.0610 of the Revised Code; 70392

(12) The credit for losses on loans made under the Ohio	70393
venture capital program under sections 150.01 to 150.10 of th <u>the</u>	70394
Revised Code if the taxpayer elected a nonrefundable credit under	70395
section 150.07 of the Revised Code;	70396
(13) The credit for purchases of new manufacturing machinery	70397
and equipment under section 5733.31 or section 5733.311 of the	70398
Revised Code;	70399
(14) The second credit for purchases of new manufacturing	70400
machinery and equipment under section 5733.33 of the Revised Code;	70401
(15) The job training credit under section 5733.42 of the	70402
Revised Code;	70403
(16) The credit for qualified research expenses under section	70404
5733.351 of the Revised Code;	70405
(17) The enterprise zone credit under section 5709.66 of the	70406
Revised Code;	70407
(18) The credit for the eligible costs associated with a	70408
voluntary action under section 5733.34 of the Revised Code;	70409
(19) The credit for employers that establish on-site child	70410
day-care under section 5733.37 of the Revised Code;	70411
(20) The ethanol plant investment credit under section	70412
5733.46 of the Revised Code;	70413
(21) The credit for purchases of qualifying grape production	70414
property under section 5733.32 of the Revised Code;	70415
(22) The export sales credit under section 5733.069 of the	70416
Revised Code;	70417
(23) The credit for research and development and technology	70418
transfer investors under section 5733.35 of the Revised Code;	70419
(24) The enterprise zone credits under section 5709.65 of the	70420
Revised Code;	70421

(25) The credit for using Ohio coal under section 5733.39 of the Revised Code;	70422 70423
(26) <u>The credit for small telephone companies under section 5733.57 of the Revised Code;</u>	70424 70425
(27) <u>The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code;</u>	70426 70427
(28) <u>The credit for providing programs to aid the communicatively impaired under section 5733.56 of the Revised Code;</u>	70428 70429 70430
(29) The refundable jobs creation credit under division (A) of section 5733.0610 of the Revised Code;	70431 70432
(27) (30) The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code;	70433 70434
(28) (31) The credit for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a refundable credit under section 150.07 of the Revised Code.	70435 70436 70437 70438
(B) For any credit except the credits enumerated in divisions (A) (26) , (27) , (29) , (30) , and (28) (31) of this section, the amount of the credit for a tax year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit.	70439 70440 70441 70442 70443 70444 70445
Sec. 5735.05. (A) To provide revenue for maintaining the state highway system; to widen existing surfaces on such highways; to resurface such highways; to pay that portion of the construction cost of a highway project which a county, township, or municipal corporation normally would be required to pay, but which the director of transportation, pursuant to division (B) of	70446 70447 70448 70449 70450 70451

section 5531.08 of the Revised Code, determines instead will be 70452
paid from moneys in the highway operating fund; to enable the 70453
counties of the state properly to plan, maintain, and repair their 70454
roads and to pay principal, interest, and charges on bonds and 70455
other obligations issued pursuant to Chapter 133. of the Revised 70456
Code for highway improvements; to enable the municipal 70457
corporations to plan, construct, reconstruct, repave, widen, 70458
maintain, repair, clear, and clean public highways, roads, and 70459
streets, and to pay the principal, interest, and charges on bonds 70460
and other obligations issued pursuant to Chapter 133. of the 70461
Revised Code for highway improvements; to enable the Ohio turnpike 70462
commission to construct, reconstruct, maintain, and repair 70463
turnpike projects; to maintain and repair bridges and viaducts; to 70464
purchase, erect, and maintain street and traffic signs and 70465
markers; to purchase, erect, and maintain traffic lights and 70466
signals; to pay the costs apportioned to the public under sections 70467
4907.47 and 4907.471 of the Revised Code and to supplement revenue 70468
already available for such purposes; to pay the costs incurred by 70469
the public utilities commission in administering sections 4907.47 70470
to 4907.476 of the Revised Code; to distribute equitably among 70471
those persons using the privilege of driving motor vehicles upon 70472
such highways and streets the cost of maintaining and repairing 70473
them; to pay the interest, principal, and charges on highway 70474
capital improvements bonds and other obligations issued pursuant 70475
to Section 2m of Article VIII, Ohio Constitution, and section 70476
151.06 of the Revised Code; to pay the interest, principal, and 70477
charges on highway obligations issued pursuant to Section 2i of 70478
Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 70479
of the Revised Code; ~~and~~ to provide revenue for the purposes of 70480
sections 1547.71 to 1547.78 of the Revised Code; and to pay the 70481
expenses of the department of taxation incident to the 70482
administration of the motor fuel laws, a motor fuel excise tax is 70483
hereby imposed on all motor fuel dealers upon receipt of motor 70484

fuel within this state at the rate of two cents plus the cents per 70485
gallon rate on each gallon so received, to be computed in the 70486
manner set forth in section 5735.06 of the Revised Code; provided 70487
that no tax is hereby imposed upon the following transactions: 70488

(1) The sale of dyed diesel fuel by a licensed motor fuel 70489
dealer from a location other than a retail service station 70490
provided the licensed motor fuel dealer places on the face of the 70491
delivery document or invoice, or both if both are used, a 70492
conspicuous notice stating that the fuel is dyed and is not for 70493
taxable use, and that taxable use of that fuel is subject to a 70494
penalty. The tax commissioner, by rule, may provide that any 70495
notice conforming to rules or regulations issued by the United 70496
States department of the treasury or the Internal Revenue Service 70497
is sufficient notice for the purposes of division (A)(1) of this 70498
section. 70499

(2) The sale of K-1 kerosene to a retail service station, 70500
except when placed directly in the fuel supply tank of a motor 70501
vehicle. Such sale shall be rebuttably presumed to not be 70502
distributed or sold for use or used to generate power for the 70503
operation of motor vehicles upon the public highways or upon the 70504
waters within the boundaries of this state. 70505

(3) The sale of motor fuel by a licensed motor fuel dealer to 70506
another licensed motor fuel dealer; 70507

(4) The exportation of motor fuel by a licensed motor fuel 70508
dealer from this state to any other state or foreign country; 70509

(5) The sale of motor fuel to the United States government or 70510
any of its agencies, except such tax as is permitted by it, where 70511
such sale is evidenced by an exemption certificate, in a form 70512
approved by the tax commissioner, executed by the United States 70513
government or an agency thereof certifying that the motor fuel 70514
therein identified has been purchased for the exclusive use of the 70515

United States government or its agency; 70516

(6) The sale of motor fuel ~~which~~ that is in the process of 70517
transportation in foreign or interstate commerce, except ~~in so far~~ 70518
insofar as it may be taxable under the Constitution and statutes 70519
of the United States, and except as may be agreed upon in writing 70520
by the dealer and the commissioner; 70521

(7) The sale of motor fuel when sold exclusively for use in 70522
the operation of aircraft, where such sale is evidenced by an 70523
exemption certificate prescribed by the commissioner and executed 70524
by the purchaser certifying that the motor fuel purchased has been 70525
purchased for exclusive use in the operation of aircraft; 70526

(8) The sale for exportation of motor fuel by a licensed 70527
motor fuel dealer to a licensed exporter type A; 70528

(9) The sale for exportation of motor fuel by a licensed 70529
motor fuel dealer to a licensed exporter type B, provided that the 70530
destination state motor fuel tax has been paid or will be accrued 70531
and paid by the licensed motor fuel dealer. 70532

(10) The sale to a consumer of diesel fuel, by a motor fuel 70533
dealer for delivery from a bulk lot vehicle, for consumption in 70534
operating a vessel when the use of such fuel in a vessel would 70535
otherwise qualify for a refund under section 5735.14 of the 70536
Revised Code. 70537

Division (A)(1) of this section does not apply to the sale or 70538
distribution of dyed diesel fuel used to operate a motor vehicle 70539
on the public highways or upon water within the boundaries of this 70540
state by persons permitted under regulations of the United States 70541
department of the treasury or of the Internal Revenue Service to 70542
so use dyed diesel fuel. 70543

(B) The two cent motor fuel tax levied by this section is 70544
also for the purpose of paying the expenses of administering and 70545
enforcing the state law relating to the registration and operation 70546

of motor vehicles. 70547

(C) After the tax provided for by this section on the receipt 70548
of any motor fuel has been paid by the motor fuel dealer, the 70549
motor fuel may thereafter be used, sold, or resold by any person 70550
having lawful title to it, without incurring liability for such 70551
tax. 70552

If a licensed motor fuel dealer sells motor fuel received by 70553
the licensed motor fuel dealer to another licensed motor fuel 70554
dealer, the seller may deduct on the report required by section 70555
5735.06 of the Revised Code the number of gallons so sold for the 70556
month within which the motor fuel was sold or delivered. In this 70557
event the number of gallons is deemed to have been received by the 70558
purchaser, who shall report and pay the tax imposed thereon. 70559

Sec. 5735.053. There is hereby created in the state treasury 70560
the motor fuel tax administration fund for the purpose of paying 70561
the expenses of the department of taxation incident to the 70562
administration of the motor fuel laws. After the treasurer of 70563
state credits the tax refund fund out of tax receipts as required 70564
by sections 5735.23, 5735.26, 5735.291, and 5735.30 of the Revised 70565
Code, the treasurer of state shall transfer to the motor fuel tax 70566
administration fund two hundred seventy-five one-thousandths per 70567
cent of the receipts from the taxes levied by sections 5735.05, 70568
5735.25, 5735.29, and 5735.30 of the Revised Code. 70569

Sec. 5735.14. (A) Any person who uses any motor fuel, on 70570
which the tax imposed by this chapter has been paid, for the 70571
purpose of operating stationary gas engines, tractors not used on 70572
public highways, unlicensed motor vehicles used exclusively in 70573
intraplant operations, vessels when used in trade, including 70574
vessels when used in connection with an activity that constitutes 70575
a person's chief business or means of livelihood or any other 70576

vessel used entirely for commercial purposes, vessels used for 70577
commercial fishing, vessels used by the sea scout department of 70578
the boy scouts of America chiefly for training scouts in 70579
seamanship, vessels used or owned by any railroad company, 70580
railroad car ferry company, the United States, this state, or any 70581
political subdivision of this state, or aircraft, or who uses any 70582
such fuel upon which such tax has been paid, for cleaning or for 70583
dyeing, or any purpose other than the operation of motor vehicles 70584
upon highways or upon waters within the boundaries of this state, 70585
shall be reimbursed in the amount of the tax so paid on such motor 70586
fuel as provided in this section; provided, that any person 70587
purchasing motor fuel in this state on which taxes levied under 70588
Title LVII of the Revised Code have been paid shall be reimbursed 70589
for such taxes paid in this state on such fuel used by that person 70590
in another state on which a tax is paid for such usage, except 70591
such tax used as a credit against the tax levied by section 70592
5728.06 of the Revised Code. A person shall not be reimbursed for 70593
taxes paid on fuel that is used while a motor vehicle is idling or 70594
used to provide comfort or safety in the operation of a motor 70595
vehicle. Sales of motor fuel, on which the tax imposed by this 70596
chapter has been paid, from one person to another do not 70597
constitute use of the fuel and are not subject to a refund under 70598
this section. 70599

Such (B) Any person who uses in this state any motor fuel 70600
with water intentionally added to the fuel, on which the taxes 70601
imposed by this chapter or Chapter 5728. of the Revised Code have 70602
been paid, shall be reimbursed in the amount of the taxes so paid 70603
on ninety-five per cent of the water. This division applies only 70604
to motor fuel that contains at least nine per cent water, by 70605
volume. 70606

(C) A person claiming reimbursement under this section shall 70607
file with the tax commissioner an application for refund within 70608

one year from the date of purchase, stating the quantity of fuel 70609
used for the refundable purposes ~~other than the operation of motor~~ 70610
~~vehicles in division (A) or (B) of this section~~, except that no 70611
person shall file a claim for the tax on fewer than one hundred 70612
gallons of motor fuel. An application for refund filed for the 70613
purpose of division (B) of this section also shall state the 70614
quantity of water intentionally added to the motor fuel. No person 70615
shall claim reimbursement under that division on fewer than one 70616
hundred gallons of water. The application shall be accompanied by 70617
the statement described in section 5735.15 of the Revised Code 70618
showing such purchase, together with evidence of payment thereof. 70619

(D) After consideration of the application and statement, the 70620
commissioner shall determine the amount of refund to which the 70621
applicant is entitled. If the amount is not less than that 70622
claimed, the commissioner shall certify the amount to the director 70623
of budget and management and treasurer of state for payment from 70624
the tax refund fund created by section 5703.052 of the Revised 70625
Code. If the amount is less than that claimed, the commissioner 70626
shall proceed in accordance with section 5703.70 of the Revised 70627
Code. 70628

No refund shall be authorized or paid under this section on a 70629
single claim for tax on fewer than one hundred gallons of motor 70630
fuel. And, when water has been intentionally added to fuel, no 70631
refund shall be authorized or paid under this section on a single 70632
claim for tax on fewer than one hundred gallons of water. The 70633
commissioner may require that the application be supported by the 70634
affidavit of the claimant. 70635

The refund authorized by this section or section 5703.70 of 70636
the Revised Code shall be reduced by the cents per gallon amount 70637
of any qualified fuel credit received under section 5735.145 of 70638
the Revised Code, as determined by the commissioner, for each 70639
gallon of qualified fuel included in the total gallonage of motor 70640

fuel upon which the refund is computed. 70641

(E) The right to receive any refund under this section or 70642
section 5703.70 of the Revised Code is not assignable. The payment 70643
of this refund shall not be made to any person other than the 70644
person originally entitled thereto who used the motor fuel upon 70645
which the claim for refund is based, except that such refunds, 70646
when allowed and certified as provided in this section, may be 70647
paid to the executor, ~~the~~ administrator, ~~the~~ receiver, ~~the~~ trustee 70648
in bankruptcy, or ~~the~~ assignee in insolvency proceedings of such 70649
person. 70650

Sec. 5735.142. (A)(1) Any person who uses any motor fuel, on 70651
which the tax imposed by sections 5735.05, 5735.25, and 5735.29 of 70652
the Revised Code has been paid, for the purpose of operating a 70653
transit bus shall be reimbursed in the amount of the tax paid on 70654
motor fuel used by public transportation systems providing transit 70655
or paratransit service on a regular and continuing basis within 70656
the state; 70657

(2) A city, exempted village, joint vocational, or local 70658
school district or educational service center that ~~uses~~ purchases 70659
any motor fuel for school district or service center operations, 70660
on which any tax imposed by section 5735.29 of the Revised Code 70661
that became effective on or after July 1, 2003, has been paid, 70662
may, if an application is filed under this section, be reimbursed 70663
in the amount of all but two cents per gallon of ~~that~~ the total 70664
tax imposed by such section and paid on motor fuel, ~~used for~~ 70665
~~providing transportation for pupils in a vehicle the district owns~~ 70666
~~or leases.~~ 70667

(B) Such person, school district, or educational service 70668
center shall file with the tax commissioner an application for 70669
refund within one year from the date of purchase, stating the 70670
quantity of fuel used for operating transit buses used by local 70671

transit systems in furnishing scheduled common carrier, public 70672
passenger land transportation service along regular routes 70673
primarily in one or more municipal corporations or for operating 70674
vehicles used ~~by for school districts to transport pupils district~~ 70675
or service center operations. However, no ~~person shall file a~~ 70676
claim shall be made for the tax on fewer than one hundred gallons 70677
of motor fuel. A school district or educational service center 70678
shall not apply for a refund for any tax paid on motor fuel that 70679
is sold by the district or educational service center. The 70680
application shall be accompanied by the statement described in 70681
section 5735.15 of the Revised Code showing the purchase, together 70682
with evidence of payment thereof. 70683

(C) After consideration of the application and statement, the 70684
commissioner shall determine the amount of refund to which the 70685
applicant is entitled. If the amount is not less than that 70686
claimed, the commissioner shall certify the amount to the director 70687
of budget and management and treasurer of state for payment from 70688
the tax refund fund created by section 5703.052 of the Revised 70689
Code. If the amount is less than that claimed, the commissioner 70690
shall proceed in accordance with section 5703.70 of the Revised 70691
Code. 70692

The commissioner may require that the application be 70693
supported by the affidavit of the claimant. No refund shall be 70694
authorized or ordered for any single claim for the tax on fewer 70695
than one hundred gallons of motor fuel. No refund shall be 70696
authorized or ordered on motor fuel that is sold by a school 70697
district or educational service center. 70698

(D) The refund authorized by this section or section 5703.70 70699
of the Revised Code shall be reduced by the cents per gallon 70700
amount of any qualified fuel credit received under section 70701
5735.145 of the Revised Code, as determined by the commissioner, 70702
for each gallon of qualified fuel included in the total gallonage 70703

of motor fuel upon which the refund is computed. 70704

(E) The right to receive any refund under this section or 70705
section 5703.70 of the Revised Code is not assignable. The payment 70706
of this refund shall not be made to any person or entity other 70707
than the person or entity originally entitled thereto who used the 70708
motor fuel upon which the claim for refund is based, except that 70709
the refund when allowed and certified, as provided in this 70710
section, may be paid to the executor, the administrator, the 70711
receiver, the trustee in bankruptcy, or the assignee in insolvency 70712
proceedings of the person. 70713

Sec. 5735.15. When motor fuel is sold to a person who claims 70714
to be entitled to a refund under section 5735.14 or 5735.142 of 70715
the Revised Code, the seller of such motor fuel shall ~~make out in~~ 70716
~~duplicate on forms prescribed and supplied by the tax~~ 70717
~~commissioner, which forms shall have printed thereon~~ provide to 70718
the person documentation that indicates that the liability to the 70719
state for the excise tax imposed under the motor fuel laws of this 70720
state on such motor fuel has been assumed by the seller, and that 70721
said excise tax has already been paid or will be paid by the 70722
seller when the same becomes payable, ~~a statement setting. The~~ 70723
documentation also shall set forth the name and address of the 70724
purchaser, the number of gallons of motor fuel sold, the price 70725
paid for or the price per gallon of the motor fuel sold, the 70726
proposed use for which such motor fuel is purchased, and such 70727
other information as the commissioner requires. When motor fuel is 70728
sold to a person who claims to be entitled to reimbursement under 70729
division (B) of section 5735.14 of the Revised Code, the 70730
documentation also shall state the number of gallons of water 70731
intentionally added to the motor fuel. The ~~original of such~~ 70732
~~statement~~ documentation shall be given to the purchaser, and ~~the~~ 70733
~~duplicate~~ a copy shall be retained by the seller. 70734

Sec. 5735.19. (A) The tax commissioner may examine, during 70735
the usual business hours of the day, the records, books, and 70736
~~papers~~ invoices, storage tanks, and any other equipment of any 70737
motor fuel dealer, retail dealer, exporter, terminal operator, 70738
purchaser, or common carrier pertaining to motor fuel received, 70739
sold, shipped, or delivered, to determine whether the taxes 70740
imposed by this chapter have been paid and to verify the truth and 70741
accuracy of any statement, report, or return. The 70742

(B) The tax commissioner may, in the enforcement of the motor 70743
fuel laws of this state, hold hearings, take the testimony of any 70744
person, issue subpoenas and compel the attendance of witnesses, 70745
and conduct such investigations as the commissioner deems 70746
necessary, ~~but no person shall disclose the information acquired~~ 70747
~~by the commissioner under this section, except when required to do~~ 70748
~~so in court.~~ Such information or evidence is not privileged when 70749
used by the state or any officer thereof in any proceeding for the 70750
collection of the tax, or any prosecution for violation of the 70751
motor fuel laws. 70752

(C) The commissioner may prescribe all forms upon which 70753
reports shall be made to the commissioner, forms for claims for 70754
refund presented to the commissioner, or forms of records to be 70755
used by motor fuel dealers. 70756

(D)(1) As used in this division, "designated inspection site" 70757
means any state highway inspection station, weigh station, mobile 70758
station, or other similar location designated by the tax 70759
commissioner to be used as a fuel inspection site. 70760

(2) An employee of the department of taxation that is so 70761
authorized by the tax commissioner may physically inspect, 70762
examine, or otherwise search any tank, reservoir, or other 70763
container that can or may be used for the production, storage, or 70764
transportation of fuel, fuel dyes, or fuel markers, and books and 70765

records, if any, that are maintained at the place of inspection 70766
and are kept to determine tax liability under this chapter. 70767
Inspections may be performed at any place at which motor fuel is 70768
or may be produced or stored, or at any designated inspection 70769
site. 70770

(3) An employee of the department of taxation who is a duly 70771
authorized enforcement agent may detain any motor vehicle, train, 70772
barge, ship, or vessel for the purpose of inspecting its fuel 70773
tanks and storage tanks. Detainment shall be on the premises under 70774
inspection or at a designated inspection site. Detainment may 70775
continue for a reasonable period of time as is necessary to 70776
determine the amount and composition of the fuel. 70777

(4) Any employee described in division (D)(2) or (3) of this 70778
section who has been properly trained may take and remove samples 70779
of fuel in quantities as are reasonably necessary to determine the 70780
composition of the fuel. 70781

(5) No person shall refuse to allow an inspection under 70782
division (D) of this section. Any person who refuses to allow an 70783
inspection shall be subject to revocation or cancellation of any 70784
license or permit issued under Chapter 5728. or 5735. of the 70785
Revised Code. 70786

Sec. 5735.23. (A) Out of receipts from the tax levied by 70787
section 5735.05 of the Revised Code, the treasurer of state shall 70788
place to the credit of the tax refund fund established by section 70789
5703.052 of the Revised Code amounts equal to the refunds 70790
certified by the tax commissioner pursuant to sections 5735.13, 70791
5735.14, 5735.141, 5735.142, and 5735.16 of the Revised Code. The 70792
treasurer of state shall then transfer the amount required by 70793
section 5735.051 of the Revised Code to the waterways safety fund 70794
and, the amount required by section 4907.472 of the Revised Code 70795
to the grade crossing protection fund, and the amount required by 70796

section 5735.053 of the Revised Code to the motor fuel tax 70797
administration fund. 70798

(B) Except as provided in division (D) of this section, each 70799
month the balance of the receipts from the tax levied by section 70800
5735.05 of the Revised Code shall be credited, after receipt by 70801
the treasurer of state of certification from the commissioners of 70802
the sinking fund, as required by section 5528.35 of the Revised 70803
Code, that there are sufficient moneys to the credit of the 70804
highway obligations bond retirement fund to meet in full all 70805
payments of interest, principal, and charges for the retirement of 70806
highway obligations issued pursuant to Section 2i of Article VIII, 70807
Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised 70808
Code due and payable during the current calendar year, as follows: 70809

(1) To the state and local government highway distribution 70810
fund, which is hereby created in the state treasury, an amount 70811
that is the same percentage of the balance to be credited as that 70812
portion of the tax per gallon determined under division (B)(2)(a) 70813
of section 5735.06 of the Revised Code is of the total tax per 70814
gallon determined under divisions (B)(2)(a) and (b) of that 70815
section. 70816

(2) After making the distribution to the state and local 70817
government highway distribution fund, the remainder shall be 70818
credited as follows: 70819

(a) Thirty per cent to the gasoline excise tax fund for 70820
distribution pursuant to division (A)(1) of section 5735.27 of the 70821
Revised Code; 70822

(b) Twenty-five per cent to the gasoline excise tax fund for 70823
distribution pursuant to division (A)(3) of section 5735.27 of the 70824
Revised Code; 70825

(c) Except as provided in division (D) of this section, 70826
forty-five per cent to the highway operating fund for distribution 70827

pursuant to division (B)(1) of section 5735.27 of the Revised Code. 70828
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(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: 70830
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(1) To the local transportation improvement program fund created by section 164.14 of the Revised Code, an amount equal to a fraction of the balance in the state and local government highway distribution fund, the numerator of which fraction is one and the denominator of which fraction is that portion of the tax per gallon determined under division (B)(2)(a) of section 5735.06 of the Revised Code; 70833
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(2) An amount equal to five cents multiplied by the number of gallons of motor fuel sold at stations operated by the Ohio turnpike commission, such gallonage to be certified by the commission to the treasurer of state not later than the last day of the month following. The funds paid to the commission pursuant to this section shall be expended for the construction, reconstruction, maintenance, and repair of turnpike projects, except that the funds may not be expended for the construction of new interchanges. The funds also may be expended for the construction, reconstruction, maintenance, and repair of those portions of connecting public roads that serve existing interchanges and are determined by the commission and the director of transportation to be necessary for the safe merging of traffic between the turnpike and those public roads. 70840
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The remainder of the balance shall be distributed as follows on the fifteenth day of the following month: 70854
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(a) Ten and seven-tenths per cent shall be paid to municipal corporations for distribution pursuant to division (A)(1) of section 5735.27 of the Revised Code and may be used for any 70856
70857
70858

purpose for which payments received under that division may be 70859
used. Beginning August 15, 2004, the sum of two hundred 70860
forty-eight thousand six hundred twenty-five dollars shall be 70861
~~annually~~ monthly subtracted from the amount so computed and 70862
credited to the highway operating fund. 70863

(b) Five per cent shall be paid to townships for distribution 70864
pursuant to division (A)(5) of section 5735.27 of the Revised Code 70865
and may be used for any purpose for which payments received under 70866
that division may be used. Beginning August 15, 2004, the sum of 70867
eighty-seven thousand seven hundred fifty dollars shall be 70868
~~annually~~ monthly subtracted from the amount so computed and 70869
credited to the highway operating fund. 70870

(c) Nine and three-tenths per cent shall be paid to counties 70871
for distribution pursuant to division (A)(3) of section 5735.27 of 70872
the Revised Code and may be used for any purpose for which 70873
payments received under that division may be used. Beginning 70874
August 15, 2004, the sum of two hundred forty-eight thousand six 70875
hundred twenty-five dollars shall be ~~annually~~ monthly subtracted 70876
from the amount so computed and credited to the highway operating 70877
fund. 70878

(d) Except as provided in division (D) of this section, the 70879
balance shall be transferred to the highway operating fund and 70880
used for the purposes set forth in division (B)(1) of section 70881
5735.27 of the Revised Code. 70882

(D) Beginning on the first day of September each fiscal year, 70883
any amounts required to be credited or transferred to the highway 70884
operating fund pursuant to division (B)(2)(c) or (C)(2)(d) of this 70885
section shall be credited or transferred to the highway capital 70886
improvement bond service fund created in section 151.06 of the 70887
Revised Code, until such time as the office of budget and 70888
management receives certification from the treasurer of state or 70889
the treasurer of state's designee that sufficient money has been 70890

credited or transferred to the bond service fund to meet in full 70891
all payments of debt service and financing costs due during the 70892
fiscal year from that fund. 70893

Sec. 5735.26. The treasurer of state shall place to the 70894
credit of the tax refund fund created by section 5703.052 of the 70895
Revised Code, out of receipts from the tax levied by section 70896
5735.25 of the Revised Code, amounts equal to the refunds 70897
certified by the tax commissioner pursuant to sections 5735.142 70898
and 5735.25 of the Revised Code, which shall be paid from such 70899
fund. ~~Receipts from the tax shall be used by the tax commissioner~~ 70900
~~for the maintenance and administration of the motor fuel laws.~~ The 70901
treasurer of state shall then transfer the amount required by 70902
section 5735.051 of the Revised Code to the waterways safety fund 70903
and the amount required by section 5735.053 of the Revised Code to 70904
the motor fuel tax administration fund. 70905

The balance of taxes collected under section 5735.25 of the 70906
Revised Code shall be credited as follows, after the credits to 70907
the tax refund fund, ~~and after deduction of the cost of~~ 70908
~~administration of the motor fuel laws,~~ and after the ~~transfer~~ 70909
transfers to the waterways safety fund and motor fuel tax 70910
administration fund, and after receipt by the treasurer of state 70911
of certifications from the commissioners of the sinking fund 70912
certifying, as required by sections 5528.15 and 5528.35 of the 70913
Revised Code, there are sufficient moneys to the credit of the 70914
highway improvement bond retirement fund to meet in full all 70915
payments of interest, principal, and charges for the retirement of 70916
bonds and other obligations issued pursuant to Section 2g of 70917
Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 70918
of the Revised Code due and payable during the current calendar 70919
year, and that there are sufficient moneys to the credit of the 70920
highway obligations bond retirement fund to meet in full all 70921
payments of interest, principal, and charges for the retirement of 70922

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:

(A) Sixty-seven and one-half per cent to the highway
operating fund for distribution pursuant to division (B)(2) of
section 5735.27 of the Revised Code;

(B) Seven and one-half per cent to the gasoline excise tax
fund for distribution pursuant to division (A)(2) of such section;

(C) 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 70953
corporations within the state in accordance with division (A)(2) 70954
of section 5735.27 of the Revised Code, thirty-seven and fourteen 70955
hundredths per cent of the specified portion shall be distributed 70956
among the counties within the state in accordance with division 70957
(A)(3) of section 5735.27 of the Revised Code, and twenty per cent 70958
of the specified portion shall be combined with twenty per cent of 70959
any amounts transferred from the highway operating fund to the 70960
gasoline excise tax fund through biennial appropriations acts of 70961
the general assembly pursuant to the planned phase-in of a new 70962
source of funding for the state highway patrol, and shall be 70963
distributed among the townships within the state in accordance 70964
with division (A)(5)(b) of section 5735.27 of the Revised Code. 70965
Subject to division (B) of this section, the remainder of the tax 70966
levied by section 5735.29 of the Revised Code after receipt by the 70967
treasurer of state of certifications from the commissioners of the 70968
sinking fund certifying, as required by sections 5528.15 and 70969
5528.35 of the Revised Code, that there are sufficient moneys to 70970
the credit of the highway improvement bond retirement fund created 70971
by section 5528.12 of the Revised Code to meet in full all 70972
payments of interest, principal, and charges for the retirement of 70973
bonds and other obligations issued pursuant to Section 2g of 70974
Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 70975
of the Revised Code due and payable during the current calendar 70976
year, and that there are sufficient moneys to the credit of the 70977
highway obligations bond retirement fund created by section 70978
5528.32 of the Revised Code to meet in full all payments of 70979
interest, principal, and charges for the retirement of highway 70980
obligations issued pursuant to Section 2i of Article VIII, Ohio 70981
Constitution, and sections 5528.30 and 5528.31 of the Revised Code 70982
due and payable during the current calendar year, shall be 70983
credited to the highway operating fund, which is hereby created in 70984
the state treasury and shall be used solely for the purposes 70985

enumerated in section 5735.29 of the Revised Code. All investment 70986
earnings of the fund shall be credited to the fund. 70987

(B)(1) Effective August 15, 2003, prior to the distribution 70988
from the gasoline excise tax fund to municipal corporations of the 70989
forty-two and eighty-six hundredths per cent of the specified 70990
portion as provided in division (A) of this section, the 70991
department of taxation shall deduct thirty-three and one-third per 70992
cent of the amount specified in division (A)(5)(c) of section 70993
5735.27 of the Revised Code and use it for distribution to 70994
townships pursuant to division (A)(5)(b) of that section. 70995

(2) Effective August 15, 2003, prior to the distribution from 70996
the gasoline excise tax fund to counties of the thirty-seven and 70997
fourteen hundredths per cent of the specified portion as provided 70998
in division (A) of this section, the department of taxation shall 70999
deduct thirty-three and one-third per cent of the amount specified 71000
in division (A)(5)(c) of section 5735.27 of the Revised Code and 71001
use it for distribution to townships pursuant to division 71002
(A)(5)(b) of that section. 71003

(3) Effective August 15, 2003, prior to crediting any revenue 71004
resulting from the tax levied by section 5735.29 of the Revised 71005
Code to the highway operating fund, the department of taxation 71006
shall deduct thirty-three and one-third per cent of the amount 71007
specified in division (A)(5)(c) of section 5735.27 of the Revised 71008
Code and use it for distribution to townships pursuant to division 71009
(A)(5)(b) of that section. 71010

(C) As used in this section, "specified portion" means all of 71011
the following: 71012

(1) Until August 15, 2003, none of the taxes collected under 71013
section 5735.29 of the Revised Code; 71014

(2) Effective August 15, 2003, one-eighth of the balance of 71015
taxes collected under section 5735.29 of the Revised Code, after 71016

the credits to the tax refund fund and ~~after the transfer~~ 71017
transfers to the waterways safety fund and the motor fuel tax 71018
administration fund; 71019

(3) Effective August 15, 2004, one-sixth of the balance of 71020
taxes described in division (C)(2) of this section; 71021

(4) Effective August 15, 2005, three-sixteenths of the 71022
balance of taxes described in division (C)(2) of this section. 71023

Sec. 5735.30. (A) For the purpose of providing funds to pay 71024
the state's share of the cost of constructing and reconstructing 71025
highways and eliminating railway grade crossings on the major 71026
thoroughfares of the state highway system and urban extensions 71027
thereof, to pay that portion of the construction cost of a highway 71028
project which a county, township, or municipal corporation 71029
normally would be required to pay, but which the director of 71030
transportation, pursuant to division (B) of section 5531.08 of the 71031
Revised Code, determines instead will be paid from moneys in the 71032
highway operating fund, to pay the interest, principal, and 71033
charges on bonds and other obligations issued pursuant to Section 71034
2g of Article VIII, Ohio Constitution, and sections 5528.10 and 71035
5528.11 of the Revised Code, to pay the interest, principal, and 71036
charges on highway obligations issued pursuant to Section 2i of 71037
Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 71038
of the Revised Code, ~~and~~ to provide revenues for the purposes of 71039
sections 1547.71 to 1547.78 of the Revised Code, and to pay the 71040
expenses of the department of taxation incident to the 71041
administration of the motor fuel laws, a motor fuel excise tax is 71042
hereby imposed on all motor fuel dealers upon their receipt of 71043
motor fuel within the state, at the rate of one cent on each 71044
gallon so received, to be reported, computed, paid, collected, 71045
administered, enforced, refunded, and subject to the same 71046
exemptions and penalties as provided in this chapter of the 71047

Revised Code. 71048

The tax imposed by this section shall be in addition to the 71049
tax imposed by sections 5735.05, 5735.25, and 5735.29 of the 71050
Revised Code. 71051

(B) The treasurer of state shall place to the credit of the 71052
tax refund fund created by section 5703.052 of the Revised Code, 71053
out of receipts from the tax levied by this section, amounts equal 71054
to the refunds certified by the tax commissioner pursuant to this 71055
section. The refund provided for by ~~the first paragraph~~ division 71056
(A) of this section shall be paid from such fund. The treasurer 71057
shall then transfer the amount required by section 5735.051 of the 71058
Revised Code to the waterways safety fund and the amount required 71059
by section 5735.053 of the Revised Code to the motor fuel tax 71060
administration fund. The balance of taxes for which the liability 71061
has become fixed prior to July 1, 1955, under this section, after 71062
the credit to the tax refund fund, shall be credited to the 71063
highway operating fund. 71064

(C)(1) The moneys derived from the tax levied by this 71065
section, after ~~the credit to the tax refund fund and the waterways~~ 71066
~~safety fund as provided~~ and transfers required by division (B) of 71067
this section, shall, during each calendar year, be credited to the 71068
highway improvement bond retirement fund created by section 71069
5528.12 of the Revised Code, until the commissioners of the 71070
sinking fund certify to the treasurer of state, as required by 71071
section 5528.17 of the Revised Code, that there are sufficient 71072
moneys to the credit of the highway improvement bond retirement 71073
fund to meet in full all payments of interest, principal, and 71074
charges for the retirement of bonds and other obligations issued 71075
pursuant to Section 2g of Article VIII, Ohio Constitution, and 71076
sections 5528.10 and 5528.11 of the Revised Code due and payable 71077
during the current calendar year and during the next succeeding 71078
calendar year. From the date of the receipt of the certification 71079

required by section 5528.17 of the Revised Code by the treasurer 71080
of state until the thirty-first day of December of the calendar 71081
year in which such certification is made, all moneys received in 71082
the state treasury from the tax levied by this section, after the 71083
~~credit to the tax refund fund and the waterways safety fund as~~ 71084
~~provided and transfers required by division (B) of this section,~~ 71085
shall be credited to the highway obligations bond retirement fund 71086
created by section 5528.32 of the Revised Code, until the 71087
commissioners of the sinking fund certify to the treasurer of 71088
state, as required by section 5528.38 of the Revised Code, that 71089
there are sufficient moneys to the credit of the highway 71090
obligations bond retirement fund to meet in full all payments of 71091
interest, principal, and charges for the retirement of obligations 71092
issued pursuant to Section 2i of Article VIII, Ohio Constitution, 71093
and sections 5528.30 and 5528.31 of the Revised Code due and 71094
payable during the current calendar year and during the next 71095
succeeding calendar year. ~~From~~ 71096

(2) From the date of the receipt of the certification 71097
required by section 5528.38 of the Revised Code by the treasurer 71098
of state until the thirty-first day of December of the calendar 71099
year in which such certification is made, all moneys received in 71100
the state treasury from the tax levied by this section, after the 71101
~~credit to the tax refund fund and the waterways safety fund as~~ 71102
~~provided and transfers required by division (B) of this section,~~ 71103
shall be credited to the highway operating fund, except as 71104
provided in ~~the next succeeding paragraph~~ division (C)(3) of this 71105
section. 71106

(3) From the date of the receipt by the treasurer of state of 71107
certifications from the commissioners of the sinking fund, as 71108
required by sections 5528.18 and 5528.39 of the Revised Code, 71109
certifying that the moneys to the credit of the highway 71110
improvement bond retirement fund are sufficient to meet in full 71111

all payments of interest, principal, and charges for the 71112
retirement of all bonds and other obligations which may be issued 71113
pursuant to Section 2g of Article VIII, Ohio Constitution, and 71114
sections 5528.10 and 5528.11 of the Revised Code, and to the 71115
credit of the highway obligations bond retirement fund are 71116
sufficient to meet in full all payments of interest, principal, 71117
and charges for the retirement of all obligations issued pursuant 71118
to Section 2i of Article VIII, Ohio Constitution, and sections 71119
5528.30 and 5528.31 of the Revised Code, the moneys derived from 71120
the tax levied by this section, after the credit to the tax refund 71121
fund and the waterways safety fund as provided and transfers 71122
required by division (B) of this section, shall be credited to the 71123
highway operating fund. 71124

Sec. 5735.99. (A) Whoever violates division (F) of section 71125
5735.02, division (D) of section 5735.021, division (B) of section 71126
5735.063, division (B) of section 5735.064, or division (A)(2) of 71127
section 5735.20 of the Revised Code is guilty of a misdemeanor of 71128
the first degree. 71129

(B) Whoever violates division (E) of section 5735.06 of the 71130
Revised Code is guilty of a felony of the fourth degree. 71131

(C) Whoever violates section 5735.025 or division (A)(1) of 71132
section 5735.20 of the Revised Code is guilty of a misdemeanor of 71133
the first degree, if the tax owed or the fraudulent refund 71134
received is not greater than five hundred dollars. If the tax owed 71135
or the fraudulent refund received is greater than five hundred 71136
dollars but not greater than ten thousand dollars, the offender is 71137
guilty of a felony of the fourth degree; for each subsequent 71138
offense when the tax owed or the fraudulent refund received is 71139
greater than five hundred dollars but not greater than ten 71140
thousand dollars, the offender is guilty of a felony of the third 71141
degree. If the tax owed or the fraudulent refund received is 71142

greater than ten thousand dollars, the offender is guilty of a 71143
felony of the second degree. 71144

(D) Whoever violates a provision of this chapter for which a 71145
penalty is not otherwise prescribed under this section is guilty 71146
of a misdemeanor of the fourth degree. 71147

(E) Whoever violates division (D)(5) of section 5735.19 of 71148
the Revised Code is guilty of a misdemeanor of the first degree. 71149

Sec. 5739.01. As used in this chapter: 71150

(A) "Person" includes individuals, receivers, assignees, 71151
trustees in bankruptcy, estates, firms, partnerships, 71152
associations, joint-stock companies, joint ventures, clubs, 71153
societies, corporations, the state and its political subdivisions, 71154
and combinations of individuals of any form. 71155

(B) "Sale" and "selling" include all of the following 71156
transactions for a consideration in any manner, whether absolutely 71157
or conditionally, whether for a price or rental, in money or by 71158
exchange, and by any means whatsoever: 71159

(1) All transactions by which title or possession, or both, 71160
of tangible personal property, is or is to be transferred, or a 71161
license to use or consume tangible personal property is or is to 71162
be granted; 71163

(2) All transactions by which lodging by a hotel is or is to 71164
be furnished to transient guests; 71165

(3) All transactions by which: 71166

(a) An item of tangible personal property is or is to be 71167
repaired, except property, the purchase of which would not be 71168
subject to the tax imposed by section 5739.02 of the Revised Code; 71169

(b) An item of tangible personal property is or is to be 71170
installed, except property, the purchase of which would not be 71171

subject to the tax imposed by section 5739.02 of the Revised Code 71172
or property that is or is to be incorporated into and will become 71173
a part of a production, transmission, transportation, or 71174
distribution system for the delivery of a public utility service; 71175

(c) The service of washing, cleaning, waxing, polishing, or 71176
painting a motor vehicle is or is to be furnished; 71177

(d) ~~Industrial laundry~~ Laundry and dry cleaning services are 71178
or are to be provided; 71179

(e) Automatic data processing, computer services, or 71180
electronic information services are or are to be provided for use 71181
in business when the true object of the transaction is the receipt 71182
by the consumer of automatic data processing, computer services, 71183
or electronic information services rather than the receipt of 71184
personal or professional services to which automatic data 71185
processing, computer services, or electronic information services 71186
are incidental or supplemental. Notwithstanding any other 71187
provision of this chapter, such transactions that occur between 71188
members of an affiliated group are not sales. An affiliated group 71189
means two or more persons related in such a way that one person 71190
owns or controls the business operation of another member of the 71191
group. In the case of corporations with stock, one corporation 71192
owns or controls another if it owns more than fifty per cent of 71193
the other corporation's common stock with voting rights. 71194

(f) Telecommunications service, other than mobile 71195
telecommunications service after July 31, 2002, is or is to be 71196
provided ~~that originates or terminates in this state and is~~ 71197
~~charged in the records of the telecommunications service vendor to~~ 71198
~~the consumer's telephone number or account in this state, or that~~ 71199
~~both originates and terminates in this state;~~ but does not 71200
include transactions by which ~~telecommunications service is paid~~ 71201
~~for by using a prepaid authorization number or prepaid telephone~~ 71202
~~calling card, or by which~~ local telecommunications service is 71203

obtained from a coin-operated telephone and paid for by using coin;	71204 71205
(g) Landscaping and lawn care service is or is to be provided;	71206 71207
(h) Private investigation and security service is or is to be provided;	71208 71209
(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;	71210 71211
(j) Building maintenance and janitorial service is or is to be provided;	71212 71213
(k) Employment service is or is to be provided;	71214
(l) Employment placement service is or is to be provided;	71215
(m) Exterminating service is or is to be provided;	71216
(n) Physical fitness facility service is or is to be provided;	71217 71218
(o) Recreation and sports club service is or is to be provided.	71219 71220
(p) After July 31, 2002, mobile telecommunications service is or is to be provided in this state when that service is sitused 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.	71221 71222 71223 71224 71225
<u>(q) Satellite broadcasting service is or is to be provided;</u>	71226
<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</u>	71227 71228 71229 71230 71231 71232

XLVII of the Revised Code who are authorized to perform 71233
therapeutic massage pursuant to their scope of practice, or the 71234
cutting, coloring, or styling of an individual's hair. 71235

(s) The transportation of persons by motor vehicle or 71236
aircraft is or is to be provided, when the point of origin and the 71237
point of termination are both within this state, except for 71238
transportation provided by an ambulance service, by a transit bus, 71239
as defined in section 5735.01 of the Revised Code, and 71240
transportation provided by a citizen of the United States holding 71241
a certificate of public convenience and necessity issued under 49 71242
U.S.C. 41102; 71243

(t) Motor vehicle towing service is or is to be provided. As 71244
used in this division, "motor vehicle towing service" means the 71245
towing or conveyance of a wrecked, disabled, or illegally parked 71246
motor vehicle. 71247

(u) Snow removal service is or is to be provided. As used in 71248
this division, "snow removal" means the removal of snow by any 71249
mechanized means. 71250

(4) All transactions by which printed, imprinted, 71251
overprinted, lithographic, multilithic, blueprinted, photostatic, 71252
or other productions or reproductions of written or graphic matter 71253
are or are to be furnished or transferred; 71254

(5) The production or fabrication of tangible personal 71255
property for a consideration for consumers who furnish either 71256
directly or indirectly the materials used in the production of 71257
fabrication work; and include the furnishing, preparing, or 71258
serving for a consideration of any tangible personal property 71259
consumed on the premises of the person furnishing, preparing, or 71260
serving such tangible personal property. Except as provided in 71261
section 5739.03 of the Revised Code, a construction contract 71262
pursuant to which tangible personal property is or is to be 71263

incorporated into a structure or improvement on and becoming a 71264
part of real property is not a sale of such tangible personal 71265
property. The construction contractor is the consumer of such 71266
tangible personal property, provided that the sale and 71267
installation of carpeting, the sale and installation of 71268
agricultural land tile, the sale and erection or installation of 71269
portable grain bins, or the provision of landscaping and lawn care 71270
service and the transfer of property as part of such service is 71271
never a construction contract. The transfer of copyrighted motion 71272
picture films for exhibition purposes is not a sale, except such 71273
films as are used solely for advertising purposes. ~~Other than as~~ 71274
~~provided in this section, "sale" and "selling" do not include~~ 71275
~~transfers of interest in leased property where the original lessee~~ 71276
~~and the terms of the original lease agreement remain unchanged, or~~ 71277
~~professional, insurance, or personal service transactions that~~ 71278
~~involve the transfer of tangible personal property as an~~ 71279
~~inconsequential element, for which no separate charges are made.~~ 71280

As used in division (B)(5) of this section: 71281

(a) "Agricultural land tile" means fired clay or concrete 71282
tile, or flexible or rigid perforated plastic pipe or tubing, 71283
incorporated or to be incorporated into a subsurface drainage 71284
system appurtenant to land used or to be used directly in 71285
production by farming, agriculture, horticulture, or floriculture. 71286
The term does not include such materials when they are or are to 71287
be incorporated into a drainage system appurtenant to a building 71288
or structure even if the building or structure is used or to be 71289
used in such production. 71290

(b) "Portable grain bin" means a structure that is used or to 71291
be used by a person engaged in farming or agriculture to shelter 71292
the person's grain and that is designed to be disassembled without 71293
significant damage to its component parts. 71294

(6) All transactions in which all of the shares of stock of a 71295

closely held corporation are transferred, if the corporation is 71296
not engaging in business and its entire assets consist of boats, 71297
planes, motor vehicles, or other tangible personal property 71298
operated primarily for the use and enjoyment of the shareholders; 71299

(7) All transactions in which a warranty, maintenance or 71300
service contract, or similar agreement by which the vendor of the 71301
warranty, contract, or agreement agrees to repair or maintain the 71302
tangible personal property of the consumer is or is to be 71303
provided; 71304

(8) ~~All transactions by which a prepaid authorization number~~ 71305
~~or a prepaid telephone calling card is or is to be transferred~~ All 71306
transactions by which tangible personal property is or is to be 71307
stored, except such property that the consumer of the storage 71308
holds for sale in the regular course of business. 71309

Except as provided in this section, "sale" and "selling" do 71310
not include transfers of interest in leased property where the 71311
original lessee and the terms of the original lease agreement 71312
remain unchanged, or professional, insurance, or personal service 71313
transactions that involve the transfer of tangible personal 71314
property as an inconsequential element, for which no separate 71315
charges are made. 71316

(C) "Vendor" means the person providing the service or by 71317
whom the transfer effected or license given by a sale is or is to 71318
be made or given and, for sales described in division (B)(3)(i) of 71319
this section, the telecommunications service vendor that provides 71320
the nine hundred telephone service; if two or more persons are 71321
engaged in business at the same place of business under a single 71322
trade name in which all collections on account of sales by each 71323
are made, such persons shall constitute a single vendor. 71324

Physicians, dentists, hospitals, and veterinarians who are 71325
engaged in selling tangible personal property as received from 71326

others, such as eyeglasses, mouthwashes, dentifrices, or similar 71327
articles, are vendors. Veterinarians who are engaged in 71328
transferring to others for a consideration drugs, the dispensing 71329
of which does not require an order of a licensed veterinarian or 71330
physician under federal law, are vendors. 71331

(D)(1) "Consumer" means the person for whom the service is 71332
provided, to whom the transfer effected or license given by a sale 71333
is or is to be made or given, to whom the service described in 71334
division (B)(3)(f) or (i) of this section is charged, or to whom 71335
the admission is granted. 71336

(2) Physicians, dentists, hospitals, and blood banks operated 71337
by nonprofit institutions and persons licensed to practice 71338
veterinary medicine, surgery, and dentistry are consumers of all 71339
tangible personal property and services purchased by them in 71340
connection with the practice of medicine, dentistry, the rendition 71341
of hospital or blood bank service, or the practice of veterinary 71342
medicine, surgery, and dentistry. In addition to being consumers 71343
of drugs administered by them or by their assistants according to 71344
their direction, veterinarians also are consumers of drugs that 71345
under federal law may be dispensed only by or upon the order of a 71346
licensed veterinarian or physician, when transferred by them to 71347
others for a consideration to provide treatment to animals as 71348
directed by the veterinarian. 71349

(3) A person who performs a facility management, or similar 71350
service contract for a contractee is a consumer of all tangible 71351
personal property and services purchased for use in connection 71352
with the performance of such contract, regardless of whether title 71353
to any such property vests in the contractee. The purchase of such 71354
property and services is not subject to the exception for resale 71355
under division (E)(1) of this section. 71356

(4)(a) In the case of a person who purchases printed matter 71357
for the purpose of distributing it or having it distributed to the 71358

public or to a designated segment of the public, free of charge, 71359
that person is the consumer of that printed matter, and the 71360
purchase of that printed matter for that purpose is a sale. 71361

(b) In the case of a person who produces, rather than 71362
purchases, printed matter for the purpose of distributing it or 71363
having it distributed to the public or to a designated segment of 71364
the public, free of charge, that person is the consumer of all 71365
tangible personal property and services purchased for use or 71366
consumption in the production of that printed matter. That person 71367
is not entitled to claim ~~exception~~ exemption under division 71368
~~(E)(8)(B)(43)(f)~~ of ~~this~~ section 5739.02 of the Revised Code for 71369
any material incorporated into the printed matter or any 71370
equipment, supplies, or services primarily used to produce the 71371
printed matter. 71372

(c) The distribution of printed matter to the public or to a 71373
designated segment of the public, free of charge, is not a sale to 71374
the members of the public to whom the printed matter is 71375
distributed or to any persons who purchase space in the printed 71376
matter for advertising or other purposes. 71377

(5) A person who makes sales of any of the services listed in 71378
division (B)(3) of this section is the consumer of any tangible 71379
personal property used in performing the service. The purchase of 71380
that property is not subject to the resale exception under 71381
division (E)(1) of this section. 71382

(E) "Retail sale" and "sales at retail" include all sales, 71383
except those in which the purpose of the consumer is+ 71384

~~(1) To~~ to resell the thing transferred or benefit of the 71385
service provided, by a person engaging in business, in the form in 71386
which the same is, or is to be, received by the person+ 71387

~~(2) To incorporate the thing transferred as a material or a 71388
part, into tangible personal property to be produced for sale by 71389~~

~~manufacturing, assembling, processing, or refining, or to use or 71390
consume the thing transferred directly in producing a product for 71391
sale by mining, including without limitation the extraction from 71392
the earth of all substances that are classed geologically as 71393
minerals, production of crude oil and natural gas, farming, 71394
agriculture, horticulture, or floriculture, and persons engaged in 71395
rendering farming, agricultural, horticultural, or floricultural 71396
services, and services in the exploration for, and production of, 71397
crude oil and natural gas, for others are deemed engaged directly 71398
in farming, agriculture, horticulture, and floriculture, or 71399
exploration for, and production of, crude oil and natural gas; 71400
directly in the rendition of a public utility service, except that 71401
the sales tax levied by section 5739.02 of the Revised Code shall 71402
be collected upon all meals, drinks, and food for human 71403
consumption sold upon Pullman and railroad coaches. This paragraph 71404
does not exempt or except from "retail sale" or "sales at retail" 71405
the sale of tangible personal property that is to be incorporated 71406
into a structure or improvement to real property. 71407~~

~~(3) To hold the thing transferred as security for the 71408
performance of an obligation of the vendor; 71409~~

~~(4) To use or consume the thing transferred in the process of 71410
reclamation as required by Chapters 1513. and 1514. of the Revised 71411
Code; 71412~~

~~(5) To resell, hold, use, or consume the thing transferred as 71413
evidence of a contract of insurance; 71414~~

~~(6) To use or consume the thing directly in commercial 71415
fishing; 71416~~

~~(7) To incorporate the thing transferred as a material or a 71417
part into, or to use or consume the thing transferred directly in 71418
the production of, magazines distributed as controlled circulation 71419
publications; 71420~~

~~(8) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;~~

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~~(9) 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;~~

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~~(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;~~

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~~(11) To use the thing transferred as qualified research and development equipment;~~

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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.~~

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~~(13) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a~~

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~~warranty provided as a part of the price of the tangible personal 71452
property sold or by a vendor of a warranty, maintenance or service 71453
contract, or similar agreement the provision of which is defined 71454
as a sale under division (B)(7) of this section; 71455~~

~~(14) To use or consume the thing transferred in the 71456
production of a newspaper for distribution to the public; 71457~~

~~(15) To use tangible personal property to perform a service 71458
listed in division (B)(3) of this section, if the property is or 71459
is to be permanently transferred to the consumer of the service as 71460
an integral part of the performance of the service. 71461~~

~~As used in division (E) of this section, "thing" includes all 71462
transactions included in divisions (B)(3)(a), (b), and (c) of this 71463
section. 71464~~

~~Sales conducted through a coin-operated device that activates 71465
vacuum equipment or equipment that dispenses water, whether or not 71466
in combination with soap or other cleaning agents or wax, to the 71467
consumer for the consumer's use on the premises in washing, 71468
cleaning, or waxing a motor vehicle, provided no other personal 71469
property or personal service is provided as part of the 71470
transaction, are not retail sales or sales at retail. 71471~~

~~(F) "Business" includes any activity engaged in by any person 71472
with the object of gain, benefit, or advantage, either direct or 71473
indirect. "Business" does not include the activity of a person in 71474
managing and investing the person's own funds. 71475~~

~~(G) "Engaging in business" means commencing, conducting, or 71476
continuing in business, and liquidating a business when the 71477
liquidator thereof holds itself out to the public as conducting 71478
such business. Making a casual sale is not engaging in business. 71479~~

~~(H)(1)(a) "Price," except as provided in divisions (H)(2) and 71480
(3) of this section, means the aggregate value in money of 71481
anything paid or delivered, or promised to be paid or delivered, 71482~~

~~in the complete performance of a retail sale, without any 71483~~
~~deduction on account of the cost of the property sold, cost of 71484~~
~~materials used, labor or service cost, interest, discount paid or 71485~~
~~allowed after the sale is consummated, or any other expense. If 71486~~
~~the retail sale consists of the rental or lease of tangible 71487~~
~~personal property, "price" means the aggregate value in money of 71488~~
~~anything paid or delivered, or promised to be paid or delivered, 71489~~
~~in the complete performance of the rental or lease, without any 71490~~
~~deduction for tax, interest, labor or service charge, damage 71491~~
~~liability waiver, termination or damage charge, discount paid or 71492~~
~~allowed after the lease is consummated, or any other expense. 71493~~
~~Except as provided in division (H)(4) of this section, the sales 71494~~
~~tax shall be calculated and collected by the lessor on each 71495~~
~~payment made by the lessee. "Price" does not include the 71496~~
~~consideration received as a deposit refundable to the consumer 71497~~
~~upon return of a beverage container, the consideration received as 71498~~
~~a deposit on a carton or case that is used for such returnable 71499~~
~~containers, or the consideration received as a refundable security 71500~~
~~deposit for the use of tangible personal property to the extent 71501~~
~~that it actually is refunded, if the consideration for such 71502~~
~~refundable deposit is separately stated from the consideration 71503~~
~~received or to be received for the tangible personal property 71504~~
~~transferred in the retail sale. Such separation must appear in the 71505~~
~~sales agreement or on the initial invoice or initial billing 71506~~
~~rendered by the vendor to the consumer. "Price" also does not 71507~~
~~include delivery charges that are separately stated on the initial 71508~~
~~invoice or initial billing rendered by the vendor. Price is the 71509~~
~~amount received inclusive of the tax, provided the vendor 71510~~
~~establishes to the satisfaction of the tax commissioner that the 71511~~
~~tax was added to the price. When the price includes both a charge 71512~~
~~for tangible personal property and a charge for providing a 71513~~
~~service and the sale of the property and the charge for the 71514~~
~~service are separately taxable, or have a separately determinable 71515~~

~~tax status, the price shall be separately stated for each such charge so the tax can be correctly computed and charged.~~ 71516
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~~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.~~ 71518
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~~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:~~ 71529
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~~(i) The vendor's cost of the property sold;~~ 71538

~~(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;~~ 71539
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~~(iii) Charges by the vendor for any services necessary to complete the sale;~~ 71542
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~~(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~~ 71544
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<u>property or a service, including transportation, shipping,</u>	71547
<u>postage, handling, crating, and packing.</u>	71548
<u>(v) Installation charges;</u>	71549
<u>(vi) The value of exempt tangible personal property given to</u>	71550
<u>the consumer where taxable and exempt tangible personal property</u>	71551
<u>have been bundled together and sold by the vendor as a single</u>	71552
<u>product or piece of merchandise.</u>	71553
<u>(b) "Price" does not include any of the following:</u>	71554
<u>(i) Discounts, including cash, term, or coupons that are not</u>	71555
<u>reimbursed by a third party that are allowed by a vendor and taken</u>	71556
<u>by a consumer on a sale;</u>	71557
<u>(ii) Interest, financing, and carrying charges from credit</u>	71558
<u>extended on the sale of tangible personal property or services, if</u>	71559
<u>the amount is separately stated on the invoice, bill of sale, or</u>	71560
<u>similar document given to the purchaser;</u>	71561
<u>(iii) Any taxes legally imposed directly on the consumer that</u>	71562
<u>are separately stated on the invoice, bill of sale, or similar</u>	71563
<u>document given to the consumer.</u>	71564
(2) In the case of a sale of any new motor vehicle by a new	71565
motor vehicle dealer, as defined in section 4517.01 of the Revised	71566
Code, in which another motor vehicle is accepted by the dealer as	71567
part of the consideration received, "price" has the same meaning	71568
as in division (H)(1) of this section, reduced by the credit	71569
afforded the consumer by the dealer for the motor vehicle received	71570
in trade.	71571
(3) In the case of a sale of any watercraft or outboard motor	71572
by a watercraft dealer licensed in accordance with section	71573
1547.543 of the Revised Code, in which another watercraft,	71574
watercraft and trailer, or outboard motor is accepted by the	71575
dealer as part of the consideration received, "price" has the same	71576

meaning as in division (H)(1) of this section, reduced by the 71577
credit afforded the consumer by the dealer for the watercraft, 71578
watercraft and trailer, or outboard motor received in trade. As 71579
used in this division, "watercraft" includes an outdrive unit 71580
attached to the watercraft. 71581

~~(4) In the case of the lease of any motor vehicle designed by 71582
the manufacturer to carry a load of not more than one ton, 71583
watercraft, outboard motor, or aircraft, or the lease of any 71584
tangible personal property, other than motor vehicles designed by 71585
the manufacturer to carry a load of more than one ton, to be used 71586
by the lessee primarily for business purposes, the sales tax shall 71587
be collected by the vendor at the time the lease is consummated 71588
and shall be calculated by the vendor on the basis of the total 71589
amount to be paid by the lessee under the lease agreement. If the 71590
total amount of the consideration for the lease includes amounts 71591
that are not calculated at the time the lease is executed, the tax 71592
shall be calculated and collected by the vendor at the time such 71593
amounts are billed to the lessee. In the case of an open end 71594
lease, the sales tax shall be calculated by the vendor on the 71595
basis of the total amount to be paid during the initial fixed term 71596
of the lease, and then for each subsequent renewal period as it 71597
comes due. 71598~~

~~As used in divisions (H)(3) and (4) of this section, "motor 71599
vehicle" has the same meaning as in section 4501.01 of the Revised 71600
Code, and "watercraft" includes an outdrive unit attached to the 71601
watercraft. 71602~~

In the case of a transaction in which telecommunications 71603
service, mobile telecommunications service, or cable television 71604
service is sold in a bundled transaction with other distinct 71605
services for a single price that is not itemized, the entire price 71606
is subject to the taxes levied under sections 5739.02, 5739.021, 71607
5739.023, and 5739.026 of the Revised Code, unless the vendor can 71608

reasonably identify the nontaxable portion from its books and 71609
records kept in the regular course of business. Upon the request 71610
of the consumer, the vendor shall disclose to the consumer the 71611
selling price for the taxable services included in the selling 71612
price for the taxable and nontaxable services billed on an 71613
aggregated basis. The burden of proving any nontaxable charges is 71614
on the vendor. 71615

(I) "Receipts" means the total amount of the prices of the 71616
sales of vendors, provided that cash discounts allowed and taken 71617
on sales at the time they are consummated are not included, minus 71618
any amount deducted as a bad debt pursuant to section 5739.121 of 71619
the Revised Code. "Receipts" does not include the sale price of 71620
property returned or services rejected by consumers when the full 71621
sale price and tax are refunded either in cash or by credit. 71622

(J) "Place of business" means any location at which a person 71623
engages in business. 71624

(K) "Premises" includes any real property or portion thereof 71625
upon which any person engages in selling tangible personal 71626
property at retail or making retail sales and also includes any 71627
real property or portion thereof designated for, or devoted to, 71628
use in conjunction with the business engaged in by such person. 71629

(L) "Casual sale" means a sale of an item of tangible 71630
personal property that was obtained by the person making the sale, 71631
through purchase or otherwise, for the person's own use and was 71632
previously subject to any state's taxing jurisdiction on its sale 71633
or use, and includes such items acquired for the seller's use that 71634
are sold by an auctioneer employed directly by the person for such 71635
purpose, provided the location of such sales is not the 71636
auctioneer's permanent place of business. As used in this 71637
division, "permanent place of business" includes any location 71638
where such auctioneer has conducted more than two auctions during 71639
the year. 71640

(M) "Hotel" means every establishment kept, used, maintained, 71641
advertised, or held out to the public to be a place where sleeping 71642
accommodations are offered to guests, in which five or more rooms 71643
are used for the accommodation of such guests, whether the rooms 71644
are in one or several structures. 71645

(N) "Transient guests" means persons occupying a room or 71646
rooms for sleeping accommodations for less than thirty consecutive 71647
days. 71648

(O) "Making retail sales" means the effecting of transactions 71649
wherein one party is obligated to pay the price and the other 71650
party is obligated to provide a service or to transfer title to or 71651
possession of the item sold. "Making retail sales" does not 71652
include the preliminary acts of promoting or soliciting the retail 71653
sales, other than the distribution of printed matter which 71654
displays or describes and prices the item offered for sale, nor 71655
does it include delivery of a predetermined quantity of tangible 71656
personal property or transportation of property or personnel to or 71657
from a place where a service is performed, regardless of whether 71658
the vendor is a delivery vendor. 71659

(P) "Used directly in the rendition of a public utility 71660
service" means that property ~~which~~ that is to be incorporated into 71661
and will become a part of the consumer's production, transmission, 71662
transportation, or distribution system and that retains its 71663
classification as tangible personal property after such 71664
incorporation; fuel or power used in the production, transmission, 71665
transportation, or distribution system; and tangible personal 71666
property used in the repair and maintenance of the production, 71667
transmission, transportation, or distribution system, including 71668
only such motor vehicles as are specially designed and equipped 71669
for such use. Tangible personal property and services used 71670
primarily in providing highway transportation for hire are not 71671
used directly in ~~providing~~ the rendition of a public utility 71672

service ~~as defined in this division.~~ 71673

(Q) "Refining" means removing or separating a desirable 71674
product from raw or contaminated materials by distillation or 71675
physical, mechanical, or chemical processes. 71676

(R) "Assembly" and "assembling" mean attaching or fitting 71677
together parts to form a product, but do not include packaging a 71678
product. 71679

(S) "Manufacturing operation" means a process in which 71680
materials are changed, converted, or transformed into a different 71681
state or form from which they previously existed and includes 71682
refining materials, assembling parts, and preparing raw materials 71683
and parts by mixing, measuring, blending, or otherwise committing 71684
such materials or parts to the manufacturing process. 71685
"Manufacturing operation" does not include packaging. 71686

(T) "Fiscal officer" means, with respect to a regional 71687
transit authority, the secretary-treasurer thereof, and with 71688
respect to a county that is a transit authority, the fiscal 71689
officer of the county transit board if one is appointed pursuant 71690
to section 306.03 of the Revised Code or the county auditor if the 71691
board of county commissioners operates the county transit system. 71692

(U) "Transit authority" means a regional transit authority 71693
created pursuant to section 306.31 of the Revised Code or a county 71694
in which a county transit system is created pursuant to section 71695
306.01 of the Revised Code. For the purposes of this chapter, a 71696
transit authority must extend to at least the entire area of a 71697
single county. A transit authority that includes territory in more 71698
than one county must include all the area of the most populous 71699
county that is a part of such transit authority. County population 71700
shall be measured by the most recent census taken by the United 71701
States census bureau. 71702

(V) "Legislative authority" means, with respect to a regional 71703

transit authority, the board of trustees thereof, and with respect 71704
to a county that is a transit authority, the board of county 71705
commissioners. 71706

(W) "Territory of the transit authority" means all of the 71707
area included within the territorial boundaries of a transit 71708
authority as they from time to time exist. Such territorial 71709
boundaries must at all times include all the area of a single 71710
county or all the area of the most populous county that is a part 71711
of such transit authority. County population shall be measured by 71712
the most recent census taken by the United States census bureau. 71713

(X) "Providing a service" means providing or furnishing 71714
anything described in division (B)(3) of this section for 71715
consideration. 71716

(Y)(1)(a) "Automatic data processing" means processing of 71717
others' data, including keypunching or similar data entry services 71718
together with verification thereof, or providing access to 71719
computer equipment for the purpose of processing data. 71720

(b) "Computer services" means providing services consisting 71721
of specifying computer hardware configurations and evaluating 71722
technical processing characteristics, computer programming, and 71723
training of computer programmers and operators, provided in 71724
conjunction with and to support the sale, lease, or operation of 71725
taxable computer equipment or systems. 71726

(c) "Electronic information services" means providing access 71727
to computer equipment by means of telecommunications equipment for 71728
the purpose of either of the following: 71729

(i) Examining or acquiring data stored in or accessible to 71730
the computer equipment; 71731

(ii) Placing data into the computer equipment to be retrieved 71732
by designated recipients with access to the computer equipment. 71733

(d) "Automatic data processing, computer services, or
electronic information services" shall not include personal or
professional services.

(2) As used in divisions (B)(3)(e) and (Y)(1) of this
section, "personal and professional services" means all services
other than automatic data processing, computer services, or
electronic information services, including but not limited to:

(a) Accounting and legal services such as advice on tax
matters, asset management, budgetary matters, quality control,
information security, and auditing and any other situation where
the service provider receives data or information and studies,
alters, analyzes, interprets, or adjusts such material;

(b) Analyzing business policies and procedures;

(c) Identifying management information needs;

(d) Feasibility studies, including economic and technical
analysis of existing or potential computer hardware or software
needs and alternatives;

(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;

(f) Developing policies and procedures that document how
business events and transactions are to be authorized, executed,
and controlled;

(g) Testing of business procedures;

(h) Training personnel in business procedure applications;

(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 71764
by any oral, written, graphic, or electronic medium; 71765

(j) Providing debt collection services by any oral, written, 71766
graphic, or electronic means. 71767

The services listed in divisions (Y)(2)(a) to (j) of this 71768
section are not automatic data processing or computer services. 71769

(Z) "Highway transportation for hire" means the 71770
transportation of personal property belonging to others for 71771
consideration by any of the following: 71772

(1) The holder of a permit or certificate issued by this 71773
state or the United States authorizing the holder to engage in 71774
transportation of personal property belonging to others for 71775
consideration over or on highways, roadways, streets, or any 71776
similar public thoroughfare; 71777

(2) A person who engages in the transportation of personal 71778
property belonging to others for consideration over or on 71779
highways, roadways, streets, or any similar public thoroughfare 71780
but who could not have engaged in such transportation on December 71781
11, 1985, unless the person was the holder of a permit or 71782
certificate of the types described in division (Z)(1) of this 71783
section; 71784

(3) A person who leases a motor vehicle to and operates it 71785
for a person described by division (Z)(1) or (2) of this section. 71786

(AA) "Telecommunications service" means the transmission of 71787
any interactive, two-way electromagnetic communications, including 71788
voice, image, data, and information, through the use of any medium 71789
such as wires, cables, microwaves, cellular radio, radio waves, 71790
light waves, or any combination of those or similar media. 71791
"Telecommunications service" includes message toll service even 71792
though the vendor provides the message toll service by means of 71793
wide area transmission type service or private communications 71794

service purchased from another telecommunications service 71795
provider, ~~but~~ and other related fees and ancillary services, 71796
including universal service fees, detailed billing service, 71797
directory assistance, service initiation, voice mail service, and 71798
vertical services, such as caller ID and three-way calling. 71799
"Telecommunications service" does not include any of the 71800
following: 71801

(1) Sales of incoming or outgoing wide area transmission 71802
service or wide area transmission type service, including eight 71803
hundred or eight-hundred-type service, but not including local 71804
exchange service as defined in division (A) of section 4927.01 of 71805
the Revised Code, to the person contracting for the receipt of 71806
that service for business use; 71807

(2) Sales of private communications service to the person 71808
contracting for the receipt of that service ~~that entitles the~~ 71809
~~purchaser to exclusive or priority use of a communications channel~~ 71810
~~or group of channels between exchanges;~~ As used in this division, 71811
"private communications service" means a telecommunication service 71812
that entitles the customer to exclusive or priority use of a 71813
communications channel or group of channels between or among 71814
termination points, regardless of the manner in which such channel 71815
or channels are connected, and includes switching capacity, 71816
extension lines, stations, and any other associated services that 71817
are provided in connection with the use of such channel or 71818
channels. 71819

(3) Sales of telecommunications service billed to persons 71820
before January 1, 2004, by telephone companies subject to the 71821
excise tax imposed by Chapter 5727. of the Revised Code; 71822

(4) Sales of telecommunications service to a provider of 71823
telecommunications service or of mobile telecommunications 71824
service, including access services, for use in providing 71825
telecommunications service or mobile telecommunications service; 71826

(5) Value-added nonvoice services in which computer 71827
processing applications are used to act on the form, content, 71828
code, or protocol of the information to be transmitted; 71829

(6) Transmission of interactive video programming by a cable 71830
television system as defined in section 505.90 of the Revised 71831
Code; 71832

(7) After July 31, 2002, mobile telecommunications service. 71833

(BB) "~~Industrial laundry~~ Laundry and dry cleaning services" 71834
means removing soil or dirt from ~~or supplying~~ towels, linens, ~~or~~ 71835
articles of clothing, or other fabric items that belong to others 71836
and ~~are used in a trade or business~~ supplying towels, linens, 71837
articles of clothing, or other fabric items. "Laundry and dry 71838
cleaning services" does not include the provision of self-service 71839
facilities for use by consumers to remove soil or dirt from 71840
towels, linens, articles of clothing, or other fabric items. 71841

(CC) "Magazines distributed as controlled circulation 71842
publications" means magazines containing at least twenty-four 71843
pages, at least twenty-five per cent editorial content, issued at 71844
regular intervals four or more times a year, and circulated 71845
without charge to the recipient, provided that such magazines are 71846
not owned or controlled by individuals or business concerns which 71847
conduct such publications as an auxiliary to, and essentially for 71848
the advancement of the main business or calling of, those who own 71849
or control them. 71850

(DD) "Landscaping and lawn care service" means the services 71851
of planting, seeding, sodding, removing, cutting, trimming, 71852
pruning, mulching, aerating, applying chemicals, watering, 71853
fertilizing, and providing similar services to establish, promote, 71854
or control the growth of trees, shrubs, flowers, grass, ground 71855
cover, and other flora, or otherwise maintaining a lawn or 71856
landscape grown or maintained by the owner for ornamentation or 71857

other nonagricultural purpose. However, "landscaping and lawn care 71858
service" does not include the providing of such services by a 71859
person who has less than five thousand dollars in sales of such 71860
services during the calendar year. 71861

(EE) "Private investigation and security service" means the 71862
performance of any activity for which the provider of such service 71863
is required to be licensed pursuant to Chapter 4749. of the 71864
Revised Code, or would be required to be so licensed in performing 71865
such services in this state, and also includes the services of 71866
conducting polygraph examinations and of monitoring or overseeing 71867
the activities on or in, or the condition of, the consumer's home, 71868
business, or other facility by means of electronic or similar 71869
monitoring devices. "Private investigation and security service" 71870
does not include special duty services provided by off-duty police 71871
officers, deputy sheriffs, and other peace officers regularly 71872
employed by the state or a political subdivision. 71873

(FF) "Information services" means providing conversation, 71874
giving consultation or advice, playing or making a voice or other 71875
recording, making or keeping a record of the number of callers, 71876
and any other service provided to a consumer by means of a nine 71877
hundred telephone call, except when the nine hundred telephone 71878
call is the means by which the consumer makes a contribution to a 71879
recognized charity. 71880

(GG) "Research and development" means designing, creating, or 71881
formulating new or enhanced products, equipment, or manufacturing 71882
processes, and also means conducting scientific or technological 71883
inquiry and experimentation in the physical sciences with the goal 71884
of increasing scientific knowledge which may reveal the bases for 71885
new or enhanced products, equipment, or manufacturing processes. 71886

(HH) "Qualified research and development equipment" means 71887
capitalized tangible personal property, and leased personal 71888
property that would be capitalized if purchased, used by a person 71889

primarily to perform research and development. Tangible personal 71890
property primarily used in testing, as defined in division (A)(4) 71891
of section 5739.011 of the Revised Code, or used for recording or 71892
storing test results, is not qualified research and development 71893
equipment unless such property is primarily used by the consumer 71894
in testing the product, equipment, or manufacturing process being 71895
created, designed, or formulated by the consumer in the research 71896
and development activity or in recording or storing such test 71897
results. 71898

(II) "Building maintenance and janitorial service" means 71899
cleaning the interior or exterior of a building and any tangible 71900
personal property located therein or thereon, including any 71901
services incidental to such cleaning for which no separate charge 71902
is made. However, "building maintenance and janitorial service" 71903
does not include the providing of such service by a person who has 71904
less than five thousand dollars in sales of such service during 71905
the calendar year. 71906

(JJ) "Employment service" means providing or supplying 71907
personnel, on a temporary or long-term basis, to perform work or 71908
labor under the supervision or control of another, when the 71909
personnel so supplied receive their wages, salary, or other 71910
compensation from the provider of the service. "Employment 71911
service" does not include: 71912

(1) Acting as a contractor or subcontractor, where the 71913
personnel performing the work are not under the direct control of 71914
the purchaser. 71915

(2) Medical and health care services. 71916

(3) Supplying personnel to a purchaser pursuant to a contract 71917
of at least one year between the service provider and the 71918
purchaser that specifies that each employee covered under the 71919
contract is assigned to the purchaser on a permanent basis. 71920

(4) Transactions between members of an affiliated group, as 71921
defined in division (B)(3)(e) of this section. 71922

(KK) "Employment placement service" means locating or finding 71923
employment for a person or finding or locating an employee to fill 71924
an available position. 71925

(LL) "Exterminating service" means eradicating or attempting 71926
to eradicate vermin infestations from a building or structure, or 71927
the area surrounding a building or structure, and includes 71928
activities to inspect, detect, or prevent vermin infestation of a 71929
building or structure. 71930

(MM) "Physical fitness facility service" means all 71931
transactions by which a membership is granted, maintained, or 71932
renewed, including initiation fees, membership dues, renewal fees, 71933
monthly minimum fees, and other similar fees and dues, by a 71934
physical fitness facility such as an athletic club, health spa, or 71935
gymnasium, which entitles the member to use the facility for 71936
physical exercise. 71937

(NN) "Recreation and sports club service" means all 71938
transactions by which a membership is granted, maintained, or 71939
renewed, including initiation fees, membership dues, renewal fees, 71940
monthly minimum fees, and other similar fees and dues, by a 71941
recreation and sports club, which entitles the member to use the 71942
facilities of the organization. "Recreation and sports club" means 71943
an organization that has ownership of, or controls or leases on a 71944
continuing, long-term basis, the facilities used by its members 71945
and includes an aviation club, gun or shooting club, yacht club, 71946
card club, swimming club, tennis club, golf club, country club, 71947
riding club, amateur sports club, or similar organization. 71948

(OO) "Livestock" means farm animals commonly raised for food 71949
or food production, and includes but is not limited to cattle, 71950
sheep, goats, swine, and poultry. "Livestock" does not include 71951

invertebrates, fish, amphibians, reptiles, horses, domestic pets, 71952
animals for use in laboratories or for exhibition, or other 71953
animals not commonly raised for food or food production. 71954

(PP) "Livestock structure" means a building or structure used 71955
exclusively for the housing, raising, feeding, or sheltering of 71956
livestock, and includes feed storage or handling structures and 71957
structures for livestock waste handling. 71958

(QQ) "Horticulture" means the growing, cultivation, and 71959
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 71960
and nursery stock. As used in this division, "nursery stock" has 71961
the same meaning as in section 927.51 of the Revised Code. 71962

(RR) "Horticulture structure" means a building or structure 71963
used exclusively for the commercial growing, raising, or 71964
overwintering of horticultural products, and includes the area 71965
used for stocking, storing, and packing horticultural products 71966
when done in conjunction with the production of those products. 71967

(SS) "Newspaper" means an unbound publication bearing a title 71968
or name that is regularly published, at least as frequently as 71969
biweekly, and distributed from a fixed place of business to the 71970
public in a specific geographic area, and that contains a 71971
substantial amount of news matter of international, national, or 71972
local events of interest to the general public. 71973

(TT) "Professional racing team" means a person that employs 71974
at least twenty full-time employees for the purpose of conducting 71975
a motor vehicle racing business for profit. The person must 71976
conduct the business with the purpose of racing one or more motor 71977
racing vehicles in at least ten competitive professional racing 71978
events each year that comprise all or part of a motor racing 71979
series sanctioned by one or more motor racing sanctioning 71980
organizations. A "motor racing vehicle" means a vehicle for which 71981
the chassis, engine, and parts are designed exclusively for motor 71982

racing, and does not include a stock or production model vehicle 71983
that may be modified for use in racing. For the purposes of this 71984
division: 71985

(1) A "competitive professional racing event" is a motor 71986
vehicle racing event sanctioned by one or more motor racing 71987
sanctioning organizations, at which aggregate cash prizes in 71988
excess of eight hundred thousand dollars are awarded to the 71989
competitors. 71990

(2) "Full-time employee" means an individual who is employed 71991
for consideration for thirty-five or more hours a week, or who 71992
renders any other standard of service generally accepted by custom 71993
or specified by contract as full-time employment. 71994

~~(UU)(1) "Prepaid authorization number" means a numeric or 71995
alphanumeric combination that represents a prepaid account that 71996
can be used by the account holder solely to obtain 71997
telecommunications service, and includes any renewals or increases 71998
in the prepaid account. 71999~~

~~(2) "Prepaid telephone calling card" means a tangible item 72000
that contains a prepaid authorization number that can be used 72001
solely to obtain telecommunications service, and includes any 72002
renewals or increases in the prepaid account. 72003~~

~~(VV) "Lease" or "rental" means any transfer for a 72004
consideration of the possession or control of and right to use, 72005
but not title to, tangible personal property for a fixed period of 72006
time greater than thirty days or for an open ended period of time 72007
with a minimum fixed period of more than thirty days or indefinite 72008
term, for consideration. "Lease" or "rental" includes future 72009
options to purchase or extend, and agreements described in 26 72010
U.S.C. 7701(h)(1) covering motor vehicles and trailers where the 72011
amount of consideration may be increased or decreased by reference 72012
to the amount realized upon the sale or disposition of the 72013~~

property. "Lease" or "rental" does not include: 72014

(a) A transfer of possession or control of tangible personal 72015
property under a security agreement or a deferred payment plan 72016
that requires the transfer of title upon completion of the 72017
required payments; 72018

(b) A transfer of possession or control of tangible personal 72019
property under an agreement that requires the transfer of title 72020
upon completion of required payments and payment of an option 72021
price that does not exceed the greater of one hundred dollars or 72022
one per cent of the total required payments; 72023

(c) Providing tangible personal property along with an 72024
operator for a fixed or indefinite period of time, if the operator 72025
is necessary for the property to perform as designed. For purposes 72026
of this division, the operator must do more than maintain, 72027
inspect, or set-up the tangible personal property. 72028

(2) "Lease" and "rental," as defined in division (UU) of this 72029
section, shall not apply to leases or rentals that exist before 72030
the effective date of this amendment. 72031

(3) "Lease" and "rental" have the same meaning as in division 72032
(UU)(1) of this section regardless of whether a transaction is 72033
characterized as a lease or rental under generally accepted 72034
accounting principles, the Internal Revenue Code, Title XIII of 72035
the Revised Code, or other federal, state, or local laws. 72036

~~(WW)~~(VV) "Mobile telecommunications service" has the same 72037
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 72038
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 72039
amended, and includes related fees and ancillary services, 72040
including universal service fees, detailed billing service, 72041
directory assistance, service initiation, voice mail service, and 72042
vertical services, such as caller ID and three-way calling. 72043

~~(XX)~~(WW) "Certified service provider" has the same meaning as 72044

in section 5740.01 of the Revised Code. 72045

(XX) "Satellite broadcasting service" means the distribution 72046
or broadcasting of programming or services by satellite directly 72047
to the subscriber's premises without the use of ground receiving 72048
or distribution equipment, except at the subscriber's premises or 72049
in the uplink process to the satellite, and includes all service 72050
and rental charges, premium channels or other special services, 72051
installation and repair service charges, and any other charges 72052
having any connection with the provision of the satellite 72053
broadcasting service. 72054

(YY) "Tangible personal property" means personal property 72055
that can be seen, weighed, measured, felt, or touched, or that is 72056
in any other manner perceptible to the senses. For purposes of 72057
this chapter and Chapter 5741. of the Revised Code, "tangible 72058
personal property" includes motor vehicles, electricity, water, 72059
gas, steam, and prewritten computer software. 72060

(ZZ) "Direct mail" means printed material delivered or 72061
distributed by United States mail or other delivery service to a 72062
mass audience or to addressees on a mailing list provided by the 72063
consumer or at the direction of the consumer when the cost of the 72064
items are not billed directly to the recipients. "Direct mail" 72065
includes tangible personal property supplied directly or 72066
indirectly by the consumer to the direct mail vendor for inclusion 72067
in the package containing the printed material. "Direct mail" does 72068
not include multiple items of printed material delivered to a 72069
single address. 72070

(AAA) "Computer" means an electronic device that accepts 72071
information in digital or similar form and manipulates it for a 72072
result based on a sequence of instructions. 72073

(BBB) "Computer software" means a set of coded instructions 72074
designed to cause a computer or automatic data processing 72075

equipment to perform a task. 72076

(CCC) "Delivered electronically" means delivery of computer software from the seller to the purchaser by means other than tangible storage media. 72077
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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 which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement shall not constitute prewritten computer software. 72080
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(EEE)(1) Prior to July 1, 2004, "food" means 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 products, fruits, fruit products, and pure fruit juices, condiments, sugar and sugar products, coffee and coffee substitutes, tea, and cocoa and cocoa products. "Food" does not include spirituous liquors, wine, mixed beverages, or 72101
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beer; soft drinks; sodas and beverages that are ordinarily 72108
dispensed at or in connection with bars and soda fountains, other 72109
than coffee, tea, and cocoa; root beer and root beer extracts; 72110
malt and malt extracts; mineral oils, cod liver oils, and halibut 72111
liver oil; medicines, including tonics, vitamin preparations, and 72112
other products sold primarily for their medicinal properties; and 72113
water, including mineral, bottled, and carbonated waters, and ice. 72114

(2) On and after July 1, 2004, "food" means substances, 72115
whether in liquid, concentrated, solid, frozen, dried, or 72116
dehydrated form, that are sold for ingestion or chewing by humans 72117
and are consumed for their taste or nutritional value. "Food" does 72118
not include alcoholic beverages, dietary supplements, soft drinks, 72119
or tobacco. 72120

(3) As used in division (EEE)(2) of this section: 72121

(a) "Alcoholic beverages" means beverages that are suitable 72122
for human consumption and contain one-half of one per cent or more 72123
of alcohol by volume. 72124

(b) "Dietary supplements" means any product, other than 72125
tobacco, that is intended to supplement the diet and that is 72126
intended for ingestion in tablet, capsule, powder, softgel, 72127
gelcap, or liquid form, or, if not intended for ingestion in such 72128
a form, is not represented as conventional food for use as a sole 72129
item of a meal or of the diet; that is required to be labeled as a 72130
dietary supplement, identifiable by the "supplement facts" box 72131
found on the label, as required by 21 C.F.R. 101.36; and that 72132
contains one or more of the following dietary ingredients: 72133

(i) A vitamin; 72134

(ii) A mineral; 72135

(iii) An herb or other botanical; 72136

(iv) An amino acid; 72137

(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; 72138
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(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE)(3)(b)(i) to (v) of this section. 72140
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(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. 72143
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(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco. 72148
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(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. 72150
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(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. 72159
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(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 a medical purpose, generally is not useful to a person in the absence of illness or injury, and is not worn in or on the body. 72163
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(III) "Mobility enhancing equipment" means equipment, including repair and replacement parts for such equipment, that is primarily and customarily used to provide or increase the ability to move from one place to another and is appropriate for use either in a home or a motor vehicle, that is not generally used by persons with normal mobility, and that does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

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(JJJ) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the human body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction, or support a weak or deformed portion of the body. As used in this division, "prosthetic device" does not include corrective eyeglasses, contact lenses, or dental prosthesis.

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(KKK)(1) "Fractional aircraft ownership program" means a program in which persons within an affiliated group sell and manage fractional ownership program aircraft, provided that at least three hundred airworthy aircraft are operated in the program and the program meets all of the following criteria:

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(a) Management services are provided by at least one program manager within an affiliated group on behalf of the fractional owners.

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(b) Each program aircraft is owned or possessed by at least one fractional owner.

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(c) Each fractional owner owns or possesses at least a one-sixteenth interest in at least one fixed-wing program aircraft.

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(d) A dry-lease aircraft interchange arrangement is in effect among all of the fractional owners.

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<u>(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program.</u>	72198
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<u>(2) As used in division (KKK)(1) of this section:</u>	72201
<u>(a) "Affiliated group" has the same meaning as in division (B)(3)(e) of this section.</u>	72202
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<u>(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.</u>	72204
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<u>(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.</u>	72208
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<u>(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.</u>	72215
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<u>(e) "Program manager" means the person that offers management</u>	72228

services to fractional owners pursuant to a management services 72229
agreement under division (KKK)(1)(e) of this section. 72230

Sec. 5739.011. (A) As used in this section: 72231

(1) "Manufacturer" means a person who is engaged in 72232
manufacturing, processing, assembling, or refining a product for 72233
sale. 72234

(2) "Manufacturing facility" means a single location where a 72235
manufacturing operation is conducted, including locations 72236
consisting of one or more buildings or structures in a contiguous 72237
area owned or controlled by the manufacturer. 72238

(3) "Materials handling" means the movement of the product 72239
being or to be manufactured, during which movement the product is 72240
not undergoing any substantial change or alteration in its state 72241
or form. 72242

(4) "Testing" means a process or procedure to identify the 72243
properties or assure the quality of a material or product. 72244

(5) "Completed product" means a manufactured item that is in 72245
the form and condition as it will be sold by the manufacturer. An 72246
item is completed when all processes that change or alter its 72247
state or form or enhance its value are finished, even though the 72248
item subsequently will be tested to ensure its quality or be 72249
packaged for storage or shipment. 72250

(6) "Continuous manufacturing operation" means the process in 72251
which raw materials or components are moved through the steps 72252
whereby manufacturing occurs. Materials handling of raw materials 72253
or parts from the point of receipt or preproduction storage or of 72254
a completed product, to or from storage, to or from packaging, or 72255
to the place from which the completed product will be shipped, is 72256
not a part of a continuous manufacturing operation. 72257

(B) For purposes of division ~~(E)(9)~~(B)(43)(g) of section 72258

5739.01 <u>5739.02</u> of the Revised Code, the "thing transferred"	72259
includes, but is not limited to, any of the following:	72260
(1) Production machinery and equipment that act upon the	72261
product or machinery and equipment that treat the materials or	72262
parts in preparation for the manufacturing operation;	72263
(2) Materials handling equipment that moves the product	72264
through a continuous manufacturing operation; equipment that	72265
temporarily stores the product during the manufacturing operation;	72266
or, excluding motor vehicles licensed to operate on public	72267
highways, equipment used in intraplant or interplant transfers of	72268
work in process where the plant or plants between which such	72269
transfers occur are manufacturing facilities operated by the same	72270
person;	72271
(3) Catalysts, solvents, water, acids, oil, and similar	72272
consumables that interact with the product and that are an	72273
integral part of the manufacturing operation;	72274
(4) Machinery, equipment, and other tangible personal	72275
property used during the manufacturing operation that control,	72276
physically support, produce power for, lubricate, or are otherwise	72277
necessary for the functioning of production machinery and	72278
equipment and the continuation of the manufacturing operation;	72279
(5) Machinery, equipment, fuel, power, material, parts, and	72280
other tangible personal property used to manufacture machinery,	72281
equipment, or other tangible personal property used in	72282
manufacturing a product for sale;	72283
(6) Machinery, equipment, and other tangible personal	72284
property used by a manufacturer to test raw materials, the product	72285
being manufactured, or the completed product;	72286
(7) Machinery and equipment used to handle or temporarily	72287
store scrap that is intended to be reused in the manufacturing	72288
operation at the same manufacturing facility;	72289

(8) Coke, gas, water, steam, and similar substances used in 72290
the manufacturing operation; machinery and equipment used for, and 72291
fuel consumed in, producing or extracting those substances; 72292
machinery, equipment, and other tangible personal property used to 72293
treat, filter, pump, or otherwise make the substance suitable for 72294
use in the manufacturing operation; and machinery and equipment 72295
used for, and fuel consumed in, producing electricity for use in 72296
the manufacturing operation; 72297

(9) Machinery, equipment, and other tangible personal 72298
property used to transport or transmit electricity, coke, gas, 72299
water, steam, or similar substances used in the manufacturing 72300
operation from the point of generation, if produced by the 72301
manufacturer, or from the point where the substance enters the 72302
manufacturing facility, if purchased by the manufacturer, to the 72303
manufacturing operation; 72304

(10) Machinery, equipment, and other tangible personal 72305
property that treats, filters, cools, refines, or otherwise 72306
renders water, steam, acid, oil, solvents, or similar substances 72307
used in the manufacturing operation reusable, provided that the 72308
substances are intended for reuse and not for disposal, sale, or 72309
transportation from the manufacturing facility; 72310

(11) Parts, components, and repair and installation services 72311
for items described in division (B) of this section. 72312

(C) For purposes of division ~~(E)(9)(B)(43)(g)~~ of section 72313
~~5739.01~~ 5739.02 of the Revised Code, the "thing transferred" does 72314
not include any of the following: 72315

(1) Tangible personal property used in administrative, 72316
personnel, security, inventory control, record-keeping, ordering, 72317
billing, or similar functions; 72318

(2) Tangible personal property used in storing raw materials 72319
or parts prior to the commencement of the manufacturing operation 72320

or used to handle or store a completed product, including storage 72321
that actively maintains a completed product in a marketable state 72322
or form; 72323

(3) Tangible personal property used to handle or store scrap 72324
or waste intended for disposal, sale, or other disposition, other 72325
than reuse in the manufacturing operation at the same 72326
manufacturing facility; 72327

(4) Tangible personal property that is or is to be 72328
incorporated into realty; 72329

(5) Machinery, equipment, and other tangible personal 72330
property used for ventilation, dust or gas collection, humidity or 72331
temperature regulation, or similar environmental control, except 72332
machinery, equipment, and other tangible personal property that 72333
totally regulates the environment in a special and limited area of 72334
the manufacturing facility where the regulation is essential for 72335
production to occur; 72336

(6) Tangible personal property used for the protection and 72337
safety of workers, unless the property is attached to or 72338
incorporated into machinery and equipment used in a continuous 72339
manufacturing operation; 72340

(7) Tangible personal property used to store fuel, water, 72341
solvents, acid, oil, or similar items consumed in the 72342
manufacturing operation; 72343

(8) Machinery, equipment, and other tangible personal 72344
property used to clean, repair, or maintain real or personal 72345
property in the manufacturing facility; 72346

(9) Motor vehicles registered for operation on public 72347
highways. 72348

(D) For purposes of division ~~(E)(9)~~(B)(43)(g) of section 72349
~~5739.01~~ 5739.02 of the Revised Code, if the "thing transferred" is 72350

a machine used by a manufacturer in both a taxable and an exempt 72351
manner, it shall be totally taxable or totally exempt from 72352
taxation based upon its quantified primary use. If the "things 72353
transferred" are fungibles, they shall be taxed based upon the 72354
proportion of the fungibles used in a taxable manner. 72355

Sec. 5739.012. (A) As used in this section: 72356

(1) "Sham transaction" means a transaction or series of 72357
transactions without economic substance because there is no 72358
business purpose or expectation of profit other than obtaining tax 72359
benefits. 72360

(2) "Tax" includes only those taxes levied by or pursuant to 72361
Chapter 5739. of the Revised Code that are required to be 72362
calculated and collected as prescribed by division ~~(H)(4)(A)(2)~~ of 72363
section ~~5739.01~~ 5739.02 of the Revised Code. 72364

(3) "Taxpayer" includes any person required to pay or to 72365
collect and remit tax. 72366

(B)(1) The tax commissioner may disregard any sham 72367
transaction and ascertain a taxpayer's liability for tax without 72368
the sham transaction. 72369

(2) A lease with a renewal clause and a termination penalty 72370
or similar provision that applies if the renewal clause is not 72371
exercised is presumed to be a sham transaction. In such a case, 72372
the tax shall be calculated and paid on the basis of the entire 72373
length of the lease period, including any renewal periods, until 72374
the termination penalty or similar provision no longer applies. 72375
The taxpayer shall bear the burden of establishing, by a 72376
preponderance of the evidence, that the transaction or series of 72377
transactions is not a sham transaction. 72378

(C) The tax commissioner may prescribe rules to administer 72379
this section. 72380

Sec. 5739.02. For the purpose of providing revenue with which 72381
to meet the needs of the state, for the use of the general revenue 72382
fund of the state, for the purpose of securing a thorough and 72383
efficient system of common schools throughout the state, for the 72384
purpose of affording revenues, in addition to those from general 72385
property taxes, permitted under constitutional limitations, and 72386
from other sources, for the support of local governmental 72387
functions, and for the purpose of reimbursing the state for the 72388
expense of administering this chapter, an excise tax is hereby 72389
levied on each retail sale made in this state. 72390

(A)(1) ~~The tax shall be collected pursuant to the schedules~~ 72391
~~as provided~~ in section 5739.025 of the Revised Code, ~~provided that~~ 72392
~~on and after July 1, 2003, and on or before June 30, 2005, the~~ 72393
~~rate of tax shall be six per cent. On and after July 1, 2005, the~~ 72394
~~rate of the tax shall be five per cent. The~~ 72395

~~The~~ tax applies and is collectible when the sale is made, 72396
regardless of the time when the price is paid or delivered. 72397

~~In~~ (2) ~~In the case of the lease or rental, with a fixed term~~ 72398
~~of more than thirty days or an indefinite term with a minimum~~ 72399
~~period of more than thirty days, of any motor vehicles designed by~~ 72400
~~the manufacturer to carry a load of not more than one ton,~~ 72401
~~watercraft, outboard motor, or aircraft, or of any tangible~~ 72402
~~personal property, other than motor vehicles designed by the~~ 72403
~~manufacturer to carry a load of more than one ton, to be used by~~ 72404
~~the lessee or renter primarily for business purposes, the tax~~ 72405
~~shall be collected by the vendor at the time the lease or rental~~ 72406
~~is consummated and shall be calculated by the vendor on the basis~~ 72407
~~of the total amount to be paid by the lessee or renter under the~~ 72408
~~lease agreement. If the total amount of the consideration for the~~ 72409
~~lease or rental includes amounts that are not calculated at the~~ 72410
~~time the lease or rental is executed, the tax shall be calculated~~ 72411

and collected by the vendor at the time such amounts are billed to 72412
the lessee or renter. In the case of an open-end lease or rental, 72413
the tax shall be calculated by the vendor on the basis of the 72414
total amount to be paid during the initial fixed term of the lease 72415
or rental, and for each subsequent renewal period as it comes due. 72416
As used in this division, "motor vehicle" has the same meaning as 72417
in section 4501.01 of the Revised Code, and "watercraft" includes 72418
an outdrive unit attached to the watercraft. 72419

(3) Except as provided in division (A)(2) of this section, in 72420
the case of a sale, the price of which consists in whole or in 72421
part of ~~rentals for the use of the thing transferred~~ the lease or 72422
rental of tangible personal property, the tax, ~~as regards those~~ 72423
~~rentals,~~ shall be measured by the installments of ~~those rentals~~ 72424
that lease or rental. 72425

(4) In the case of a sale of a physical fitness facility 72426
service or recreation and sports club service defined under 72427
division (MM) or (NN) of section 5739.01 of the Revised Code, the 72428
price of which consists in whole or in part of a membership for 72429
the receipt of the benefit of the service, the tax applicable to 72430
the sale shall be measured by the installments thereof. 72431

(B) The tax does not apply to the following: 72432

(1) Sales to the state or any of its political subdivisions, 72433
or to any other state or its political subdivisions if the laws of 72434
that state exempt from taxation sales made to this state and its 72435
political subdivisions; 72436

(2) Sales of food for human consumption off the premises 72437
where sold; 72438

(3) Sales of food sold to students only in a cafeteria, 72439
dormitory, fraternity, or sorority maintained in a private, 72440
public, or parochial school, college, or university; 72441

(4) Sales of newspapers and of magazine subscriptions and 72442

sales or transfers of magazines distributed as controlled	72443
circulation publications;	72444
(5) The furnishing, preparing, or serving of meals without	72445
charge by an employer to an employee provided the employer records	72446
the meals as part compensation for services performed or work	72447
done;	72448
(6) Sales of motor fuel upon receipt, use, distribution, or	72449
sale of which in this state a tax is imposed by the law of this	72450
state, but this exemption shall not apply to the sale of motor	72451
fuel on which a refund of the tax is allowable under <u>division (A)</u>	72452
<u>of</u> section 5735.14 of the Revised Code; and the tax commissioner	72453
may deduct the amount of tax levied by this section applicable to	72454
the price of motor fuel when granting a refund of motor fuel tax	72455
pursuant to <u>division (A) of</u> section 5735.14 of the Revised Code	72456
and shall cause the amount deducted to be paid into the general	72457
revenue fund of this state;	72458
(7) Sales of natural gas by a natural gas company, of water	72459
by a water-works company, or of steam by a heating company, if in	72460
each case the thing sold is delivered to consumers through pipes	72461
or conduits, and all sales of communications services by a	72462
telephone or telegraph company, all terms as defined in section	72463
5727.01 of the Revised Code, <u>and sales of electricity delivered</u>	72464
<u>through wires</u> ;	72465
(8) Casual sales by a person, or auctioneer employed directly	72466
by the person to conduct such sales, except as to such sales of	72467
motor vehicles, watercraft or outboard motors required to be	72468
titled under section 1548.06 of the Revised Code, watercraft	72469
documented with the United States coast guard, snowmobiles, and	72470
all-purpose vehicles as defined in section 4519.01 of the Revised	72471
Code;	72472
(9) Sales of services or tangible personal property, other	72473

than motor vehicles, mobile homes, and manufactured homes, by 72474
churches, organizations exempt from taxation under section 72475
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 72476
organizations operated exclusively for charitable purposes as 72477
defined in division (B)(12) of this section, provided that the 72478
number of days on which such tangible personal property or 72479
services, other than items never subject to the tax, are sold does 72480
not exceed six in any calendar year. If the number of days on 72481
which such sales are made exceeds six in any calendar year, the 72482
church or organization shall be considered to be engaged in 72483
business and all subsequent sales by it shall be subject to the 72484
tax. In counting the number of days, all sales by groups within a 72485
church or within an organization shall be considered to be sales 72486
of that church or organization, except that sales made by separate 72487
student clubs and other groups of students of a primary or 72488
secondary school, and sales made by a parent-teacher association, 72489
booster group, or similar organization that raises money to 72490
support or fund curricular or extracurricular activities of a 72491
primary or secondary school, shall not be considered to be sales 72492
of such school, and sales by each such club, group, association, 72493
or organization shall be counted separately for purposes of the 72494
six-day limitation. This division does not apply to sales by a 72495
noncommercial educational radio or television broadcasting 72496
station. 72497

(10) Sales not within the taxing power of this state under 72498
the Constitution of the United States; 72499

(11) The Except for transactions that are sales under 72500
division (B)(3)(s) of section 5739.01 of the Revised Code, the 72501
transportation of persons or property, unless the transportation 72502
is by a private investigation and security service; 72503

(12) Sales of tangible personal property or services to 72504
churches, to organizations exempt from taxation under section 72505

501(c)(3) of the Internal Revenue Code of 1986, and to any other 72506
nonprofit organizations operated exclusively for charitable 72507
purposes in this state, no part of the net income of which inures 72508
to the benefit of any private shareholder or individual, and no 72509
substantial part of the activities of which consists of carrying 72510
on propaganda or otherwise attempting to influence legislation; 72511
sales to offices administering one or more homes for the aged or 72512
one or more hospital facilities exempt under section 140.08 of the 72513
Revised Code; and sales to organizations described in division (D) 72514
of section 5709.12 of the Revised Code. 72515

"Charitable purposes" means the relief of poverty; the 72516
improvement of health through the alleviation of illness, disease, 72517
or injury; the operation of an organization exclusively for the 72518
provision of professional, laundry, printing, and purchasing 72519
services to hospitals or charitable institutions; the operation of 72520
a home for the aged, as defined in section 5701.13 of the Revised 72521
Code; the operation of a radio or television broadcasting station 72522
that is licensed by the federal communications commission as a 72523
noncommercial educational radio or television station; the 72524
operation of a nonprofit animal adoption service or a county 72525
humane society; the promotion of education by an institution of 72526
learning that maintains a faculty of qualified instructors, 72527
teaches regular continuous courses of study, and confers a 72528
recognized diploma upon completion of a specific curriculum; the 72529
operation of a parent-teacher association, booster group, or 72530
similar organization primarily engaged in the promotion and 72531
support of the curricular or extracurricular activities of a 72532
primary or secondary school; the operation of a community or area 72533
center in which presentations in music, dramatics, the arts, and 72534
related fields are made in order to foster public interest and 72535
education therein; the production of performances in music, 72536
dramatics, and the arts; or the promotion of education by an 72537
organization engaged in carrying on research in, or the 72538

dissemination of, scientific and technological knowledge and 72539
information primarily for the public. 72540

Nothing in this division shall be deemed to exempt sales to 72541
any organization for use in the operation or carrying on of a 72542
trade or business, or sales to a home for the aged for use in the 72543
operation of independent living facilities as defined in division 72544
(A) of section 5709.12 of the Revised Code. 72545

(13) Building and construction materials and services sold to 72546
construction contractors for incorporation into a structure or 72547
improvement to real property under a construction contract with 72548
this state or a political subdivision of this state, or with the 72549
United States government or any of its agencies; building and 72550
construction materials and services sold to construction 72551
contractors for incorporation into a structure or improvement to 72552
real property that are accepted for ownership by this state or any 72553
of its political subdivisions, or by the United States government 72554
or any of its agencies at the time of completion of the structures 72555
or improvements; building and construction materials sold to 72556
construction contractors for incorporation into a horticulture 72557
structure or livestock structure for a person engaged in the 72558
business of horticulture or producing livestock; building 72559
materials and services sold to a construction contractor for 72560
incorporation into a house of public worship or religious 72561
education, or a building used exclusively for charitable purposes 72562
under a construction contract with an organization whose purpose 72563
is as described in division (B)(12) of this section; building 72564
materials and services sold to a construction contractor for 72565
incorporation into a building under a construction contract with 72566
an organization exempt from taxation under section 501(c)(3) of 72567
the Internal Revenue Code of 1986 when the building is to be used 72568
exclusively for the organization's exempt purposes; building and 72569
construction materials sold for incorporation into the original 72570

construction of a sports facility under section 307.696 of the Revised Code; and building and construction materials and services sold to a construction contractor for incorporation into real property outside this state if such materials and services, when sold to a construction contractor in the state in which the real property is located for incorporation into real property in that state, would be exempt from a tax on sales levied by that state;

(14) Sales of ships or vessels or rail rolling stock used or to be used principally in interstate or foreign commerce, and repairs, alterations, fuel, and lubricants for such ships or vessels or rail rolling stock;

(15) Sales to persons engaged in any of the activities mentioned in division ~~(E)(2)(B)(43)(a)~~ or ~~(9)(g)~~ of this section ~~5739.01 of the Revised Code~~, to persons engaged in making retail sales, or to persons who purchase for sale from a manufacturer tangible personal property that was produced by the manufacturer in accordance with specific designs provided by the purchaser, of packages, including material, labels, and parts for packages, and of machinery, equipment, and material for use primarily in packaging tangible personal property produced for sale, including any machinery, equipment, and supplies used to make labels or packages, to prepare packages or products for labeling, or to label packages or products, by or on the order of the person doing the packaging, or sold at retail. "Packages" includes bags, baskets, cartons, crates, boxes, cans, bottles, bindings, wrappings, and other similar devices and containers, and "packaging" means placing therein.

(16) Sales of food to persons using food stamp benefits to purchase the food. As used in this division ~~(B)(16)~~ of ~~this section~~, "food" has the same meaning as in the "Food Stamp Act of 1977," 91 Stat. 958, 7 U.S.C. 2012, as amended, and federal regulations adopted pursuant to that act.

(17) Sales to persons engaged in farming, agriculture, horticulture, or floriculture, of tangible personal property for use or consumption directly in the production by farming, agriculture, horticulture, or floriculture of other tangible personal property for use or consumption directly in the production of tangible personal property for sale by farming, agriculture, horticulture, or floriculture; or material and parts for incorporation into any such tangible personal property for use or consumption in production; and of tangible personal property for such use or consumption in the conditioning or holding of products produced by and for such use, consumption, or sale by persons engaged in farming, agriculture, horticulture, or floriculture, except where such property is incorporated into real property;

(18) Sales of drugs for a human being, dispensed by a licensed pharmacist upon the order of a licensed health professional authorized to prescribe drugs to a human being, as the term "licensed health professional authorized to prescribe drugs" is defined in section 4729.01 of the Revised Code pursuant to a prescription; insulin as recognized in the official United States pharmacopoeia; urine and blood testing materials when used by diabetics or persons with hypoglycemia to test for glucose or acetone; hypodermic syringes and needles when used by diabetics for insulin injections; ~~epoetin alfa when purchased for use in the treatment of persons with end-stage renal disease;~~ hospital beds when purchased for use by persons with medical problems for medical purposes; and medical oxygen and medical oxygen-dispensing equipment when purchased for use by persons with medical problems for medical purposes;

(19)(a) Sales of ~~artificial limbs or portion thereof, breast prostheses, and other prosthetic devices for humans; braces or other devices for supporting weakened or nonfunctioning parts of~~

~~the human body; crutches or other devices to aid human
perambulation; and items of tangible personal property used to
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 72667
use in the retail business of the retailer outside of this state 72668
and if possession is taken from the manufacturer by the purchaser 72669
within this state for the sole purpose of immediately removing the 72670
same from this state in a vehicle owned by the purchaser; 72671

(22) Sales of services provided by the state or any of its 72672
political subdivisions, agencies, instrumentalities, institutions, 72673
or authorities, or by governmental entities of the state or any of 72674
its political subdivisions, agencies, instrumentalities, 72675
institutions, or authorities; 72676

(23) Sales of motor vehicles to nonresidents of this state 72677
upon the presentation of an affidavit executed in this state by 72678
the nonresident purchaser affirming that the purchaser is a 72679
nonresident of this state, that possession of the motor vehicle is 72680
taken in this state for the sole purpose of immediately removing 72681
it from this state, that the motor vehicle will be permanently 72682
titled and registered in another state, and that the motor vehicle 72683
will not be used in this state; 72684

(24) Sales to persons engaged in the preparation of eggs for 72685
sale of tangible personal property used or consumed directly in 72686
such preparation, including such tangible personal property used 72687
for cleaning, sanitizing, preserving, grading, sorting, and 72688
classifying by size; packages, including material and parts for 72689
packages, and machinery, equipment, and material for use in 72690
packaging eggs for sale; and handling and transportation equipment 72691
and parts therefor, except motor vehicles licensed to operate on 72692
public highways, used in intraplant or interplant transfers or 72693
shipment of eggs in the process of preparation for sale, when the 72694
plant or plants within or between which such transfers or 72695
shipments occur are operated by the same person. "Packages" 72696
includes containers, cases, baskets, flats, fillers, filler flats, 72697
cartons, closure materials, labels, and labeling materials, and 72698

"packaging" means placing therein.	72699
(25)(a) Sales of water to a consumer for residential use,	72700
except the sale of bottled water, distilled water, mineral water,	72701
carbonated water, or ice;	72702
(b) Sales of water by a nonprofit corporation engaged	72703
exclusively in the treatment, distribution, and sale of water to	72704
consumers, if such water is delivered to consumers through pipes	72705
or tubing.	72706
(26) Fees charged for inspection or reinspection of motor	72707
vehicles under section 3704.14 of the Revised Code;	72708
(27) Sales to persons licensed to conduct a food service	72709
operation pursuant to section 3717.43 of the Revised Code, of	72710
tangible personal property primarily used directly for the	72711
following:	72712
(a) To prepare food for human consumption for sale;	72713
(b) To preserve food that has been or will be prepared for	72714
human consumption for sale by the food service operator, not	72715
including tangible personal property used to display food for	72716
selection by the consumer;	72717
(c) To clean tangible personal property used to prepare or	72718
serve food for human consumption for sale.	72719
(28) Sales of animals by nonprofit animal adoption services	72720
or county humane societies;	72721
(29) Sales of services to a corporation described in division	72722
(A) of section 5709.72 of the Revised Code, and sales of tangible	72723
personal property that qualifies for exemption from taxation under	72724
section 5709.72 of the Revised Code;	72725
(30) Sales and installation of agricultural land tile, as	72726
defined in division (B)(5)(a) of section 5739.01 of the Revised	72727
Code;	72728

(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; 72729
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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; 72732
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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; 72736
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(34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite broadcasting 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 broadcasting service. 72741
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(35) Sales of investment metal bullion and investment coins. "Investment metal bullion" means any elementary precious metal that has been put through a process of smelting or refining, 72757
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including, but not limited to, gold, silver, platinum, and 72760
palladium, and which is in such state or condition that its value 72761
depends upon its content and not upon its form. "Investment metal 72762
bullion" does not include fabricated precious metal that has been 72763
processed or manufactured for one or more specific and customary 72764
industrial, professional, or artistic uses. "Investment coins" 72765
means numismatic coins or other forms of money and legal tender 72766
manufactured of gold, silver, platinum, palladium, or other metal 72767
under the laws of the United States or any foreign nation with a 72768
fair market value greater than any statutory or nominal value of 72769
such coins. 72770

(36)(a) Sales where the purpose of the consumer is to use or 72771
consume the things transferred in making retail sales and 72772
consisting of newspaper inserts, catalogues, coupons, flyers, gift 72773
certificates, or other advertising material that prices and 72774
describes tangible personal property offered for retail sale. 72775

(b) Sales to direct marketing vendors of preliminary 72776
materials such as photographs, artwork, and typesetting that will 72777
be used in printing advertising material; of printed matter that 72778
offers free merchandise or chances to win sweepstake prizes and 72779
that is mailed to potential customers with advertising material 72780
described in division (B)(36)(a) of this section; and of equipment 72781
such as telephones, computers, facsimile machines, and similar 72782
tangible personal property primarily used to accept orders for 72783
direct marketing retail sales. 72784

(c) Sales of automatic food vending machines that preserve 72785
food with a shelf life of forty-five days or less by refrigeration 72786
and dispense it to the consumer. 72787

For purposes of division (B)(36) of this section, "direct 72788
marketing" means the method of selling where consumers order 72789
tangible personal property by United States mail, delivery 72790
service, or telecommunication and the vendor delivers or ships the 72791

tangible personal property sold to the consumer from a warehouse, 72792
catalogue distribution center, or similar fulfillment facility by 72793
means of the United States mail, delivery service, or common 72794
carrier. 72795

(37) Sales to a person engaged in the business of 72796
horticulture or producing livestock of materials to be 72797
incorporated into a horticulture structure or livestock structure; 72798

~~(38) The sale of a motor vehicle that is used exclusively for 72799
a vanpool ridesharing arrangement to persons participating in the 72800
vanpool ridesharing arrangement when the vendor is selling the 72801
vehicle pursuant to a contract between the vendor and the 72802
department of transportation; 72803~~

~~(39)~~ Sales of personal computers, computer monitors, computer 72804
keyboards, modems, and other peripheral computer equipment to an 72805
individual who is licensed or certified to teach in an elementary 72806
or a secondary school in this state for use by that individual in 72807
preparation for teaching elementary or secondary school students; 72808

~~(40)~~(39) Sales to a professional racing team of any of the 72809
following: 72810

(a) Motor racing vehicles; 72811

(b) Repair services for motor racing vehicles; 72812

(c) Items of property that are attached to or incorporated in 72813
motor racing vehicles, including engines, chassis, and all other 72814
components of the vehicles, and all spare, replacement, and 72815
rebuilt parts or components of the vehicles; except not including 72816
tires, consumable fluids, paint, and accessories consisting of 72817
instrumentation sensors and related items added to the vehicle to 72818
collect and transmit data by means of telemetry and other forms of 72819
communication. 72820

~~(41)~~(40) Sales of used manufactured homes and used mobile 72821

homes, as defined in section 5739.0210 of the Revised Code, made 72822
on or after January 1, 2000; 72823

~~(42)~~(41) Sales of tangible personal property and services to 72824
a provider of electricity used or consumed directly and primarily 72825
in generating, transmitting, or distributing electricity for use 72826
by others, including property that is or is to be incorporated 72827
into and will become a part of the consumer's production, 72828
transmission, or distribution system and that retains its 72829
classification as tangible personal property after incorporation; 72830
fuel or power used in the production, transmission, or 72831
distribution of electricity; and tangible personal property and 72832
services used in the repair and maintenance of the production, 72833
transmission, or distribution system, including only those motor 72834
vehicles as are specially designed and equipped for such use. The 72835
exemption provided in this division shall be in lieu of all other 72836
~~exceptions~~ exemptions in division ~~(E)(2)~~(B)(43)(a) of this section 72837
~~5739.01 of the Revised Code~~ to which a provider of electricity may 72838
otherwise be entitled based on the use of the tangible personal 72839
property or service purchased in generating, transmitting, or 72840
distributing electricity. 72841

(42) Sales to a person providing services under division 72842
(B)(3)(s) of section 5739.01 of the Revised Code of tangible 72843
personal property and services used directly and primarily in 72844
providing taxable services under that section. 72845

(43) Sales where the purpose of the purchaser is to do any of 72846
the following: 72847

(a) To incorporate the thing transferred as a material or a 72848
part into tangible personal property to be produced for sale by 72849
manufacturing, assembling, processing, or refining; or to use or 72850
consume the thing transferred directly in producing tangible 72851
personal property for sale by mining, including, without 72852
limitation, the extraction from the earth of all substances that 72853

are classed geologically as minerals, production of crude oil and 72854
natural gas, farming, agriculture, horticulture, or floriculture, 72855
or directly in the rendition of a public utility service, except 72856
that the sales tax levied by this section shall be collected upon 72857
all meals, drinks, and food for human consumption sold when 72858
transporting persons. Persons engaged in rendering farming, 72859
agricultural, horticultural, or floricultural services, and 72860
services in the exploration for, and production of, crude oil and 72861
natural gas, for others are deemed engaged directly in farming, 72862
agriculture, horticulture, and floriculture, or exploration for, 72863
and production of, crude oil and natural gas. This paragraph does 72864
not exempt from "retail sale" or "sales at retail" the sale of 72865
tangible personal property that is to be incorporated into a 72866
structure or improvement to real property. 72867

(b) To hold the thing transferred as security for the 72868
performance of an obligation of the vendor; 72869

(c) To resell, hold, use, or consume the thing transferred as 72870
evidence of a contract of insurance; 72871

(d) To use or consume the thing directly in commercial 72872
fishing; 72873

(e) To incorporate the thing transferred as a material or a 72874
part into, or to use or consume the thing transferred directly in 72875
the production of, magazines distributed as controlled circulation 72876
publications; 72877

(f) To use or consume the thing transferred in the production 72878
and preparation in suitable condition for market and sale of 72879
printed, imprinted, overprinted, lithographic, multilithic, 72880
blueprinted, photostatic, or other productions or reproductions of 72881
written or graphic matter; 72882

(g) To use the thing transferred, as described in section 72883
5739.011 of the Revised Code, primarily in a manufacturing 72884

<u>operation to produce tangible personal property for sale;</u>	72885
<u>(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;</u>	72886 72887 72888 72889 72890 72891
<u>(i) To use the thing transferred as qualified research and development equipment;</u>	72892 72893
<u>(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.</u>	72894 72895 72896 72897 72898 72899 72900 72901 72902 72903 72904 72905 72906
<u>(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;</u>	72907 72908 72909 72910 72911 72912 72913
<u>(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;</u>	72914 72915

(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. 72916
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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. 72921
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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. 72924
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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. 72931
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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. 72937
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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 products, fruits, fruit products, and pure fruit juices, condiments, sugar and sugar products, coffee and coffee~~ 72941
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~~substitutes, tea, and cocoa and cocoa products. It does not~~ 72947
~~include: spirituous liquors, wine, mixed beverages, or beer; soft~~ 72948
~~drinks; sodas and beverages that are ordinarily dispensed at or in~~ 72949
~~connection with bars and soda fountains, other than coffee, tea,~~ 72950
~~and cocoa; root beer and root beer extracts; malt and malt~~ 72951
~~extracts; mineral oils, cod liver oils, and halibut liver oil;~~ 72952
~~medicines, including tonics, vitamin preparations, and other~~ 72953
~~products sold primarily for their medicinal properties; and water,~~ 72954
~~including mineral, bottled, and carbonated waters, and ice.~~ 72955

~~(C)(D)~~ The levy of this tax on retail sales of recreation and 72956
sports club service shall not prevent a municipal corporation from 72957
levying any tax on recreation and sports club dues or on any 72958
income generated by recreation and sports club dues. 72959

(E) The tax collected by the vendor from the consumer under 72960
this chapter is not part of the price, but is a tax collection for 72961
the benefit of the state, and of counties levying an additional 72962
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 72963
Code and of transit authorities levying an additional sales tax 72964
pursuant to section 5739.023 of the Revised Code. Except for the 72965
discount authorized under section 5739.12 of the Revised Code and 72966
the effects of any rounding pursuant to section 5703.055 of the 72967
Revised Code, no person other than the state or such a county or 72968
transit authority shall derive any benefit from the collection or 72969
payment of the tax levied by this section or section 5739.021, 72970
5739.023, or 5739.026 of the Revised Code. 72971

Sec. 5739.021. (A) For the purpose of providing additional 72972
general revenues for the county or supporting criminal and 72973
administrative justice services in the county, or both, and to pay 72974
the expenses of administering such levy, any county may levy a tax 72975
at the rate of not more than one per cent at any multiple of 72976
one-fourth of one per cent upon every retail sale made in the 72977

county, except sales of watercraft and outboard motors required to 72978
be titled pursuant to Chapter 1548. of the Revised Code and sales 72979
of motor vehicles, and may increase the rate of an existing tax to 72980
not more than one per cent at any multiple of one-fourth of one 72981
per cent. 72982

The tax shall be levied and the rate increased pursuant to a 72983
resolution of the board of county commissioners. The resolution 72984
shall state the purpose for which the tax is to be levied and the 72985
number of years for which the tax is to be levied, or that it is 72986
for a continuing period of time. If the tax is to be levied for 72987
the purpose of providing additional general revenues and for the 72988
purpose of supporting criminal and administrative justice 72989
services, the resolution shall state the rate or amount of the tax 72990
to be apportioned to each such purpose. The rate or amount may be 72991
different for each year the tax is to be levied, but the rates or 72992
amounts actually apportioned each year shall not be different from 72993
that stated in the resolution for that year. If the resolution is 72994
adopted as an emergency measure necessary for the immediate 72995
preservation of the public peace, health, or safety, it must 72996
receive an affirmative vote of all of the members of the board of 72997
county commissioners and shall state the reasons for such 72998
necessity. A The board shall deliver a certified copy of the 72999
resolution shall be delivered to the tax commissioner either 73000
personally or by certified mail, not later than the ~~sixtieth~~ 73001
sixty-fifth day prior to the date on which the tax is to become 73002
effective, which shall be the first day of the calendar quarter. 73003

Prior to the adoption of any resolution under this section, 73004
the board of county commissioners shall conduct two public 73005
hearings on the resolution, the second hearing to be not less than 73006
three nor more than ten days after the first. Notice of the date, 73007
time, and place of the hearings shall be given by publication in a 73008
newspaper of general circulation in the county once a week on the 73009

same day of the week for two consecutive weeks, the second 73010
publication being not less than ten nor more than thirty days 73011
prior to the first hearing. 73012

Except as provided in division (B)(3) of this section, the 73013
resolution shall ~~become effective on the first day of a calendar~~ 73014
~~quarter following the expiration of sixty days from the date of~~ 73015
~~its adoption,~~ be subject to a referendum as provided in sections 73016
305.31 to 305.41 of the Revised Code. 73017

If a petition for a referendum is filed, the county auditor 73018
with whom the petition was filed shall, within five days, notify 73019
the board of county commissioners and the tax commissioner of the 73020
filing of the petition by certified mail. If the board of 73021
elections with which the petition was filed declares the petition 73022
invalid, the board of elections, within five days, shall notify 73023
the board of county commissioners and the tax commissioner of that 73024
declaration by certified mail. If the petition is declared to be 73025
invalid, the effective date of the tax or increased rate of tax 73026
levied by this section shall be the first day of a calendar 73027
quarter following the expiration of sixty-five days from the date 73028
the ~~petition was declared invalid by~~ commissioner receives notice 73029
from the board of elections that the petition is invalid. 73030

(B)(1) A resolution that is not adopted as an emergency 73031
measure may direct the board of elections to submit the question 73032
of levying the tax or increasing the rate of tax to the electors 73033
of the county at a special election held on the date specified by 73034
the board of county commissioners in the resolution, provided that 73035
the election occurs not less than seventy-five days after a 73036
certified copy of such resolution is transmitted to the board of 73037
elections and the election is not held in February or August of 73038
any year. Upon transmission of the resolution to the board of 73039
elections, the board of county commissioners shall notify the tax 73040
commissioner in writing of the levy question to be submitted to 73041

the electors. No resolution adopted under this division shall go 73042
into effect unless approved by a majority of those voting upon it, 73043
and, except as provided in division (B)(3) of this section, shall 73044
become effective on the first day of a calendar quarter following 73045
the expiration of sixty-five days from the date ~~of notice to~~ the 73046
tax commissioner ~~by~~ receives notice from the board of elections of 73047
the affirmative vote. 73048

(2) A resolution that is adopted as an emergency measure 73049
shall go into effect as provided in division (A) of this section, 73050
but may direct the board of elections to submit the question of 73051
repealing the tax or increase in the rate of the tax to the 73052
electors of the county at the next general election in the county 73053
occurring not less than seventy-five days after a certified copy 73054
of the resolution is transmitted to the board of elections. Upon 73055
transmission of the resolution to the board of elections, the 73056
board of county commissioners shall notify the tax commissioner in 73057
writing of the levy question to be submitted to the electors. The 73058
ballot question shall be the same as that prescribed in section 73059
5739.022 of the Revised Code. The board of elections shall notify 73060
the board of county commissioners and the tax commissioner of the 73061
result of the election immediately after the result has been 73062
declared. If a majority of the qualified electors voting on the 73063
question of repealing the tax or increase in the rate of the tax 73064
vote for repeal of the tax or repeal of the increase, the board of 73065
county commissioners, on the first day of a calendar quarter 73066
following the expiration of sixty-five days after the date ~~it~~ 73067
~~received~~ the board and tax commissioner receive notice of the 73068
result of the election, shall, in the case of a repeal of the tax, 73069
cease to levy the tax, or, in the case of a repeal of an increase 73070
in the rate of the tax, cease to levy the increased rate and levy 73071
the tax at the rate at which it was imposed immediately prior to 73072
the increase in rate. 73073

(3) If a vendor that is registered with the central 73074
electronic registration system provided for in section 5740.05 of 73075
the Revised Code makes a sale in this state by printed catalog and 73076
the consumer computed the tax on the sale based on local rates 73077
published in the catalog, any tax levied or repealed or rate 73078
changed under this section shall not apply to such ~~sales~~ a sale 73079
until the first day of a calendar quarter following the expiration 73080
of one hundred twenty days from the date of notice by the tax 73081
commissioner ~~to the vendor, or to the vendor's certified service~~ 73082
~~provider, if the vendor has selected one~~ pursuant to division (H) 73083
of this section. 73084

(C) If a resolution is rejected at a referendum or if a 73085
resolution adopted after January 1, 1982, as an emergency measure 73086
is repealed by the electors pursuant to division (B)(2) of this 73087
section or section 5739.022 of the Revised Code, then for one year 73088
after the date of the election at which the resolution was 73089
rejected or repealed the board of county commissioners may not 73090
adopt any resolution authorized by this section as an emergency 73091
measure. 73092

(D) The board of county commissioners, at any time while a 73093
tax levied under this section is in effect, may by resolution 73094
reduce the rate at which the tax is levied to a lower rate 73095
authorized by this section. Any reduction in the rate at which the 73096
tax is levied shall be made effective on the first day of a 73097
calendar quarter next following the ~~sixtieth~~ sixty-fifth day after 73098
~~the certification~~ a certified copy of the resolution is delivered 73099
to the tax commissioner. 73100

(E) The tax on every retail sale subject to a tax levied 73101
pursuant to this section shall be in addition to the tax levied by 73102
section 5739.02 of the Revised Code and any tax levied pursuant to 73103
section 5739.023 or 5739.026 of the Revised Code. 73104

A county that levies a tax pursuant to this section shall 73105
levy a tax at the same rate pursuant to section 5741.021 of the 73106
Revised Code. 73107

The additional tax levied by the county shall be collected 73108
pursuant to section 5739.025 of the Revised Code. If the 73109
additional tax or some portion thereof is levied for the purpose 73110
of criminal and administrative justice services, the revenue from 73111
the tax, or the amount or rate apportioned to that purpose, shall 73112
be credited to a special fund created in the county treasury for 73113
receipt of that revenue. 73114

Any tax levied pursuant to this section is subject to the 73115
exemptions provided in section 5739.02 of the Revised Code and in 73116
addition shall not be applicable to sales not within the taxing 73117
power of a county under the Constitution of the United States or 73118
the Ohio Constitution. 73119

(F) For purposes of this section, a copy of a resolution is 73120
"certified" when it contains a written statement attesting that 73121
the copy is a true and exact reproduction of the original 73122
resolution. 73123

(G) If a board of commissioners intends to adopt a resolution 73124
to levy a tax in whole or in part for the purpose of criminal and 73125
administrative justice services, the board shall prepare and make 73126
available at the first public hearing at which the resolution is 73127
considered a statement containing the following information: 73128

(1) For each of the two preceding fiscal years, the amount of 73129
expenditures made by the county from the county general fund for 73130
the purpose of criminal and administrative justice services; 73131

(2) For the fiscal year in which the resolution is adopted, 73132
the board's estimate of the amount of expenditures to be made by 73133
the county from the county general fund for the purpose of 73134
criminal and administrative justice services; 73135

(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 73168
powers and duties vested in that court; the exercise by the clerk 73169
of the court of common pleas, any clerk of a municipal court 73170
having jurisdiction throughout the county, or the clerk of any 73171
county court of all powers and duties vested in the clerk by law 73172
except, in the case of the clerk of the court of common pleas, the 73173
titling of motor vehicles or watercraft pursuant to Chapter 1548. 73174
or 4505. of the Revised Code; the exercise by the county coroner 73175
of all powers and duties vested in that office by law; making 73176
payments to any other public agency or a private, nonprofit 73177
agency, the purposes of which in the county include the diversion, 73178
adjudication, detention, or rehabilitation of criminals or 73179
juvenile offenders; the operation and maintenance of any detention 73180
facility, as defined in section 2921.01 of the Revised Code; and 73181
the construction, acquisition, equipping, or repair of such a 73182
detention facility, including the payment of any debt charges 73183
incurred in the issuance of securities pursuant to Chapter 133. of 73184
the Revised Code for the purpose of constructing, acquiring, 73185
equipping, or repairing such a facility. 73186

Sec. 5739.022. (A) The question of repeal of either a county 73187
permissive tax or an increase in the rate of a county permissive 73188
tax that was adopted as an emergency measure pursuant to section 73189
5739.021 or 5739.026 of the Revised Code may be initiated by 73190
filing with the board of elections of the county not less than 73191
seventy-five days before the general election in any year a 73192
petition requesting that an election be held on the question. The 73193
question of repealing an increase in the rate of the county 73194
permissive tax shall be submitted to the electors as a separate 73195
question from the repeal of the tax in effect prior to the 73196
increase in the rate. Any petition filed under this section shall 73197
be signed by qualified electors residing in the county equal in 73198
number to ten per cent of those voting for governor at the most 73199

recent gubernatorial election. 73200

After determination by it that the petition is valid, the 73201
board of elections shall submit the question to the electors of 73202
the county at the next general election. The election shall be 73203
conducted, canvassed, and certified in the same manner as regular 73204
elections for county offices in the county. The board of elections 73205
shall notify the tax commissioner, in writing, of the election 73206
upon determining that the petition is valid. Notice of the 73207
election shall also be published in a newspaper of general 73208
circulation in the district once a week for four consecutive weeks 73209
prior to the election, stating the purpose, the time, and the 73210
place of the election. The form of the ballot cast at the election 73211
shall be prescribed by the secretary of state; however, the ballot 73212
question shall read, "shall the tax (or, increase in the rate of 73213
the tax) be retained? 73214

	Yes
	No

"

The question covered by the petition shall be submitted as a 73215
separate proposition, but it may be printed on the same ballot 73216
with any other proposition submitted at the same election other 73217
than the election of officers. 73218

(B) If a majority of the qualified electors voting on the 73219
question of repeal of either a county permissive tax or an 73220
increase in the rate of a county permissive tax approve the 73221
repeal, the board of elections shall notify the board of county 73222
commissioners and the tax commissioner of the result of the 73223
election immediately after the result has been declared. The board 73224
of county commissioners shall, on the first day of the ~~month~~ 73225
calendar quarter following the expiration of ~~thirty~~ sixty-five 73226
73227
73228
73229
73230

days after the date ~~it receives~~ the board and the tax commissioner 73231
receive the notice, in the case of a repeal of a county permissive 73232
tax, cease to levy the tax, or, in the case of a repeal of an 73233
increase in the rate of a county permissive tax, levy the tax at 73234
the rate at which it was imposed immediately prior to the increase 73235
in rate and cease to levy the increased rate. 73236

(C) Upon receipt from a board of elections of a notice of the 73237
results of an election required by division (B) of this section, 73238
the tax commissioner shall provide notice of a tax repeal or rate 73239
change in a manner that is reasonably accessible to all affected 73240
vendors. The commissioner shall provide this notice at least sixty 73241
days prior to the effective date of the rate change. The 73242
commissioner, by rule, may establish the method by which notice 73243
will be provided. 73244

(D) If a vendor that is registered with the central 73245
electronic registration system provided for in section 5740.05 of 73246
the Revised Code makes a sale in this state by printed catalog and 73247
the consumer computed the tax on the sale based on local rates 73248
published in the catalog, any tax repealed or rate changed under 73249
this section shall not apply to such a sale until the first day of 73250
a calendar quarter following the expiration of one hundred twenty 73251
days from the date of notice by the tax commissioner pursuant to 73252
division (C) of this section. 73253

Sec. 5739.023. (A)(1) For the purpose of providing additional 73254
general revenues for a transit authority and paying the expenses 73255
of administering such levy, any transit authority as defined in 73256
division (U) of section 5739.01 of the Revised Code may levy a tax 73257
upon every retail sale made in the territory of the transit 73258
authority, except sales of watercraft and outboard motors required 73259
to be titled pursuant to Chapter 1548. of the Revised Code and 73260
sales of motor vehicles, at a rate of not more than one and 73261

one-half per cent at any multiple of one-fourth of one per cent 73262
and may increase the existing rate of tax to not more than one and 73263
one-half per cent at any multiple of one-fourth of one per cent. 73264
The tax shall be levied and the rate increased pursuant to a 73265
resolution of the legislative authority of the transit authority 73266
and a certified copy of the resolution shall be delivered by the 73267
fiscal officer to the board of elections as provided in section 73268
3505.071 of the Revised Code and to the tax commissioner. The 73269
resolution shall specify the number of years for which the tax is 73270
to be in effect or that the tax is for a continuing period of 73271
time, and the date of the election on the question of the tax 73272
pursuant to section 306.70 of the Revised Code. The board of 73273
elections shall certify the results of the election to the transit 73274
authority and tax commissioner. 73275

(2) Except as provided in division (C) of this section, the 73276
tax levied by the resolution shall become effective on the first 73277
day of a calendar quarter next following the ~~sixtieth~~ sixty-fifth 73278
day following the date the tax commissioner receives from the 73279
board of elections the certification of the results of the 73280
election on the question of the tax ~~by the board of elections~~. 73281

(B) The legislative authority may, at any time while the tax 73282
is in effect, by resolution fix the rate of the tax at any rate 73283
authorized by this section and not in excess of that approved by 73284
the voters pursuant to section 306.70 of the Revised Code. Except 73285
as provided in division (C) of this section, any change in the 73286
rate of the tax shall be made effective on the first day of a 73287
calendar quarter next following the ~~sixtieth~~ sixty-fifth day 73288
following the date the tax commissioner receives the certification 73289
of the resolution ~~to the tax commissioner~~; provided, that in any 73290
case where bonds, or notes in anticipation of bonds, of a regional 73291
transit authority have been issued under section 306.40 of the 73292
Revised Code without a vote of the electors while the tax proposed 73293

to be reduced was in effect, the board of trustees of the regional 73294
transit authority shall continue to levy and collect under 73295
authority of the original election authorizing the tax a rate of 73296
tax that the board of trustees reasonably estimates will produce 73297
an amount in that year equal to the amount of principal of and 73298
interest on those bonds as is payable in that year. 73299

(C) Upon receipt from the board of elections of the 73300
certification of the results of the election required by division 73301
(A) of this section, or from the legislative authority of the 73302
certification of a resolution under division (B) of this section, 73303
the tax commissioner shall provide notice of a tax rate change in 73304
a manner that is reasonably accessible to all affected vendors. 73305
The commissioner shall provide this notice at least sixty days 73306
prior to the effective date of the rate change. The commissioner, 73307
by rule, may establish the method by which notice will be 73308
provided. 73309

(D) If a vendor that is registered with the central 73310
electronic registration system provided for in section 5740.05 of 73311
the Revised Code makes a sale in this state by printed catalog and 73312
the consumer computed the tax on the sale based on local rates 73313
published in the catalog, any tax levied or rate changed under 73314
this section shall not apply to such a sale until the first day of 73315
a calendar quarter following the expiration of one hundred twenty 73316
days from the date of notice by the tax commissioner ~~to the~~ 73317
~~vendor, or to the vendor's certified service provider, if the~~ 73318
~~vendor has selected one~~ pursuant to division (C) of this section. 73319

~~(D)~~(E) The tax on every retail sale subject to a tax levied 73320
pursuant to this section is in addition to the tax levied by 73321
section 5739.02 of the Revised Code and any tax levied pursuant to 73322
section 5739.021 or 5739.026 of the Revised Code. 73323

~~(E)~~(F) The additional tax levied by the transit authority 73324
shall be collected pursuant to section 5739.025 of the Revised 73325

Code. 73326

~~(F)~~(G) Any tax levied pursuant to this section is subject to 73327
 the exemptions provided in section 5739.02 of the Revised Code and 73328
 in addition shall not be applicable to sales not within the taxing 73329
 power of a transit authority under the constitution of the United 73330
 States or the constitution of this state. 73331

~~(G)~~(H) The rate of a tax levied under this section is subject 73332
 to reduction under section 5739.028 of the Revised Code, if a 73333
 ballot question is approved by voters pursuant to that section. 73334

Sec. 5739.025. As used in this section, "local tax" means a 73335
 tax imposed pursuant to section 5739.021, 5739.023, 5739.026, 73336
 5741.021, 5741.022, or 5741.023 of the Revised Code. 73337

(A) The taxes levied by sections 5739.02 and 5741.02 of the 73338
 Revised Code shall be collected as follows: 73339

(1) On and after July 1, 2003, and on or before June 30, 73340
2005, in accordance with the following schedule: 73341

<u>If the price</u>		<u>The amount of</u>	
<u>is at least</u>	<u>But not more than</u>	<u>the tax is</u>	
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>	73342
<u>.16</u>	<u>.16</u>	<u>1¢</u>	73343
<u>.17</u>	<u>.33</u>	<u>2¢</u>	73344
<u>.34</u>	<u>.50</u>	<u>3¢</u>	73345
<u>.51</u>	<u>.66</u>	<u>4¢</u>	73346
<u>.67</u>	<u>.83</u>	<u>5¢</u>	73347
<u>.84</u>	<u>1.00</u>	<u>6¢</u>	73348

If the price exceeds one dollar, the tax is six cents on each 73351
one dollar. If the price exceeds one dollar or a multiple thereof 73352
by not more than seventeen cents, the amount of tax is six cents 73353
for each one dollar plus one cent. If the price exceeds one dollar 73354
or a multiple thereof by more than seventeen cents, the amount of 73355

tax is six cents for each one dollar plus the amount of tax for 73356
prices eighteen cents through ninety-nine cents in accordance with 73357
the schedule above. 73358

(2) On and after July 1, 2005, and on and before December 31, 73359
2005, in accordance with the following schedule: 73360

<u>If the price</u>	<u>But not</u>	<u>The amount</u>	
<u>is at least</u>	<u>more than</u>	<u>of the tax is</u>	
\$.01	\$.15	No tax	73361
.16	.20	1¢	73362
.21	.40	2¢	73363
.41	.60	3¢	73364
.61	.80	4¢	73365
.81	1.00	5¢	73366

If the price exceeds one dollar, the tax is five cents on 73369
 each one dollar. If the price exceeds one dollar or a multiple 73370
 thereof by not more than twenty cents, the amount of tax is five 73371
 cents for each one dollar plus one cent. If the price exceeds one 73372
 dollar or a multiple thereof by more than twenty cents, the amount 73373
 of tax is five cents for each one dollar plus the amount of tax 73374
 for prices twenty-one cents through ninety-nine cents in 73375
 accordance with the schedule above. 73376

(B) ~~The~~ On and after July 1, 2003, and on and before June 30, 73377
2005, the combined taxes levied by sections 5739.02 and 5741.02 73378
and pursuant to sections 5739.021, 5739.023, 5739.026, 5741.021, 73379
5741.022, and 5741.023 of the Revised Code shall be collected in 73380
accordance with the following schedules: 73381

(1) When the combined rate of state and local tax is six and 73382
one-fourth per cent: 73383

<u>If the price</u>	<u>But not more than</u>	<u>The amount of</u>	
<u>is at least</u>	<u></u>	<u>the tax is</u>	
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>	73384
<u>.16</u>	<u>.16</u>	<u>1¢</u>	73385

<u>.17</u>	<u>.32</u>	<u>2¢</u>	73388
<u>.33</u>	<u>.48</u>	<u>3¢</u>	73389
<u>.49</u>	<u>.64</u>	<u>4¢</u>	73390
<u>.65</u>	<u>.80</u>	<u>5¢</u>	73391
<u>.81</u>	<u>.96</u>	<u>6¢</u>	73392
<u>.97</u>	<u>1.12</u>	<u>7¢</u>	73393
<u>1.13</u>	<u>1.28</u>	<u>8¢</u>	73394
<u>1.29</u>	<u>1.44</u>	<u>9¢</u>	73395
<u>1.45</u>	<u>1.60</u>	<u>10¢</u>	73396
<u>1.61</u>	<u>1.76</u>	<u>11¢</u>	73397
<u>1.77</u>	<u>1.92</u>	<u>12¢</u>	73398
<u>1.93</u>	<u>2.08</u>	<u>13¢</u>	73399
<u>2.09</u>	<u>2.24</u>	<u>14¢</u>	73400
<u>2.25</u>	<u>2.40</u>	<u>15¢</u>	73401
<u>2.41</u>	<u>2.56</u>	<u>16¢</u>	73402
<u>2.57</u>	<u>2.72</u>	<u>17¢</u>	73403
<u>2.73</u>	<u>2.88</u>	<u>18¢</u>	73404
<u>2.89</u>	<u>3.04</u>	<u>19¢</u>	73405
<u>3.05</u>	<u>3.20</u>	<u>20¢</u>	73406
<u>3.21</u>	<u>3.36</u>	<u>21¢</u>	73407
<u>3.37</u>	<u>3.52</u>	<u>22¢</u>	73408
<u>3.53</u>	<u>3.68</u>	<u>23¢</u>	73409
<u>3.69</u>	<u>3.84</u>	<u>24¢</u>	73410
<u>3.85</u>	<u>4.00</u>	<u>25¢</u>	73411

If the price exceeds four dollars, the tax is twenty-five 73412
cents on each four dollars. If the price exceeds four dollars or a 73413
multiple thereof by not more than sixteen cents, the amount of tax 73414
is twenty-five cents for each four dollars plus one cent. If the 73415
price exceeds four dollars or a multiple thereof by more than 73416
sixteen cents, the amount of tax is twenty-five cents for each 73417
four dollars plus the amount of tax for prices seventeen cents 73418
through three dollars and ninety-nine cents in accordance with the 73419
schedule above. 73420

(2) When the combined rate of state and local tax is six and one-half per cent: 73421
 73422

<u>If the price</u>		<u>The amount of</u>	
<u>is at least</u>	<u>But not more than</u>	<u>the tax is</u>	
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>	73425
<u>.16</u>	<u>.30</u>	<u>2¢</u>	73426
<u>.31</u>	<u>.46</u>	<u>3¢</u>	73427
<u>.47</u>	<u>.61</u>	<u>4¢</u>	73428
<u>.62</u>	<u>.76</u>	<u>5¢</u>	73429
<u>.77</u>	<u>.92</u>	<u>6¢</u>	73430
<u>.93</u>	<u>1.07</u>	<u>7¢</u>	73431
<u>1.08</u>	<u>1.23</u>	<u>8¢</u>	73432
<u>1.24</u>	<u>1.38</u>	<u>9¢</u>	73433
<u>1.39</u>	<u>1.53</u>	<u>10¢</u>	73434
<u>1.54</u>	<u>1.69</u>	<u>11¢</u>	73435
<u>1.70</u>	<u>1.84</u>	<u>12¢</u>	73436
<u>1.85</u>	<u>2.00</u>	<u>13¢</u>	73437

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. 73438
 73439
 73440
 73441
 73442
 73443
 73444
 73445

(3) When the combined rate of state and local tax is six and three-fourths per cent: 73446
 73447

<u>If the price</u>		<u>The amount of</u>	
<u>is at least</u>	<u>But not more than</u>	<u>the tax is</u>	
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>	73450
<u>.16</u>	<u>.29</u>	<u>2¢</u>	73451
<u>.30</u>	<u>.44</u>	<u>3¢</u>	73452

<u>.45</u>	<u>.59</u>	<u>4¢</u>	73453
<u>.60</u>	<u>.74</u>	<u>5¢</u>	73454
<u>.75</u>	<u>.88</u>	<u>6¢</u>	73455
<u>.89</u>	<u>1.03</u>	<u>7¢</u>	73456
<u>1.04</u>	<u>1.18</u>	<u>8¢</u>	73457
<u>1.19</u>	<u>1.33</u>	<u>9¢</u>	73458
<u>1.34</u>	<u>1.48</u>	<u>10¢</u>	73459
<u>1.49</u>	<u>1.62</u>	<u>11¢</u>	73460
<u>1.63</u>	<u>1.77</u>	<u>12¢</u>	73461
<u>1.78</u>	<u>1.92</u>	<u>13¢</u>	73462
<u>1.93</u>	<u>2.07</u>	<u>14¢</u>	73463
<u>2.08</u>	<u>2.22</u>	<u>15¢</u>	73464
<u>2.23</u>	<u>2.37</u>	<u>16¢</u>	73465
<u>2.38</u>	<u>2.51</u>	<u>17¢</u>	73466
<u>2.52</u>	<u>2.66</u>	<u>18¢</u>	73467
<u>2.67</u>	<u>2.81</u>	<u>19¢</u>	73468
<u>2.82</u>	<u>2.96</u>	<u>20¢</u>	73469
<u>2.97</u>	<u>3.11</u>	<u>21¢</u>	73470
<u>3.12</u>	<u>3.25</u>	<u>22¢</u>	73471
<u>3.26</u>	<u>3.40</u>	<u>23¢</u>	73472
<u>3.41</u>	<u>3.55</u>	<u>24¢</u>	73473
<u>3.56</u>	<u>3.70</u>	<u>25¢</u>	73474
<u>3.71</u>	<u>3.85</u>	<u>26¢</u>	73475
<u>3.86</u>	<u>4.00</u>	<u>27¢</u>	73476

If the price exceeds four dollars, the tax is twenty-seven 73477
cents on each four dollars. If the price exceeds four dollars or a 73478
multiple thereof by not more than fourteen cents, the amount of 73479
tax is twenty-seven cents for each four dollars plus one cent. If 73480
the price exceeds four dollars or a multiple thereof by more than 73481
fourteen but by not more than twenty-nine cents, the amount of tax 73482
is twenty-seven cents for each four dollars plus two cents. If the 73483
price exceeds four dollars or a multiple thereof by more than 73484
twenty-nine cents the amount of tax is twenty-seven cents for each 73485

four dollars plus the amount of tax for prices thirty cents 73486
through three dollars and ninety-nine cents in accordance with the 73487
schedule above. 73488

(4) When the combined rate of state and local tax is seven 73489
per cent: 73490

<u>If the price</u>		<u>The amount of</u>	
<u>is at least</u>	<u>But not more than</u>	<u>the tax is</u>	
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>	73491
<u>.16</u>	<u>.28</u>	<u>2¢</u>	73492
<u>.29</u>	<u>.42</u>	<u>3¢</u>	73493
<u>.43</u>	<u>.57</u>	<u>4¢</u>	73494
<u>.58</u>	<u>.71</u>	<u>5¢</u>	73495
<u>.72</u>	<u>.85</u>	<u>6¢</u>	73496
<u>.86</u>	<u>1.00</u>	<u>7¢</u>	73497

If the price exceeds one dollar, the tax is seven cents on 73500
each one dollar. If the price exceeds one dollar or a multiple 73501
thereof by not more than fifteen cents, the amount of tax is seven 73502
cents for each one dollar plus one cent. If the price exceeds one 73503
dollar or a multiple thereof by more than fifteen cents, the 73504
amount of tax is seven cents for each one dollar plus the amount 73505
of tax for prices sixteen cents through ninety-nine cents in 73506
accordance with the schedule above. 73507

(5) When the combined rate of state and local tax is seven 73508
and one-fourth per cent: 73509

<u>If the price</u>		<u>The amount of</u>	
<u>is at least</u>	<u>But not more than</u>	<u>the tax is</u>	
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>	73510
<u>.16</u>	<u>.27</u>	<u>2¢</u>	73511
<u>.28</u>	<u>.41</u>	<u>3¢</u>	73512
<u>.42</u>	<u>.55</u>	<u>4¢</u>	73513
<u>.56</u>	<u>.68</u>	<u>5¢</u>	73514
<u>.69</u>	<u>.82</u>	<u>6¢</u>	73515

<u>.83</u>	<u>.96</u>	<u>7¢</u>	73518
<u>.97</u>	<u>1.10</u>	<u>8¢</u>	73519
<u>1.11</u>	<u>1.24</u>	<u>9¢</u>	73520
<u>1.25</u>	<u>1.37</u>	<u>10¢</u>	73521
<u>1.38</u>	<u>1.51</u>	<u>11¢</u>	73522
<u>1.52</u>	<u>1.65</u>	<u>12¢</u>	73523
<u>1.66</u>	<u>1.79</u>	<u>13¢</u>	73524
<u>1.80</u>	<u>1.93</u>	<u>14¢</u>	73525
<u>1.94</u>	<u>2.06</u>	<u>15¢</u>	73526
<u>2.07</u>	<u>2.20</u>	<u>16¢</u>	73527
<u>2.21</u>	<u>2.34</u>	<u>17¢</u>	73528
<u>2.35</u>	<u>2.48</u>	<u>18¢</u>	73529
<u>2.49</u>	<u>2.62</u>	<u>19¢</u>	73530
<u>2.63</u>	<u>2.75</u>	<u>20¢</u>	73531
<u>2.76</u>	<u>2.89</u>	<u>21¢</u>	73532
<u>2.90</u>	<u>3.03</u>	<u>22¢</u>	73533
<u>3.04</u>	<u>3.17</u>	<u>23¢</u>	73534
<u>3.18</u>	<u>3.31</u>	<u>24¢</u>	73535
<u>3.32</u>	<u>3.44</u>	<u>25¢</u>	73536
<u>3.45</u>	<u>3.58</u>	<u>26¢</u>	73537
<u>3.59</u>	<u>3.72</u>	<u>27¢</u>	73538
<u>3.73</u>	<u>3.86</u>	<u>28¢</u>	73539
<u>3.87</u>	<u>4.00</u>	<u>29¢</u>	73540

If the price exceeds four dollars, the tax is twenty-nine 73541
cents on each four dollars. If the price exceeds four dollars or a 73542
multiple thereof by not more than thirteen cents, the amount of 73543
tax is twenty-nine cents for each four dollars plus one cent. If 73544
the price exceeds four dollars or a multiple thereof by more than 73545
thirteen cents but by not more than twenty-seven cents, the amount 73546
of tax is twenty-nine cents for each four dollars plus two cents. 73547
If the price exceeds four dollars or a multiple thereof by more 73548
than twenty-seven cents, the amount of tax is twenty-nine cents 73549
for each four dollars plus the amount of tax for prices 73550

twenty-eight cents through three dollars and ninety-nine cents in 73551
accordance with the schedule above. 73552

(6) When the combined rate of state and local tax is seven 73553
and one-half per cent: 73554

<u>If the price</u>		<u>The amount of</u>	
<u>is at least</u>	<u>But not more than</u>	<u>the tax is</u>	
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>	73557
<u>.16</u>	<u>.26</u>	<u>2¢</u>	73558
<u>.27</u>	<u>.40</u>	<u>3¢</u>	73559
<u>.41</u>	<u>.53</u>	<u>4¢</u>	73560
<u>.54</u>	<u>.65</u>	<u>5¢</u>	73561
<u>.66</u>	<u>.80</u>	<u>6¢</u>	73562
<u>.81</u>	<u>.93</u>	<u>7¢</u>	73563
<u>.94</u>	<u>1.06</u>	<u>8¢</u>	73564
<u>1.07</u>	<u>1.20</u>	<u>9¢</u>	73565
<u>1.21</u>	<u>1.33</u>	<u>10¢</u>	73566
<u>1.34</u>	<u>1.46</u>	<u>11¢</u>	73567
<u>1.47</u>	<u>1.60</u>	<u>12¢</u>	73568
<u>1.61</u>	<u>1.73</u>	<u>13¢</u>	73569
<u>1.74</u>	<u>1.86</u>	<u>14¢</u>	73570
<u>1.87</u>	<u>2.00</u>	<u>15¢</u>	73571

If the price exceeds two dollars, the tax is fifteen cents on 73572
each two dollars. If the price exceeds two dollars or a multiple 73573
thereof by not more than fifteen cents, the amount of tax is 73574
fifteen cents for each two dollars plus one cent. If the price 73575
exceeds two dollars or a multiple thereof by more than fifteen 73576
cents, the amount of tax is fifteen cents for each two dollars 73577
plus the amount of tax for prices sixteen cents through one dollar 73578
and ninety-nine cents in accordance with the schedule above. 73579

(7) When the combined rate of state and local tax is seven 73580
and three-fourths per cent: 73581

If the price 73582
The amount of

cents on each four dollars. If the price exceeds four dollars or a 73616
multiple thereof by not more than twelve cents, the amount of tax 73617
is thirty-one cents for each four dollars plus one cent. If the 73618
price exceeds four dollars or a multiple thereof by more than 73619
twelve cents but by not more than twenty-five cents, the amount of 73620
tax is thirty-one cents for each four dollars plus two cents. If 73621
the price exceeds four dollars or a multiple thereof by more than 73622
twenty-five cents, the amount of tax is thirty-one cents for each 73623
four dollars plus the amount of tax for prices twenty-six cents 73624
through three dollars and ninety-nine cents in accordance with the 73625
schedule above. 73626

(8) When the combined rate of state and local tax is eight 73627
per cent: 73628

<u>If the price</u>		<u>The amount of</u>	
<u>is at least</u>	<u>But not more than</u>	<u>the tax is</u>	
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>	73631
<u>.16</u>	<u>.25</u>	<u>2¢</u>	73632
<u>.26</u>	<u>.37</u>	<u>3¢</u>	73633
<u>.38</u>	<u>.50</u>	<u>4¢</u>	73634
<u>.51</u>	<u>.62</u>	<u>5¢</u>	73635
<u>.63</u>	<u>.75</u>	<u>6¢</u>	73636
<u>.76</u>	<u>.87</u>	<u>7¢</u>	73637
<u>.88</u>	<u>1.00</u>	<u>8¢</u>	73638

If the price exceeds one dollar, the tax is eight cents on 73639
each one dollar. If the price exceeds one dollar or a multiple 73640
thereof by not more than twelve cents, the amount of tax is eight 73641
cents for each one dollar plus one cent. If the price exceeds one 73642
dollar or a multiple thereof by more than twelve cents but not 73643
more than twenty-five cents, the amount of tax is eight cents for 73644
each one dollar plus two cents. If the price exceeds one dollar or 73645
a multiple thereof by more than twenty-five cents, the amount of 73646
tax is eight cents for each one dollar plus the amount of tax for 73647

prices twenty-six cents through ninety-nine cents in accordance 73648
with the schedule above. 73649

(9) When the combined rate of state and local tax is eight 73650
and one-fourth per cent: 73651

<u>If the price</u>		<u>The amount of</u>	
<u>is at least</u>	<u>But not more than</u>	<u>the tax is</u>	
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>	73654
<u>.16</u>	<u>.24</u>	<u>2¢</u>	73655
<u>.25</u>	<u>.36</u>	<u>3¢</u>	73656
<u>.37</u>	<u>.48</u>	<u>4¢</u>	73657
<u>.49</u>	<u>.60</u>	<u>5¢</u>	73658
<u>.61</u>	<u>.72</u>	<u>6¢</u>	73659
<u>.73</u>	<u>.84</u>	<u>7¢</u>	73660
<u>.85</u>	<u>.96</u>	<u>8¢</u>	73661
<u>.97</u>	<u>1.09</u>	<u>9¢</u>	73662
<u>1.10</u>	<u>1.21</u>	<u>10¢</u>	73663
<u>1.22</u>	<u>1.33</u>	<u>11¢</u>	73664
<u>1.34</u>	<u>1.45</u>	<u>12¢</u>	73665
<u>1.46</u>	<u>1.57</u>	<u>13¢</u>	73666
<u>1.58</u>	<u>1.69</u>	<u>14¢</u>	73667
<u>1.70</u>	<u>1.81</u>	<u>15¢</u>	73668
<u>1.82</u>	<u>1.93</u>	<u>16¢</u>	73669
<u>1.94</u>	<u>2.06</u>	<u>17¢</u>	73670
<u>2.07</u>	<u>2.18</u>	<u>18¢</u>	73671
<u>2.19</u>	<u>2.30</u>	<u>19¢</u>	73672
<u>2.31</u>	<u>2.42</u>	<u>20¢</u>	73673
<u>2.43</u>	<u>2.54</u>	<u>21¢</u>	73674
<u>2.55</u>	<u>2.66</u>	<u>22¢</u>	73675
<u>2.67</u>	<u>2.78</u>	<u>23¢</u>	73676
<u>2.79</u>	<u>2.90</u>	<u>24¢</u>	73677
<u>2.91</u>	<u>3.03</u>	<u>25¢</u>	73678
<u>3.04</u>	<u>3.15</u>	<u>26¢</u>	73679
<u>3.16</u>	<u>3.27</u>	<u>27¢</u>	73680

<u>3.28</u>	<u>3.39</u>	<u>28¢</u>	73681
<u>3.40</u>	<u>3.51</u>	<u>29¢</u>	73682
<u>3.52</u>	<u>3.63</u>	<u>30¢</u>	73683
<u>3.64</u>	<u>3.75</u>	<u>31¢</u>	73684
<u>3.76</u>	<u>3.87</u>	<u>32¢</u>	73685
<u>3.88</u>	<u>4.00</u>	<u>33¢</u>	73686

If the price exceeds four dollars, the tax is thirty-three 73687
cents on each four dollars. If the price exceeds four dollars or a 73688
multiple thereof by not more than eleven cents, the amount of tax 73689
is thirty-three cents for each four dollars plus one cent. If the 73690
price exceeds four dollars or a multiple thereof by more than 73691
eleven cents but by not more than twenty-four cents, the amount of 73692
tax is thirty-three cents for each four dollars plus two cents. If 73693
the price exceeds four dollars or a multiple thereof by more than 73694
twenty-four cents, the amount of tax is thirty-three cents for 73695
each four dollars plus the amount of tax for prices twenty-six 73696
cents through three dollars and ninety-nine cents in accordance 73697
with the schedule above. 73698

(10) When the combined rate of state and local tax is eight 73699
and one-half per cent: 73700

<u>If the price</u>		<u>The amount of</u>	
<u>is at least</u>	<u>But not more than</u>	<u>the tax is</u>	
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>	73701
<u>.16</u>	<u>.23</u>	<u>2¢</u>	73702
<u>.24</u>	<u>.35</u>	<u>3¢</u>	73703
<u>.36</u>	<u>.47</u>	<u>4¢</u>	73704
<u>.48</u>	<u>.58</u>	<u>5¢</u>	73705
<u>.59</u>	<u>.70</u>	<u>6¢</u>	73706
<u>.71</u>	<u>.82</u>	<u>7¢</u>	73707
<u>.83</u>	<u>.94</u>	<u>8¢</u>	73708
<u>.95</u>	<u>1.05</u>	<u>9¢</u>	73709
<u>1.06</u>	<u>1.17</u>	<u>10¢</u>	73710

<u>1.18</u>	<u>1.29</u>	<u>11¢</u>	73713
<u>1.30</u>	<u>1.41</u>	<u>12¢</u>	73714
<u>1.42</u>	<u>1.52</u>	<u>13¢</u>	73715
<u>1.53</u>	<u>1.64</u>	<u>14¢</u>	73716
<u>1.65</u>	<u>1.76</u>	<u>15¢</u>	73717
<u>1.77</u>	<u>1.88</u>	<u>16¢</u>	73718
<u>1.89</u>	<u>2.00</u>	<u>17¢</u>	73719

If the price exceeds two dollars, the tax is seventeen cents 73720
on each two dollars. If the price exceeds two dollars or a 73721
multiple thereof by not more than eleven cents, the amount of tax 73722
is seventeen cents for each two dollars plus one cent. If the 73723
price exceeds two dollars or a multiple thereof by more than 73724
eleven cents but by not more than twenty-three cents, the amount 73725
of tax is seventeen cents for each two dollars plus two cents. If 73726
the price exceeds two dollars or a multiple thereof by more than 73727
twenty-three cents, the amount of tax is seventeen cents for each 73728
two dollars plus the amount of tax for prices twenty-four cents 73729
through one dollar and ninety-nine cents in accordance with the 73730
schedule above. 73731

(11) When the combined rate of state and local tax is eight 73732
and three-fourths per cent: 73733

<u>If the price</u>		<u>The amount of</u>	73734
<u>is at least</u>	<u>But not more than</u>	<u>the tax is</u>	73735
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>	73736
<u>.16</u>	<u>.22</u>	<u>2¢</u>	73737
<u>.23</u>	<u>.34</u>	<u>3¢</u>	73738
<u>.35</u>	<u>.45</u>	<u>4¢</u>	73739
<u>.46</u>	<u>.57</u>	<u>5¢</u>	73740
<u>.58</u>	<u>.68</u>	<u>6¢</u>	73741
<u>.69</u>	<u>.80</u>	<u>7¢</u>	73742
<u>.81</u>	<u>.91</u>	<u>8¢</u>	73743
<u>.92</u>	<u>1.02</u>	<u>9¢</u>	73744

<u>1.03</u>	<u>1.14</u>	<u>10¢</u>	73745
<u>1.15</u>	<u>1.25</u>	<u>11¢</u>	73746
<u>1.26</u>	<u>1.37</u>	<u>12¢</u>	73747
<u>1.38</u>	<u>1.48</u>	<u>13¢</u>	73748
<u>1.49</u>	<u>1.60</u>	<u>14¢</u>	73749
<u>1.61</u>	<u>1.71</u>	<u>15¢</u>	73750
<u>1.72</u>	<u>1.82</u>	<u>16¢</u>	73751
<u>1.83</u>	<u>1.94</u>	<u>17¢</u>	73752
<u>1.95</u>	<u>2.05</u>	<u>18¢</u>	73753
<u>2.06</u>	<u>2.17</u>	<u>19¢</u>	73754
<u>2.18</u>	<u>2.28</u>	<u>20¢</u>	73755
<u>2.29</u>	<u>2.40</u>	<u>21¢</u>	73756
<u>2.41</u>	<u>2.51</u>	<u>22¢</u>	73757
<u>2.52</u>	<u>2.62</u>	<u>23¢</u>	73758
<u>2.63</u>	<u>2.74</u>	<u>24¢</u>	73759
<u>2.75</u>	<u>2.85</u>	<u>25¢</u>	73760
<u>2.86</u>	<u>2.97</u>	<u>26¢</u>	73761
<u>2.98</u>	<u>3.08</u>	<u>27¢</u>	73762
<u>3.09</u>	<u>3.20</u>	<u>28¢</u>	73763
<u>3.21</u>	<u>3.31</u>	<u>29¢</u>	73764
<u>3.32</u>	<u>3.42</u>	<u>30¢</u>	73765
<u>3.43</u>	<u>3.54</u>	<u>31¢</u>	73766
<u>3.55</u>	<u>3.65</u>	<u>32¢</u>	73767
<u>3.66</u>	<u>3.77</u>	<u>33¢</u>	73768
<u>3.78</u>	<u>3.88</u>	<u>34¢</u>	73769
<u>3.89</u>	<u>4.00</u>	<u>35¢</u>	73770

If the price exceeds four dollars, the tax is thirty-five cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than eleven cents, the amount of tax is thirty-five cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than eleven cents but by not more than twenty-two cents, the amount of tax is thirty-five cents for each four dollars plus two cents. If

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the price exceeds four dollars or a multiple thereof by more than 73778
twenty-two cents, the amount of tax is thirty-five cents for each 73779
four dollars plus the amount of tax for prices twenty-three cents 73780
through three dollars and ninety-nine cents in accordance with the 73781
schedule above. 73782

(12) When the combined rate of state and local tax is nine 73783
per cent: 73784

<u>If the price</u>		<u>The amount of</u>	
<u>is at least</u>	<u>But not more than</u>	<u>the tax is</u>	
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>	73785
<u>.16</u>	<u>.22</u>	<u>2¢</u>	73786
<u>.23</u>	<u>.33</u>	<u>3¢</u>	73787
<u>.34</u>	<u>.44</u>	<u>4¢</u>	73788
<u>.45</u>	<u>.55</u>	<u>5¢</u>	73789
<u>.56</u>	<u>.66</u>	<u>6¢</u>	73790
<u>.67</u>	<u>.77</u>	<u>7¢</u>	73791
<u>.78</u>	<u>.88</u>	<u>8¢</u>	73792
<u>.89</u>	<u>1.00</u>	<u>9¢</u>	73793

If the price exceeds one dollar, the tax is nine cents on 73796
each one dollar. If the price exceeds one dollar or a multiple 73797
thereof by not more than eleven cents, the amount of tax is nine 73798
cents for each one dollar plus one cent. If the price exceeds one 73799
dollar or a multiple thereof by more than eleven cents but by not 73800
more than twenty-two cents, the amount of tax is nine cents for 73801
each one dollar plus two cents. If the price exceeds one dollar or 73802
a multiple thereof by more than twenty-two cents, the amount of 73803
tax is nine cents for each one dollar plus the amount of tax for 73804
prices twenty-three cents through ninety-nine cents in accordance 73805
with the schedule above. 73806

(C) On and after July 1, 2005, and on and before December 31, 73807
2005, the combined taxes levied by sections 5739.02 and 5741.02 73808
and pursuant to sections 5739.021, 5739.023, 5739.026, 5741.021, 73809

5741.022, and 5741.023 of the Revised Code shall be collected in 73810
accordance with the following schedules: 73811

(1) When the total rate of local tax is one-fourth per cent: 73812

If the price	But not	The amount	73813
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is at least	more than	of the tax is	73814
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\$.01	\$.15	No tax	73815
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.16	.19	1¢	73816
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.20	.38	2¢	73817
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.39	.57	3¢	73818
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.58	.76	4¢	73819
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.77	.95	5¢	73820
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.96	1.14	6¢	73821
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1.15	1.33	7¢	73822
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1.34	1.52	8¢	73823
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1.53	1.71	9¢	73824
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1.72	1.90	10¢	73825
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1.91	2.09	11¢	73826
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2.10	2.28	12¢	73827
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2.29	2.47	13¢	73828
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2.48	2.66	14¢	73829
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2.67	2.85	15¢	73830
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2.86	3.04	16¢	73831
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3.05	3.23	17¢	73832
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3.24	3.42	18¢	73833
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3.43	3.61	19¢	73834
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3.62	3.80	20¢	73835
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3.81	4.00	21¢	73836
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If the price exceeds four dollars, the tax is twenty-one 73837

cents on each four dollars. If the price exceeds four dollars or a 73838

multiple thereof by not more than nineteen cents, the amount of 73839

tax is twenty-one cents for each four dollars plus one cent. If 73840

the price exceeds four dollars or a multiple thereof by more than 73841

nineteen cents, the amount of tax is twenty-one cents for each 73842
four dollars plus the amount of tax for prices twenty cents 73843
through three dollars and ninety-nine cents in accordance with the 73844
schedule above. 73845

(2) When the combined rate of local tax is one-half per cent: 73846

If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	73849
.16	.18	1¢	73850
.19	.36	2¢	73851
.37	.54	3¢	73852
.55	.72	4¢	73853
.73	.90	5¢	73854
.91	1.09	6¢	73855
1.10	1.27	7¢	73856
1.28	1.46	8¢	73857
1.47	1.64	9¢	73858
1.65	1.82	10¢	73859
1.83	2.00	11¢	73860

If the price exceeds two dollars, the tax is eleven cents on 73861
each two dollars. If the price exceeds two dollars or a multiple 73862
thereof by not more than eighteen cents, the amount of tax is 73863
eleven cents for each two dollars plus one cent. If the price 73864
exceeds two dollars or a multiple thereof by more than eighteen 73865
cents, the amount of tax is eleven cents for each two dollars plus 73866
the amount of tax for prices nineteen cents through one dollar and 73867
ninety-nine cents in accordance with the schedule above. 73868

(3) When the combined rate of local tax is three-fourths per 73869
cent: 73870

If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	73871
			73872
			73873

.16	.17	1¢	73874
.18	.34	2¢	73875
.35	.52	3¢	73876
.53	.69	4¢	73877
.70	.86	5¢	73878
.87	1.04	6¢	73879
1.05	1.21	7¢	73880
1.22	1.39	8¢	73881
1.40	1.56	9¢	73882
1.57	1.73	10¢	73883
1.74	1.91	11¢	73884
1.92	2.08	12¢	73885
2.09	2.26	13¢	73886
2.27	2.43	14¢	73887
2.44	2.60	15¢	73888
2.61	2.78	16¢	73889
2.79	2.95	17¢	73890
2.96	3.13	18¢	73891
3.14	3.30	19¢	73892
3.31	3.47	20¢	73893
3.48	3.65	21¢	73894
3.66	3.82	22¢	73895
3.83	4.00	23¢	73896

If the price exceeds four dollars, the tax is twenty-three cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than seventeen cents, the amount of tax is twenty-three cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than seventeen cents, the amount of tax is twenty-three cents for each four dollars plus the amount of tax for prices eighteen cents through three dollars and ninety-nine cents in accordance with the schedule above.

(4) When the combined rate of local tax is one per cent:			73906
If the price	But not	The amount	73907
is at least	more than	of the tax is	73908
\$.01	\$.15	No tax	73909
.16	.17	1¢	73910
.18	.34	2¢	73911
.35	.50	3¢	73912
.51	.67	4¢	73913
.68	.83	5¢	73914
.84	1.00	6¢	73915

If the price exceeds one dollar, the tax is six cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than seventeen cents, the amount of tax is six cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than seventeen cents, the amount of tax is six cents for each one dollar plus the amount of tax for prices eighteen cents through ninety-nine cents in accordance with the schedule above.

(5) When the combined rate of local tax is one and one-fourth per cent:

If the price	But not	The amount	73926
is at least	more than	of the tax is	73927
\$.01	\$.15	No tax	73928
.16	.16	1¢	73929
.17	.32	2¢	73930
.33	.48	3¢	73931
.49	.64	4¢	73932
.65	.80	5¢	73933
.81	.96	6¢	73934
.97	1.12	7¢	73935
1.13	1.28	8¢	73936
1.29	1.44	9¢	73937

1.45	1.60	10¢	73938
1.61	1.76	11¢	73939
1.77	1.92	12¢	73940
1.93	2.08	13¢	73941
2.09	2.24	14¢	73942
2.25	2.40	15¢	73943
2.41	2.56	16¢	73944
2.57	2.72	17¢	73945
2.73	2.88	18¢	73946
2.89	3.04	19¢	73947
3.05	3.20	20¢	73948
3.21	3.36	21¢	73949
3.37	3.52	22¢	73950
3.53	3.68	23¢	73951
3.69	3.84	24¢	73952
3.85	4.00	25¢	73953

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.

(6) When the combined rate of local tax is one and one-half per cent:

If the price	But not	The amount	73965
is at least	more than	of the tax is	73966
\$.01	\$.15	No tax	73967
.16	.30	2¢	73968
.31	.46	3¢	73969

.47	.61	4¢	73970
.62	.76	5¢	73971
.77	.92	6¢	73972
.93	1.07	7¢	73973
1.08	1.23	8¢	73974
1.24	1.38	9¢	73975
1.39	1.53	10¢	73976
1.54	1.69	11¢	73977
1.70	1.84	12¢	73978
1.85	2.00	13¢	73979

If the price exceeds two dollars, the tax is thirteen cents 73980
 on each two dollars. If the price exceeds two dollars or a 73981
 multiple thereof by not more than fifteen cents, the amount of tax 73982
 is thirteen cents for each two dollars plus one cent. If the price 73983
 exceeds two dollars or a multiple thereof by more than fifteen 73984
 cents, the amount of tax is thirteen cents for each two dollars 73985
 plus the amount of tax for prices sixteen cents through one dollar 73986
 and ninety-nine cents in accordance with the schedule above. 73987

(7) When the combined rate of local tax is one and 73988
 three-fourths per cent: 73989

If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	73990
.16	.29	2¢	73991
.30	.44	3¢	73992
.45	.59	4¢	73993
.60	.74	5¢	73994
.75	.88	6¢	73995
.89	1.03	7¢	73996
1.04	1.18	8¢	73997
1.19	1.33	9¢	73998
1.34	1.48	10¢	73999
			74000
			74001

1.49	1.62	11¢	74002
1.63	1.77	12¢	74003
1.78	1.92	13¢	74004
1.93	2.07	14¢	74005
2.08	2.22	15¢	74006
2.23	2.37	16¢	74007
2.38	2.51	17¢	74008
2.52	2.66	18¢	74009
2.67	2.81	19¢	74010
2.82	2.96	20¢	74011
2.97	3.11	21¢	74012
3.12	3.25	22¢	74013
3.26	3.40	23¢	74014
3.41	3.55	24¢	74015
3.56	3.70	25¢	74016
3.71	3.85	26¢	74017
3.86	4.00	27¢	74018

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:
 If the price is at least But not more than The amount of the tax is

\$.01	\$.15	No tax	74034
.16	.28	2¢	74035
.29	.42	3¢	74036
.43	.57	4¢	74037
.58	.71	5¢	74038
.72	.85	6¢	74039
.86	1.00	7¢	74040

If the price exceeds one dollar, the tax is seven cents on 74041
 each one dollar. If the price exceeds one dollar or a multiple 74042
 thereof by not more than fifteen cents, the amount of tax is seven 74043
 cents for each one dollar plus one cent. If the price exceeds one 74044
 dollar or a multiple thereof by more than fifteen cents, the 74045
 amount of tax is seven cents for each one dollar plus the amount 74046
 of tax for prices sixteen cents through ninety-nine cents in 74047
 accordance with the schedule above. 74048

(9) When the combined rate of local tax is two and one-fourth 74049
 per cent: 74050

If the price	But not	The amount	74051
is at least	more than	of the tax is	74052
\$.01	\$.15	No tax	74053
.16	.27	2¢	74054
.28	.41	3¢	74055
.42	.55	4¢	74056
.56	.68	5¢	74057
.69	.82	6¢	74058
.83	.96	7¢	74059
.97	1.10	8¢	74060
1.11	1.24	9¢	74061
1.25	1.37	10¢	74062
1.38	1.51	11¢	74063
1.52	1.65	12¢	74064
1.66	1.79	13¢	74065

1.80	1.93	14¢	74066
1.94	2.06	15¢	74067
2.07	2.20	16¢	74068
2.21	2.34	17¢	74069
2.35	2.48	18¢	74070
2.49	2.62	19¢	74071
2.63	2.75	20¢	74072
2.76	2.89	21¢	74073
2.90	3.03	22¢	74074
3.04	3.17	23¢	74075
3.18	3.31	24¢	74076
3.32	3.44	25¢	74077
3.45	3.58	26¢	74078
3.59	3.72	27¢	74079
3.73	3.86	28¢	74080
3.87	4.00	29¢	74081

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:

If the price	But not	The amount	74096
is at least	more than	of the tax is	74097

\$.01	\$.15	No tax	74098
.16	.26	2¢	74099
.27	.40	3¢	74100
.41	.53	4¢	74101
.54	.65	5¢	74102
.66	.80	6¢	74103
.81	.93	7¢	74104
.94	1.06	8¢	74105
1.07	1.20	9¢	74106
1.21	1.33	10¢	74107
1.34	1.46	11¢	74108
1.47	1.60	12¢	74109
1.61	1.73	13¢	74110
1.74	1.86	14¢	74111
1.87	2.00	15¢	74112

If the price exceeds two dollars, the tax is fifteen cents on 74113
 each two dollars. If the price exceeds two dollars or a multiple 74114
 thereof by not more than fifteen cents, the amount of tax is 74115
 fifteen cents for each two dollars plus one cent. If the price 74116
 exceeds two dollars or a multiple thereof by more than fifteen 74117
 cents, the amount of tax is fifteen cents for each two dollars 74118
 plus the amount of tax for prices sixteen cents through one dollar 74119
 and ninety-nine cents in accordance with the schedule above. 74120

(11) When the combined rate of local tax is two and 74121
 three-fourths per cent: 74122

If the price	But not	The amount	74123
is at least	more than	of the tax is	74124
\$.01	\$.15	No tax	74125
.16	.25	2¢	74126
.26	.38	3¢	74127
.39	.51	4¢	74128
.52	.64	5¢	74129

.65	.77	6¢	74130
.78	.90	7¢	74131
.91	1.03	8¢	74132
1.04	1.16	9¢	74133
1.17	1.29	10¢	74134
1.30	1.41	11¢	74135
1.42	1.54	12¢	74136
1.55	1.67	13¢	74137
1.68	1.80	14¢	74138
1.81	1.93	15¢	74139
1.94	2.06	16¢	74140
2.07	2.19	17¢	74141
2.20	2.32	18¢	74142
2.33	2.45	19¢	74143
2.46	2.58	20¢	74144
2.59	2.70	21¢	74145
2.71	2.83	22¢	74146
2.84	2.96	23¢	74147
2.97	3.09	24¢	74148
3.10	3.22	25¢	74149
3.23	3.35	26¢	74150
3.36	3.48	27¢	74151
3.49	3.61	28¢	74152
3.62	3.74	29¢	74153
3.75	3.87	30¢	74154
3.88	4.00	31¢	74155

If the price exceeds four dollars, the tax is thirty-one 74156
cents on each four dollars. If the price exceeds four dollars or a 74157
multiple thereof by not more than twelve cents, the amount of tax 74158
is thirty-one cents for each four dollars plus one cent. If the 74159
price exceeds four dollars or a multiple thereof by more than 74160
twelve cents but not more than twenty-five cents, the amount of 74161
tax is thirty-one cents for each four dollars plus two cents. If 74162

the price exceeds four dollars or a multiple thereof by more than 74163
twenty-five cents, the amount of tax is thirty-one cents for each 74164
four dollars plus the amount of tax for prices twenty-six cents 74165
through three dollars and ninety-nine cents in accordance with the 74166
schedule above. 74167

(12) When the combined rate of local tax is three per cent: 74168

If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	74171
.16	.25	2¢	74172
.26	.37	3¢	74173
.38	.50	4¢	74174
.51	.62	5¢	74175
.63	.75	6¢	74176
.76	.87	7¢	74177
.88	1.00	8¢	74178

If the price exceeds one dollar, the tax is eight cents on 74179
each one dollar. If the price exceeds one dollar or a multiple 74180
thereof by not more than twelve cents, the amount of tax is eight 74181
cents for each one dollar plus one cent. If the price exceeds one 74182
dollar or a multiple thereof by more than twelve cents but not 74183
more than twenty-five cents, the amount of tax is eight cents for 74184
each one dollar plus two cents. If the price exceeds one dollar or 74185
a multiple thereof by more than twenty-five cents, the amount of 74186
tax is eight cents for each one dollar plus the amount of tax for 74187
prices twenty-six cents through ninety-nine cents in accordance 74188
with the schedule above. 74189

~~(C)~~(D) In lieu of collecting the tax pursuant to the 74190
schedules set forth in divisions (A) ~~and~~, (B), and (C) of this 74191
section, a vendor may compute the tax on each sale as follows: 74192

(1) On sales of fifteen cents or less, no tax shall apply. 74193

(2) On sales in excess of fifteen cents, multiply the price 74194
by the aggregate rate of taxes in effect under sections ~~5739.01~~ 74195
5739.02 and 5741.02 and sections 5739.021, 5739.023, 5739.026, 74196
5741.021, 5741.022, and 5741.023 of the Revised Code. The 74197
computation shall be carried out to six decimal places. If the 74198
result is a fractional amount of a cent, the calculated tax shall 74199
be increased to the next highest cent and that amount shall be 74200
collected by the vendor. 74201

~~(D)~~(E) On and after January 1, 2006, a vendor shall compute 74202
the tax on each sale by multiplying the price by the aggregate 74203
rate of taxes in effect under sections 5739.02 and 5741.02, and 74204
sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 74205
5741.023 of the Revised Code. The computation shall be carried out 74206
to three decimal places. If the result is a fractional amount of a 74207
cent, the calculated tax shall be rounded to a whole cent using a 74208
method that rounds up to the next cent whenever the third decimal 74209
place is greater than four. A vendor may elect to compute the tax 74210
due on a transaction on an item or an invoice basis. 74211

(F) In auditing a vendor, the tax commissioner shall consider 74212
the method prescribed by this section that was used by the vendor 74213
in determining and collecting the tax due under this chapter on 74214
taxable transactions. If the vendor correctly collects and remits 74215
the tax due under this chapter in accordance with the schedules in 74216
divisions (A) ~~and~~, (B), and (C) of this section or in accordance 74217
with the computation prescribed in division ~~(C)~~(D) or (E) of this 74218
section, the commissioner shall not assess any additional tax on 74219
those transactions. 74220

(G)(1) With respect to a sale of a fractional ownership 74221
program aircraft used primarily in a fractional aircraft ownership 74222
program, including all accessories attached to such aircraft, the 74223
tax shall be calculated pursuant to divisions (A) to (E) of this 74224
section, provided that the tax commissioner shall modify those 74225

calculations so that the maximum tax on each program aircraft is 74226
eight hundred dollars. In the case of a sale of a fractional 74227
interest that is less than one hundred per cent of the program 74228
aircraft, the tax charged on the transaction shall be eight 74229
hundred dollars multiplied by a fraction, the numerator of which 74230
is the percentage of ownership or possession in the aircraft being 74231
purchased in the transaction, and the denominator of which is one 74232
hundred per cent. 74233

(2) Notwithstanding any other provision of law to the 74234
contrary, the tax calculated under division (G)(1) of this section 74235
and paid with respect to the sale of a fractional ownership 74236
program aircraft used primarily in a fractional aircraft ownership 74237
program shall be credited to the general revenue fund. 74238

Sec. 5739.026. (A) A board of county commissioners may levy a 74239
tax of one-fourth or one-half of one per cent on every retail sale 74240
in the county, except sales of watercraft and outboard motors 74241
required to be titled pursuant to Chapter 1548. of the Revised 74242
Code and sales of motor vehicles, and may increase an existing 74243
rate of one-fourth of one per cent to one-half of one per cent, to 74244
pay the expenses of administering the tax and, except as provided 74245
in division (A)(6) of this section, for any one or more of the 74246
following purposes provided that the aggregate levy for all such 74247
purposes does not exceed one-half of one per cent: 74248

(1) To provide additional revenues for the payment of bonds 74249
or notes issued in anticipation of bonds issued by a convention 74250
facilities authority established by the board of county 74251
commissioners under Chapter 351. of the Revised Code and to 74252
provide additional operating revenues for the convention 74253
facilities authority; 74254

(2) To provide additional revenues for a transit authority 74255
operating in the county; 74256

(3) To provide additional revenue for the county's general fund;	74257 74258
(4) To provide additional revenue for permanent improvements within the county to be distributed by the community improvements board in accordance with section 307.283 and to pay principal, interest, and premium on bonds issued under section 307.284 of the Revised Code;	74259 74260 74261 74262 74263
(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;	74264 74265 74266 74267 74268 74269 74270 74271 74272 74273
(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.	74274 74275 74276 74277 74278 74279 74280 74281 74282 74283 74284 74285
If the tax is levied or the rate increased for such purpose for more than five years, the board of county commissioners also	74286 74287

shall levy the tax or increase the rate of the tax for one or more 74288
of the purposes described in divisions (A)(1) to (5) of this 74289
section and shall prescribe the method for allocating the revenues 74290
from the tax each year in the manner required by division (C) of 74291
this section. 74292

(7) To provide additional revenue for the operation or 74293
maintenance of a detention facility, as that term is defined under 74294
division (F) of section 2921.01 of the Revised Code; 74295

(8) To provide revenue to finance the construction or 74296
renovation of a sports facility, but only if the tax is levied for 74297
that purpose in the manner prescribed by section 5739.028 of the 74298
Revised Code. 74299

As used in division (A)(8) of this section: 74300

(a) "Sports facility" means a facility intended to house 74301
major league professional athletic teams. 74302

(b) "Constructing" or "construction" includes providing 74303
fixtures, furnishings, and equipment. 74304

(9) To provide additional revenue for the acquisition of 74305
agricultural easements, as defined in section 5301.67 of the 74306
Revised Code; to pay principal, interest, and premium on bonds 74307
issued under section 133.60 of the Revised Code; and for the 74308
supervision and enforcement of agricultural easements held by the 74309
county. 74310

Pursuant to section 755.171 of the Revised Code, a board of 74311
county commissioners may pledge and contribute revenue from a tax 74312
levied for the purpose of division (A)(5) of this section to the 74313
payment of debt charges on bonds issued under section 755.17 of 74314
the Revised Code. 74315

The rate of tax shall be a multiple of one-fourth of one per 74316
cent, unless a portion of the rate of an existing tax levied under 74317

section 5739.023 of the Revised Code has been reduced, and the 74318
rate of tax levied under this section has been increased, pursuant 74319
to section 5739.028 of the Revised Code, in which case the 74320
aggregate of the rates of tax levied under this section and 74321
section 5739.023 of the Revised Code shall be a multiple of 74322
one-fourth of one per cent. The tax shall be levied and the rate 74323
increased pursuant to a resolution adopted by a majority of the 74324
members of the board. The board shall deliver a certified copy of 74325
the resolution to the tax commissioner, not later than the 74326
sixty-fifth day prior to the date on which the tax is to become 74327
effective, which shall be the first day of a calendar quarter. 74328

Prior to the adoption of any resolution to levy the tax or to 74329
increase the rate of tax exclusively for the purpose set forth in 74330
division (A)(3) of this section, the board of county commissioners 74331
shall conduct two public hearings on the resolution, the second 74332
hearing to be no fewer than three nor more than ten days after the 74333
first. Notice of the date, time, and place of the hearings shall 74334
be given by publication in a newspaper of general circulation in 74335
the county once a week on the same day of the week for two 74336
consecutive weeks, the second publication being no fewer than ten 74337
nor more than thirty days prior to the first hearing. Except as 74338
provided in division (E) of this section, the resolution shall 74339
~~become effective on the first day of a calendar quarter following~~ 74340
~~the expiration of sixty days from the date of its adoption, be~~ 74341
subject to a referendum as provided in sections 305.31 to 305.41 74342
of the Revised Code. If the resolution is adopted as an emergency 74343
measure necessary for the immediate preservation of the public 74344
peace, health, or safety, it must receive an affirmative vote of 74345
all of the members of the board of county commissioners and shall 74346
state the reasons for the necessity. 74347

If the tax is for more than one of the purposes set forth in 74348
divisions (A)(1) to (7) and (9) of this section or is exclusively 74349

for one of the purposes set forth in division (A)(1), (2), (4), 74350
(5), (6), (7), or (9) of this section, the resolution shall not go 74351
into effect unless it is approved by a majority of the electors 74352
voting on the question of the tax. 74353

(B) The board of county commissioners shall adopt a 74354
resolution under section 351.02 of the Revised Code creating the 74355
convention facilities authority, or under section 307.283 of the 74356
Revised Code creating the community improvements board, before 74357
adopting a resolution levying a tax for the purpose of a 74358
convention facilities authority under division (A)(1) of this 74359
section or for the purpose of a community improvements board under 74360
division (A)(4) of this section. 74361

(C)(1) If the tax is to be used for more than one of the 74362
purposes set forth in divisions (A)(1) to (7) and (9) of this 74363
section, the board of county commissioners shall establish the 74364
method that will be used to determine the amount or proportion of 74365
the tax revenue received by the county during each year that will 74366
be distributed for each of those purposes, including, if 74367
applicable, provisions governing the reallocation of a convention 74368
facilities authority's allocation if the authority is dissolved 74369
while the tax is in effect. The allocation method may provide that 74370
different proportions or amounts of the tax shall be distributed 74371
among the purposes in different years, but it shall clearly 74372
describe the method that will be used for each year. Except as 74373
otherwise provided in division (C)(2) of this section, the 74374
allocation method established by the board is not subject to 74375
amendment during the life of the tax. 74376

(2) Subsequent to holding a public hearing on the proposed 74377
amendment, the board of county commissioners may amend the 74378
allocation method established under division (C)(1) of this 74379
section for any year, if the amendment is approved by the 74380
governing board of each entity whose allocation for the year would 74381

be reduced by the proposed amendment. In the case of a tax that is 74382
levied for a continuing period of time, the board may not so amend 74383
the allocation method for any year before the sixth year that the 74384
tax is in effect. 74385

(a) If the additional revenues provided to the convention 74386
facilities authority are pledged by the authority for the payment 74387
of convention facilities authority revenue bonds for as long as 74388
such bonds are outstanding, no reduction of the authority's 74389
allocation of the tax shall be made for any year except to the 74390
extent that the reduced authority allocation, when combined with 74391
the authority's other revenues pledged for that purpose, is 74392
sufficient to meet the debt service requirements for that year on 74393
such bonds. 74394

(b) If the additional revenues provided to the county are 74395
pledged by the county for the payment of bonds or notes described 74396
in division (A)(4) or (5) of this section, for as long as such 74397
bonds or notes are outstanding, no reduction of the county's or 74398
the community improvements board's allocation of the tax shall be 74399
made for any year, except to the extent that the reduced county or 74400
community improvements board allocation is sufficient to meet the 74401
debt service requirements for that year on such bonds or notes. 74402

(c) If the additional revenues provided to the transit 74403
authority are pledged by the authority for the payment of revenue 74404
bonds issued under section 306.37 of the Revised Code, for as long 74405
as such bonds are outstanding, no reduction of the authority's 74406
allocation of tax shall be made for any year, except to the extent 74407
that the authority's reduced allocation, when combined with the 74408
authority's other revenues pledged for that purpose, is sufficient 74409
to meet the debt service requirements for that year on such bonds. 74410

(d) If the additional revenues provided to the county are 74411
pledged by the county for the payment of bonds or notes issued 74412
under section 133.60 of the Revised Code, for so long as the bonds 74413

or notes are outstanding, no reduction of the county's allocation 74414
of the tax shall be made for any year, except to the extent that 74415
the reduced county allocation is sufficient to meet the debt 74416
service requirements for that year on the bonds or notes. 74417

(D)(1) The resolution levying the tax or increasing the rate 74418
of tax shall state the rate of the tax or the rate of the 74419
increase; the purpose or purposes for which it is to be levied; 74420
the number of years for which it is to be levied or that it is for 74421
a continuing period of time; the allocation method required by 74422
division (C) of this section; and if required to be submitted to 74423
the electors of the county under division (A) of this section, the 74424
date of the election at which the proposal shall be submitted to 74425
the electors of the county, which shall be not less than 74426
seventy-five days after the certification of a copy of the 74427
resolution to the board of elections and, if the tax is to be 74428
levied exclusively for the purpose set forth in division (A)(3) of 74429
this section, shall not occur in February or August of any year. 74430
Upon certification of the resolution to the board of elections, 74431
the board of county commissioners shall notify the tax 74432
commissioner in writing of the levy question to be submitted to 74433
the electors. If approved by a majority of the electors, the tax 74434
shall become effective on the first day of a calendar quarter next 74435
following the ~~sixtieth~~ sixty-fifth day following the ~~certification~~ 74436
~~of the results of the election to~~ date the board of county 74437
commissioners and ~~the~~ tax commissioner by receive from the board 74438
of elections the certification of the results of the election, 74439
except as provided in division (E) of this section. 74440

(2)(a) A resolution specifying that the tax is to be used 74441
exclusively for the purpose set forth in division (A)(3) of this 74442
section that is not adopted as an emergency measure may direct the 74443
board of elections to submit the question of levying the tax or 74444
increasing the rate of the tax to the electors of the county at a 74445

special election held on the date specified by the board of county 74446
commissioners in the resolution, provided that the election occurs 74447
not less than seventy-five days after the resolution is certified 74448
to the board of elections and the election is not held in February 74449
or August of any year. Upon certification of the resolution to the 74450
board of elections, the board of county commissioners shall notify 74451
the tax commissioner in writing of the levy question to be 74452
submitted to the electors. No resolution adopted under division 74453
(D)(2)(a) of this section shall go into effect unless approved by 74454
a majority of those voting upon it and, except as provided in 74455
division (E) of this section, not until the first day of a 74456
calendar quarter following the expiration of sixty-five days from 74457
the date ~~of the notice to~~ the tax commissioner by receives notice 74458
from the board of elections of the affirmative vote. 74459

(b) A resolution specifying that the tax is to be used 74460
exclusively for the purpose set forth in division (A)(3) of this 74461
section that is adopted as an emergency measure shall become 74462
effective as provided in division (A) of this section, but may 74463
direct the board of elections to submit the question of repealing 74464
the tax or increase in the rate of the tax to the electors of the 74465
county at the next general election in the county occurring not 74466
less than seventy-five days after the resolution is certified to 74467
the board of elections. Upon certification of the resolution to 74468
the board of elections, the board of county commissioners shall 74469
notify the tax commissioner in writing of the levy question to be 74470
submitted to the electors. The ballot question shall be the same 74471
as that prescribed in section 5739.022 of the Revised Code. The 74472
board of elections shall notify the board of county commissioners 74473
and the tax commissioner of the result of the election immediately 74474
after the result has been declared. If a majority of the qualified 74475
electors voting on the question of repealing the tax or increase 74476
in the rate of the tax vote for repeal of the tax or repeal of the 74477
increase, the board of county commissioners, on the first day of a 74478

calendar quarter following the expiration of ~~sixty-five~~ days after 74479
the date ~~it~~ the board and tax commissioner received notice of the 74480
result of the election, shall, in the case of a repeal of the tax, 74481
cease to levy the tax, or, in the case of a repeal of an increase 74482
in the rate of the tax, cease to levy the increased rate and levy 74483
the tax at the rate at which it was imposed immediately prior to 74484
the increase in rate. 74485

(c) A board of county commissioners, by resolution, may 74486
reduce the rate of a tax levied exclusively for the purpose set 74487
forth in division (A)(3) of this section to a lower rate 74488
authorized by this section. Any such reduction shall be made 74489
effective on the first day of the calendar quarter ~~specified in~~ 74490
~~the resolution, but not sooner than the first day of the month~~ 74491
next following the ~~sixtieth~~ sixty-fifth day after the ~~resolution~~ 74492
~~is certified to the~~ tax commissioner receives a certified copy of 74493
the resolution from the board. 74494

(E) If a vendor that is registered with the central 74495
electronic registration system provided for in section 5740.05 of 74496
the Revised Code makes a sale in this state by printed catalog and 74497
the consumer computed the tax on the sale based on local rates 74498
published in the catalog, any tax levied or repealed or rate 74499
changed under this section shall not apply to such a sale until 74500
the first day of a calendar quarter following the expiration of 74501
one hundred twenty days from the date of notice by the tax 74502
commissioner ~~to the vendor, or to the vendor's certified service~~ 74503
~~provider, if the vendor has selected one~~ pursuant to division (G) 74504
of this section. 74505

(F) The tax levied pursuant to this section shall be in 74506
addition to the tax levied by section 5739.02 of the Revised Code 74507
and any tax levied pursuant to section 5739.021 or 5739.023 of the 74508
Revised Code. 74509

A county that levies a tax pursuant to this section shall 74510

levy a tax at the same rate pursuant to section 5741.023 of the Revised Code. 74511
74512

The additional tax levied by the county shall be collected pursuant to section 5739.025 of the Revised Code. 74513
74514

Any tax levied pursuant to this section is subject to the exemptions provided in section 5739.02 of the Revised Code and in addition shall not be applicable to sales not within the taxing power of a county under the Constitution of the United States or the Ohio Constitution. 74515
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(G) Upon receipt from a board of county commissioners of a certified copy of a resolution required by division (A) of this section, or from the board of elections a notice of the results of an election required by division (D)(1), (2)(a), (b), or (c) 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. 74520
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Sec. 5739.03. Except as provided in section 5739.05 of the Revised Code, the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code shall be paid by the consumer to the vendor, and each vendor shall collect from the consumer, as a trustee for the state of Ohio, the full and exact amount of the tax payable on each taxable sale, in the manner and at the times provided as follows: 74530
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(A) If the price is, at or prior to the provision of the service or the delivery of possession of the thing sold to the consumer, paid in currency passed from hand to hand by the consumer or the consumer's agent to the vendor or the vendor's agent, the vendor or the vendor's agent shall collect the tax with 74537
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and at the same time as the price; 74542

(B) If the price is otherwise paid or to be paid, the vendor 74543
or the vendor's agent shall, at or prior to the provision of the 74544
service or the delivery of possession of the thing sold to the 74545
consumer, charge the tax imposed by or pursuant to section 74546
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code to 74547
the account of the consumer, which amount shall be collected by 74548
the vendor from the consumer in addition to the price. Such sale 74549
shall be reported on and the amount of the tax applicable thereto 74550
shall be remitted with the return for the period in which the sale 74551
is made, and the amount of the tax shall become a legal charge in 74552
favor of the vendor and against the consumer. 74553

If any sale is claimed to be exempt under division (E) of 74554
section 5739.01 of the Revised Code or under section 5739.02 of 74555
the Revised Code, with the exception of divisions (B)(1) to (11) 74556
or (28) of section 5739.02 of the Revised Code, the consumer must 74557
furnish to the vendor, and the vendor must obtain from the 74558
consumer, a certificate specifying the reason that the sale is not 74559
legally subject to the tax. If the transaction is claimed to be 74560
exempt under division (B)(13) of section 5739.02 of the Revised 74561
Code, the exemption certificate shall be signed by both the 74562
contractor and the contractee and such contractee shall be deemed 74563
to be the consumer of all items purchased under such claim of 74564
exemption in the event it is subsequently determined that the 74565
exemption is not properly claimed. The certificate shall be in 74566
such form as the tax commissioner by regulation prescribes. If no 74567
certificate is furnished or obtained within the period for filing 74568
the return for the period in which such sale is consummated, it 74569
shall be presumed that the tax applies. ~~The~~ Failure to have so 74570
furnished, or to have so obtained, a certificate shall not prevent 74571
a vendor or consumer from establishing that the sale is not 74572
~~subject~~ subject to the tax within ~~sixty~~ one hundred twenty days of 74573

the giving of notice by the commissioner of intention to levy an ~~assassment~~ assessment, in which event the tax shall not apply. 74574
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Certificates need not be obtained nor furnished where the 74576
identity of the consumer is such that the transaction is never 74577
subject to the tax imposed or where the item of tangible personal 74578
property sold or the service provided is never subject to the tax 74579
imposed, regardless of use, or when the sale is in interstate 74580
commerce. 74581

(C) As used in this division, "contractee" means a person who 74582
seeks to enter or enters into a contract or agreement with a 74583
contractor or vendor for the construction of real property or for 74584
the sale and installation onto real property of tangible personal 74585
property. 74586

Any contractor or vendor may request from any contractee a 74587
certification of what portion of the property to be transferred 74588
under such contract or agreement is to be incorporated into the 74589
realty and what portion will retain its status as tangible 74590
personal property after installation is completed. The contractor 74591
or vendor shall request the certification by certified mail 74592
delivered to the contractee, return receipt requested. Upon 74593
receipt of such request and prior to entering into the contract or 74594
agreement, the contractee shall furnish to the contractor or 74595
vendor a certification sufficiently detailed to enable the 74596
contractor or vendor to ascertain the resulting classification of 74597
all materials purchased or fabricated by the contractor or vendor 74598
and transferred to the contractee. This requirement applies to a 74599
contractee regardless of whether the contractee holds a direct 74600
payment permit under section 5739.031 of the Revised Code or 74601
furnishes to the contractor or vendor an exemption certificate as 74602
provided under this section. 74603

For the purposes of the taxes levied by this chapter and 74604
Chapter 5741. of the Revised Code, the contractor or vendor may in 74605

good faith rely on the contractee's certification. Notwithstanding 74606
division (B) of section 5739.01 of the Revised Code, if the tax 74607
commissioner determines that certain property certified by the 74608
contractee as tangible personal property pursuant to this division 74609
is, in fact, real property, the contractee shall be considered to 74610
be the consumer of all materials so incorporated into that real 74611
property and shall be liable for the applicable tax, and the 74612
contractor or vendor shall be excused from any liability on those 74613
materials. 74614

If a contractee fails to provide such certification upon the 74615
request of the contractor or vendor, the contractor or vendor 74616
shall comply with the provisions of this chapter and Chapter 5741. 74617
of the Revised Code without the certification. If the tax 74618
commissioner determines that such compliance has been performed in 74619
good faith and that certain property treated as tangible personal 74620
property by the contractor or vendor is, in fact, real property, 74621
the contractee shall be considered to be the consumer of all 74622
materials so incorporated into that real property and shall be 74623
liable for the applicable tax and the construction contractor or 74624
vendor shall be excused from any liability on those materials. 74625

This division does not apply to any contract or agreement 74626
where the tax commissioner determines as a fact that a 74627
certification under this division was made solely on the decision 74628
or advice of the contractor or vendor. 74629

(D) Notwithstanding division (B) of section 5739.01 of the 74630
Revised Code, whenever the total rate of tax imposed under this 74631
chapter is increased after the date after a construction contract 74632
is entered into, the contractee shall reimburse the construction 74633
contractor for any additional tax paid on tangible property 74634
consumed or services received pursuant to the contract. 74635

(E) A vendor who files a petition for reassessment contesting 74636
the assessment of tax on sales for which the vendor obtained no 74637

valid exemption certificates and for which the vendor failed to 74638
establish that the sales were properly not subject to the tax 74639
during the one-hundred-twenty-day period allowed under division 74640
(B) of this section, may present to the tax commissioner 74641
additional evidence to prove that the sales were properly subject 74642
to a claim of exception or exemption. The vendor shall file such 74643
evidence within ninety days of the receipt by the vendor of the 74644
notice of assessment, except that, upon application and for 74645
reasonable cause, the period for submitting such evidence shall be 74646
extended thirty days. 74647

The commissioner shall consider such additional evidence in 74648
reaching the final determination on the assessment and petition 74649
for reassessment. 74650

(F) Whenever a vendor refunds to the consumer the full price 74651
of an item of tangible personal property on which the tax imposed 74652
under this chapter has been paid, the vendor shall also refund the 74653
full amount of the tax paid. 74654

Sec. 5739.032. (A) If the total amount of tax required to be 74655
paid by a permit holder under section 5739.031 of the Revised Code 74656
for any calendar year ~~indicated in the following schedule~~ equals 74657
or exceeds ~~the amounts prescribed for that year in the schedule~~ 74658
seventy-five thousand dollars, the permit holder shall remit each 74659
monthly tax payment in the second ensuing and each succeeding year 74660
by electronic funds transfer as prescribed by division (B) of this 74661
section. 74662

Year	1992	1993 through 1999	2000 and thereafter
Tax payment	\$1,200,000	\$600,000	\$60,000

If a permit holder's tax payment for each of two consecutive 74665
years ~~beginning with 2000~~ is less than ~~sixty~~ seventy-five thousand 74666
dollars, the permit holder is relieved of the requirement to remit 74667
taxes by electronic funds transfer for the year that next follows 74668

the second of the consecutive years in which the tax payment is 74669
less than ~~sixty thousand dollars~~ that amount, and is relieved of 74670
that requirement for each succeeding year, unless the tax payment 74671
in a subsequent year equals or exceeds ~~sixty~~ seventy-five thousand 74672
dollars. 74673

The tax commissioner shall notify each permit holder required 74674
to remit taxes by electronic funds transfer of the permit holder's 74675
obligation to do so, shall maintain an updated list of those 74676
permit holders, and shall timely certify the list and any 74677
additions thereto or deletions therefrom to the treasurer of 74678
state. Failure by the tax commissioner to notify a permit holder 74679
subject to this section to remit taxes by electronic funds 74680
transfer does not relieve the permit holder of its obligation to 74681
remit taxes by electronic funds transfer. 74682

(B) Permit holders required by division (A) of this section 74683
to remit payments by electronic funds transfer shall remit such 74684
payments to the treasurer of state in the manner prescribed by 74685
this section and rules adopted by the treasurer of state under 74686
section 113.061 of the Revised Code, and on or before the 74687
following dates: 74688

(1) On or before each of the ~~eleventh, eighteenth,~~ fifteenth 74689
and twenty-fifth days of each month, a permit holder shall remit 74690
an amount equal to ~~one-fourth~~ thirty-seven and one-half per cent 74691
of the permit holder's total tax liability for the same month in 74692
the preceding calendar year. 74693

(2) On or before the twenty-third day of each month, a permit 74694
holder shall report the taxes due for the previous month and shall 74695
remit that amount, less any amounts paid for that month as 74696
required by division (B)(1) of this section. 74697

The payment of taxes by electronic funds transfer does not 74698
affect a permit holder's obligation to file the monthly return as 74699

required under section 5739.031 of the Revised Code. 74700

(C) A permit holder required by this section to remit taxes 74701
by electronic funds transfer may apply to the treasurer of state 74702
in the manner prescribed by the treasurer of state to be excused 74703
from that requirement. The treasurer of state may excuse the 74704
permit holder from remittance by electronic funds transfer for 74705
good cause shown for the period of time requested by the permit 74706
holder or for a portion of that period. The treasurer of state 74707
shall notify the tax commissioner and the permit holder of the 74708
treasurer of state's decision as soon as is practicable. 74709

(D)(1) If a permit holder that is required to remit payments 74710
under division (B) of this section fails to make a payment, the 74711
commissioner may impose an additional charge not to exceed five 74712
per cent of that unpaid amount. 74713

(2) If a permit holder required by this section to remit 74714
taxes by electronic funds transfer remits those taxes by some 74715
means other than by electronic funds transfer as prescribed by 74716
this section and the rules adopted by the treasurer of state, and 74717
the tax commissioner determines that such failure was not due to 74718
reasonable cause or was due to willful neglect, the commissioner 74719
may impose an additional charge not to exceed the lesser of five 74720
per cent of the amount of the taxes required to be paid by 74721
electronic funds transfer or five thousand dollars. 74722

(3) Any additional charge imposed under division (D)(1) or 74723
(2) of this section is in addition to any other penalty or charge 74724
imposed under this chapter, and shall be considered as revenue 74725
arising from taxes imposed under this chapter. An additional 74726
charge may be collected by assessment in the manner prescribed by 74727
section 5739.13 of the Revised Code. The tax commissioner may 74728
waive all or a portion of such a charge and may adopt rules 74729
governing such waiver. 74730

No additional charge shall be imposed under division (D)(2) 74731
of this section against a permit holder that has been notified of 74732
its obligation to remit taxes under this section and that remits 74733
its first two tax payments after such notification by some means 74734
other than electronic funds transfer. The additional charge may be 74735
imposed upon the remittance of any subsequent tax payment that the 74736
permit holder remits by some means other than electronic funds 74737
transfer. 74738

Sec. 5739.033. The amount of tax due pursuant to sections 74739
5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code is 74740
the sum of the taxes imposed pursuant to those sections at the 74741
situs of the sale as determined under this section or, if 74742
applicable, under division (C) of section 5739.031 of the Revised 74743
Code. 74744

(A) Except as otherwise provided in this section, division 74745
(C) of section 5739.031, and section 5739.034 of the Revised Code, 74746
the situs of all sales is the vendor's place of business. 74747

(1) If the consumer or the consumer's agent takes possession 74748
of the tangible personal property at a place of business of the 74749
vendor where the purchase contract or agreement was made, the 74750
situs of the sale is that place of business. 74751

(2) If the consumer or the consumer's agent takes possession 74752
of the tangible personal property other than at a place of 74753
business of the vendor, or takes possession at a warehouse or 74754
similar facility of the vendor, the situs of the sale is the 74755
vendor's place of business where the purchase contract or 74756
agreement was made or the purchase order was received. 74757

(3) If the vendor provides a service specified in division 74758
(B)(3)(a), (b), (c), (d), (n), ~~or~~ (o), (r), (s), or (t) of section 74759
5739.01 or makes a sale specified in division (B)(8) of section 74760

5739.01 of the Revised Code, the situs of the sale is the vendor's 74761
place of business where the service is performed or the contract 74762
or agreement for the service was made or the purchase order was 74763
received. 74764

(B) If the vendor is a transient vendor as specified in 74765
division (B) of section 5739.17 of the Revised Code, the situs of 74766
the sale is the vendor's temporary place of business or, if the 74767
transient vendor is the lessor of titled motor vehicles, titled 74768
watercraft, or titled outboard motors, at the location where the 74769
lessee keeps the leased property. 74770

(C) If the vendor makes sales of tangible personal property 74771
from a stock of goods carried in a motor vehicle, from which the 74772
purchaser makes selection and takes possession, or from which the 74773
vendor sells tangible personal property the quantity of which has 74774
not been determined prior to the time the purchaser takes 74775
possession, the situs of the sale is the location of the motor 74776
vehicle when the sale is made. 74777

(D) If the vendor is a delivery vendor as specified in 74778
division (D) of section 5739.17 of the Revised Code, the situs of 74779
the sale is the place where the tangible personal property is 74780
delivered, where the leased property is used, or where the service 74781
is performed or received. 74782

(E) If the vendor provides a service specified in division 74783
(B)(3)(e), (g), (h), (j), (k), (l), ~~or (m)~~, (q), or (u) of section 74784
5739.01 of the Revised Code, the situs of the sale is the location 74785
of the consumer where the service is performed or received. 74786

(F) ~~Except as provided in division (I) or (J) of this~~ 74787
~~section:~~ 74788

~~(1) If the vendor provides a service specified in division 74789
(B)(3)(f) or (i) of section 5739.01 of the Revised Code, the situs 74790
of the sale is the location of the telephone number or account as 74791~~

~~reflected in the records of the vendor.~~ 74792

~~(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.~~ 74793
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74796

~~(G)~~ 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 the location where the lodging is located. 74797
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74800

~~(H)~~(G) If the vendor sells a warranty, maintenance or service contract, or similar agreement as specified in division (B)(7) of section 5739.01 of the Revised Code and the vendor is a delivery vendor, the situs of the sale is the location of the consumer. If the vendor is not a delivery vendor, the situs of the sale is the vendor's place of business where the contract or agreement was made, unless the warranty or contract is a component of the sale of a titled motor vehicle, titled watercraft, or titled outboard motor, in which case the situs of the sale is the county of titling. 74801
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~~(I) 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.~~ 74811
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Sec. 5739.034. (A) As used in this section: 74820

(1) "Air-to-ground radiotelephone service" means a radio 74821

service, as defined in 47 C.F.R. 22.99, in which common carriers 74822
are authorized to offer and provide radio telecommunications 74823
service for hire to subscribers in aircraft. 74824

(2) "Call-by-call basis" means any method of charging for 74825
telecommunications services where the price is measured by 74826
individual calls. 74827

(3) "Customer" means the person or entity that contracts with 74828
a seller of telecommunications service. If the end user of 74829
telecommunications service is not the contracting party, the end 74830
user of the telecommunications service is the customer of the 74831
telecommunications service. "Customer" does not include a reseller 74832
of telecommunications service or of mobile telecommunications 74833
service of a serving carrier under an agreement to serve the 74834
customer outside the home service provider's licensed service 74835
area. 74836

(4) "End user" means the person who utilizes the 74837
telecommunications service. In the case of a person other than an 74838
individual, "end user" means the individual who utilizes the 74839
service on behalf of the person. 74840

(5) "Home service provider" has the same meaning as in the 74841
"Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 74842
Stat. 631 (2000), 4 U.S.C. 124(5), as amended. 74843

(6) "Place of primary use" means the street address 74844
representative of where the customer's use of the 74845
telecommunications service primarily occurs, which must be the 74846
residential street address or the primary business street address 74847
of the customer. In the case of mobile telecommunications 74848
services, "place of primary use" must be within the licensed 74849
service area of the home service provider. 74850

(7) "Post-paid calling service" means the telecommunications 74851
service obtained by making a payment on a call-by-call basis 74852

either through the use of a credit card or payment mechanism such 74853
as a bank card, travel card, credit card, or debit card, or by 74854
charge made to a telephone number that is not associated with the 74855
origination or termination of the telecommunications service. 74856
"Post-paid calling service" includes a telecommunications service 74857
that would be a prepaid calling service, but for the fact that it 74858
is not exclusively a telecommunications service. 74859

(8) "Prepaid calling service" means the right to access 74860
exclusively a telecommunications service that must be paid for in 74861
advance, that enables the origination of calls using an access 74862
number or authorization code, whether manually or electronically 74863
dialed, and that is sold in predetermined units or dollars of 74864
which the number declines with use in a known amount. 74865

(9) "Service address" means: 74866

(a) The location of the telecommunications equipment to which 74867
a customer's call is charged and from which the call originates or 74868
terminates, regardless of where the call is billed or paid. 74869

(b) If the location in division (A)(9)(a) of this section is 74870
not known, "service address" means the origination point of the 74871
signal of the telecommunications service first identified by 74872
either the seller's telecommunications system or in information 74873
received by the seller from its service provider, where the system 74874
used to transport such signals is not that of the seller. 74875

(c) If the locations in divisions (A)(9)(a) and (b) of this 74876
section are not known, "service address" means the location of the 74877
customer's place of primary use. 74878

(B) The amount of tax due pursuant to sections 5739.02, 74879
5739.021, 5739.023, and 5739.026 of the Revised Code on sales of 74880
telecommunications service, information service, or mobile 74881
telecommunications service, is the sum of the taxes imposed 74882
pursuant to those sections at the sourcing location of the sale as 74883

determined under this section. 74884

(C) Except for the telecommunications services described in 74885
division (E) of this section, the sale of telecommunications 74886
service sold on a call-by-call basis shall be sourced to each 74887
level of taxing jurisdiction where the call originates and 74888
terminates in that jurisdiction, or each level of taxing 74889
jurisdiction where the call either originates or terminates and in 74890
which the service address also is located. 74891

(D) Except for the telecommunications services described in 74892
division (E) of this section, a sale of telecommunications 74893
services sold on a basis other than a call-by-call basis shall be 74894
sourced to the customer's place of primary use. 74895

(E) The sale of the following telecommunications services 74896
shall be sourced to each level of taxing jurisdiction, as follows: 74897

(1) A sale of mobile telecommunications service, other than 74898
air-to-ground radiotelephone service and prepaid calling service, 74899
shall be sourced to the customer's place of primary use as 74900
required by the Mobile Telecommunications Sourcing Act. 74901

(2) A sale of post-paid calling service shall be sourced to 74902
the origination point of the telecommunications signal as first 74903
identified by the service provider's telecommunications system, or 74904
information received by the seller from its service provider, 74905
where the system used to transport such signals is not that of the 74906
seller. 74907

(3) A sale of prepaid calling service shall be sourced under 74908
section 5739.033 of the Revised Code; but in the case of a sale of 74909
mobile telecommunications service that is a prepaid 74910
telecommunications service, in lieu of sourcing the service under 74911
division (A)(5) of section 5739.033 of the Revised Code, the 74912
service may be sourced to the location associated with the mobile 74913
telephone number. 74914

Sec. 5739.10. (A) In addition to the tax levied ~~in~~ by section 74915
5739.02 of the Revised Code and any tax levied pursuant to section 74916
5739.021, 5739.023, or 5739.026 of the Revised Code, and to secure 74917
the same objectives specified in ~~said those~~ sections, there is 74918
hereby levied upon the privilege of engaging in the business of 74919
making retail sales, an excise tax of five per cent, or, in the 74920
case of retail sales subject to a tax levied pursuant to section 74921
5739.021, 5739.023, or 5739.026 of the Revised Code, a percentage 74922
equal to the aggregate rate of such taxes and the tax levied by 74923
section 5739.02 of the Revised Code of the receipts derived from 74924
all retail sales, ~~except retail sales under sixteen cents and~~ 74925
those to which the excise tax imposed by section 5739.02 of the 74926
Revised Code is made inapplicable by division (B) of ~~said that~~ 74927
section. 74928

(B) For the purpose of this section, ~~no~~ vendor shall be 74929
required to maintain records of ~~individual retail sales of~~ 74930
~~tangible personal property under sixteen cents or~~ sales of food 74931
for human consumption off the premises where sold, and no 74932
assessment shall be made against any vendor for ~~retail sales of~~ 74933
~~less than sixteen cents or for~~ sales of food for human consumption 74934
off the premises where sold, solely because the vendor has no 74935
records of, or has inadequate records of, ~~retail sales of less~~ 74936
~~than sixteen cents or such~~ sales of food for human consumption off 74937
~~the premises where sold;~~ provided that where a vendor does not 74938
have adequate records of receipts from ~~his retail sales in excess~~ 74939
~~of fifteen cents or the vendor's~~ sales of food for human 74940
consumption on the premises where sold, the tax commissioner may 74941
refuse to accept the vendor's return and, upon the basis of test 74942
checks of the vendor's business for a representative period, and 74943
other information relating to the sales made by such vendor, 74944
determine the proportion that taxable retail sales bear to all ~~his~~ 74945
of the vendor's retail sales. The tax imposed by this section 74946

shall be determined by deducting from the sum representing five 74947
per cent, or, in the case of retail sales subject to a tax levied 74948
pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised 74949
Code, a percentage equal to the aggregate rate of such taxes and 74950
the tax levied by section 5739.02 of the Revised Code of the 74951
receipts from such retail sales, the amount of tax paid to the 74952
state or to a clerk of a court of common pleas. The section does 74953
not affect any duty of the vendor under sections 5739.01 to 74954
5739.19 and 5739.26 to 5739.31 of the Revised Code, nor the 74955
liability of any consumer to pay any tax imposed by or pursuant to 74956
section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised 74957
Code. 74958

Sec. 5739.12. (A) Each person who has or is required to have 74959
a vendor's license, on or before the twenty-third day of each 74960
month, shall make and file a return for the preceding month, on 74961
forms prescribed by the tax commissioner, and shall pay the tax 74962
shown on the return to be due. The commissioner may require a 74963
vendor that operates from multiple locations or has multiple 74964
vendor's licenses to report all tax liabilities on one 74965
consolidated return. The return shall show the amount of tax due 74966
from the vendor to the state for the period covered by the return 74967
and such other information as the commissioner deems necessary for 74968
the proper administration of this chapter. The commissioner may 74969
extend the time for making and filing returns and paying the tax, 74970
and may require that the return for the last month of any annual 74971
or semiannual period, as determined by the commissioner, be a 74972
reconciliation return detailing the vendor's sales activity for 74973
the preceding annual or semiannual period. The reconciliation 74974
return shall be filed by the last day of the month following the 74975
last month of the annual or semiannual period. The commissioner 74976
may remit all or any part of amounts or penalties that may become 74977
due under this chapter and may adopt rules relating thereto. Such 74978

return shall be filed by mailing it to the tax commissioner, 74979
together with payment of the amount of tax shown to be due thereon 74980
after deduction of any discount provided for under this section. 74981
Remittance shall be made payable to the treasurer of state. The 74982
return shall be considered filed when received by the tax 74983
commissioner, and the payment shall be considered made when 74984
received by the tax commissioner or when credited to an account 74985
designated by the treasurer of state or the tax commissioner. 74986

(B) If the return is filed and the amount of tax shown 74987
thereon to be due is paid on or before the date such return is 74988
required to be filed, the vendor shall be entitled to a the 74989
following discount ~~of three-fourths~~: 74990

(1) On and after July 1, 2003, and on and before June 30, 74991
2005, one and one-tenth per cent of the amount shown to be due on 74992
the return; 74993

(2) On and after July 1, 2005, three-fourths of one per cent 74994
of the amount shown to be due on the return, ~~but a.~~ 74995

A vendor that has selected a certified service provider as 74996
its agent shall not be entitled to the discount. Amounts paid to 74997
the clerk of courts pursuant to section 4505.06 of the Revised 74998
Code shall be subject to the ~~three-fourths of one per cent~~ 74999
applicable discount. The discount shall be in consideration for 75000
prompt payment to the clerk of courts and for other services 75001
performed by the vendor in the collection of the tax. 75002

(C)(1) Upon application to the commissioner, a vendor who is 75003
required to file monthly returns may be relieved of the 75004
requirement to report and pay the actual tax due, provided that 75005
the vendor agrees to remit to the tax commissioner payment of not 75006
less than an amount determined by the commissioner to be the 75007
average monthly tax liability of the vendor, based upon a review 75008
of the returns or other information pertaining to such vendor for 75009

a period of not less than six months nor more than two years 75010
immediately preceding the filing of the application. Vendors who 75011
agree to the above conditions shall make and file an annual or 75012
semiannual reconciliation return, as prescribed by the 75013
commissioner. The reconciliation return shall be filed by mailing 75014
or delivering it to the tax commissioner, together with payment of 75015
the amount of tax shown to be due thereon after deduction of any 75016
discount provided in this section. Remittance shall be made 75017
payable to the treasurer of state. Failure of a vendor to comply 75018
with any of the above conditions may result in immediate 75019
reinstatement of the requirement of reporting and paying the 75020
actual tax liability on each monthly return, and the commissioner 75021
may at the commissioner's discretion deny the vendor the right to 75022
report and pay based upon the average monthly liability for a 75023
period not to exceed two years. The amount ascertained by the 75024
commissioner to be the average monthly tax liability of a vendor 75025
may be adjusted, based upon a review of the returns or other 75026
information pertaining to the vendor for a period of not less than 75027
six months nor more than two years preceding such adjustment. 75028

(2) The commissioner may authorize vendors whose tax 75029
liability is not such as to merit monthly returns, as ascertained 75030
by the commissioner upon the basis of administrative costs to the 75031
state, to make and file returns at less frequent intervals. When 75032
returns are filed at less frequent intervals in accordance with 75033
such authorization, the vendor shall be allowed the discount ~~of~~ 75034
~~three-fourths of one per cent~~ provided in this section in 75035
consideration for prompt payment with the return, provided the 75036
return is filed together with payment of the amount of tax shown 75037
to be due thereon, at the time specified by the commissioner, but 75038
a vendor that has selected a certified service provider as its 75039
agent shall not be entitled to the discount. 75040

(D) Any vendor who fails to file a return or pay the full 75041

amount of the tax shown on the return to be due under this section 75042
and the rules of the commissioner may, for each such return the 75043
vendor fails to file or each such tax the vendor fails to pay in 75044
full as shown on the return within the period prescribed by this 75045
section and the rules of the commissioner, be required to forfeit 75046
and pay into the state treasury an additional charge not exceeding 75047
fifty dollars or ten per cent of the tax required to be paid for 75048
the reporting period, whichever is greater, as revenue arising 75049
from the tax imposed by this chapter, and such sum may be 75050
collected by assessment in the manner provided in section 5739.13 75051
of the Revised Code. The commissioner may remit all or a portion 75052
of the additional charge and may adopt rules relating to the 75053
imposition and remission of the additional charge. 75054

(E) If the amount required to be collected by a vendor from 75055
consumers is in excess of ~~five per cent~~ the applicable percentage 75056
of the vendor's receipts from sales that are taxable under section 75057
5739.02 of the Revised Code, or in the case of sales subject to a 75058
tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of 75059
the Revised Code, in excess of the percentage equal to the 75060
aggregate rate of such taxes and the tax levied by section 5739.02 75061
of the Revised Code, such excess shall be remitted along with the 75062
remittance of the amount of tax due under section 5739.10 of the 75063
Revised Code. 75064

(F) The commissioner, if the commissioner deems it necessary 75065
in order to insure the payment of the tax imposed by this chapter, 75066
may require returns and payments to be made for other than monthly 75067
periods. The returns shall be signed by the vendor or the vendor's 75068
authorized agent. 75069

(G) Any vendor required to file a return and pay the tax 75070
under this section, whose total payment ~~in any year indicated in~~ 75071
~~division (A) of section 5739.122 of the Revised Code~~ equals or 75072
exceeds the amount shown in ~~that~~ division (A) of section 5739.122 75073

of the Revised Code, shall make each payment required by this 75074
section in the second ensuing and each succeeding year by 75075
electronic funds transfer as prescribed by, and on or before the 75076
dates specified in, section 5739.122 of the Revised Code, except 75077
as otherwise prescribed by that section. For a vendor that 75078
operates from multiple locations or has multiple vendor's 75079
licenses, in determining whether the vendor's total payment equals 75080
or exceeds the amount shown in division (A) of that section, the 75081
vendor's total payment amount shall be the amount of the vendor's 75082
total tax liability for the previous calendar year for all of the 75083
vendor's locations or licenses. 75084

Sec. 5739.121. (A) As used in this section, "bad debt" means 75085
any debt that has become worthless or uncollectible in the time 75086
period between a vendor's preceding return and the present return, 75087
~~have~~ has been uncollected for at least six months, and that may be 75088
claimed as a deduction pursuant to the "Internal Revenue Code of 75089
1954," 68A Stat. 50, 26 U.S.C. 166, as amended, and regulations 75090
adopted pursuant thereto, or that could be claimed as such a 75091
deduction if the vendor kept accounts on an accrual basis. "Bad 75092
debt" does not include any interest or sales tax on the purchase 75093
price, uncollectible amounts on property that remains in the 75094
possession of the vendor until the full purchase price is paid, 75095
expenses incurred in attempting to collect any account receivable 75096
or for any portion of the debt recovered, ~~any accounts receivable~~ 75097
~~that have been sold to a third party for collection,~~ and 75098
repossessed property. 75099

(B) In computing taxable receipts for purposes of this 75100
chapter, a vendor may deduct the amount of bad debts, ~~as defined~~ 75101
~~in this section~~. The amount deducted must be charged off as 75102
uncollectible on the books of the vendor. A deduction may be 75103
claimed only with respect to bad debts on which the taxes pursuant 75104
to sections 5739.10 and 5739.12 of the Revised Code were paid in a 75105

preceding tax period. If the vendor's business consists of taxable 75106
and nontaxable transactions, the deduction shall equal the full 75107
amount of the debt if the debt is documented as a taxable 75108
transaction in the vendor's records. If no such documentation is 75109
available, the maximum deduction on any bad debt shall equal the 75110
amount of the bad debt multiplied by the quotient obtained by 75111
dividing the sales taxed pursuant to this chapter during the 75112
preceding calendar year by all sales during the preceding calendar 75113
year, whether taxed or not. If a consumer or other person pays all 75114
or part of a bad debt with respect to which a vendor claimed a 75115
deduction under this section, the vendor shall be liable for the 75116
amount of taxes deducted in connection with that portion of the 75117
debt for which payment is received and shall remit such taxes in 75118
the vendor's next payment to the tax commissioner. 75119

(C) Any claim for a bad debt deduction under this section 75120
shall be supported by such evidence as the tax commissioner by 75121
rule requires. The commissioner shall review any change in the 75122
rate of taxation applicable to any taxable sales by a vendor 75123
claiming a deduction pursuant to this section and adopt rules for 75124
altering the deduction in the event of such a change in order to 75125
ensure that the deduction on any bad debt does not result in the 75126
vendor claiming the deduction recovering any more or less than the 75127
taxes imposed on the sale that constitutes the bad debt. 75128

(D) In any reporting period in which the amount of bad debt 75129
exceeds the amount of taxable sales for the period, the vendor may 75130
file a refund claim for any tax collected on the bad debt in 75131
excess of the tax reported on the return. The refund claim shall 75132
be filed in the manner provided in section 5739.07 of the Revised 75133
Code, except that the claim may be filed within four years of the 75134
due date of the return on which the bad debt first could have been 75135
claimed. 75136

(E) When the filing responsibilities of a vendor have been 75137

assumed by a certified service provider, the certified service 75138
provider shall claim the bad debt allowance provided by this 75139
section on behalf of the vendor. The certified service provider 75140
shall credit or refund to the vendor the full amount of any bad 75141
debt allowance or refund. 75142

(F) No person other than the vendor in the transaction that 75143
generated the bad debt or, as provided in division (E) of this 75144
section, a certified service provider, may claim the bad debt 75145
allowance provided by this section. 75146

Sec. 5739.122. (A) If the total amount of tax required to be 75147
paid by a vendor under section 5739.12 of the Revised Code for any 75148
calendar year ~~indicated in the following schedule~~ equals or 75149
exceeds ~~the amounts prescribed for that year in the schedule~~ 75150
seventy-five thousand dollars, the vendor shall remit each monthly 75151
tax payment in the second ensuing and each succeeding tax year by 75152
electronic funds transfer as prescribed by divisions (B) and (C) 75153
of this section. 75154

Year	1992	1993 through 1999	2000 and thereafter	75155
Tax payment	\$1,200,000	\$600,000	\$60,000	75156

If a vendor's tax payment for each of two consecutive years 75157
~~beginning with 2000~~ is less than ~~sixty~~ seventy-five thousand 75158
dollars, the vendor is relieved of the requirement to remit taxes 75159
by electronic funds transfer for the year that next follows the 75160
second of the consecutive years in which the tax payment is less 75161
than ~~sixty thousand dollars~~ that amount, and is relieved of that 75162
requirement for each succeeding year, unless the tax payment in a 75163
subsequent year equals or exceeds ~~sixty~~ seventy-five thousand 75164
dollars. 75165

The tax commissioner shall notify each vendor required to 75166
remit taxes by electronic funds transfer of the vendor's 75167
obligation to do so, shall maintain an updated list of those 75168

vendors, and shall timely certify the list and any additions 75169
thereto or deletions therefrom to the treasurer of state. Failure 75170
by the tax commissioner to notify a vendor subject to this section 75171
to remit taxes by electronic funds transfer does not relieve the 75172
vendor of its obligation to remit taxes by electronic funds 75173
transfer. 75174

(B) Vendors required by division (A) of this section to remit 75175
payments by electronic funds transfer shall remit such payments to 75176
the treasurer of state in the manner prescribed by this section 75177
and rules adopted by the treasurer of state under section 113.061 75178
of the Revised Code, and on or before the following dates: 75179

(1) On or before the ~~eleventh~~ fifteenth day of each month, a 75180
vendor shall remit an amount equal to the taxes collected during 75181
the first ~~seven~~ eleven days of the month. ~~On or before the~~ 75182
~~eighteenth day of each month, a vendor shall remit an amount equal~~ 75183
~~to the taxes collected on the eighth through the fourteenth day of~~ 75184
~~the month.~~ On or before the twenty-fifth day of each month, a 75185
vendor shall remit an amount equal to the taxes collected on the 75186
~~fifteenth~~ twelfth through the twenty-first day of the month. 75187

(2) In lieu of remitting the actual amounts collected for the 75188
periods specified in division (B)(1) of this section, a vendor 75189
may, on or before each of the ~~eleventh, eighteenth,~~ fifteenth and 75190
twenty-fifth days of each month, remit an amount equal to 75191
~~one-fourth~~ thirty-seven and one-half per cent of the vendor's 75192
total tax liability for the same month in the preceding calendar 75193
year. 75194

(3) On or before the twenty-third day of each month, a vendor 75195
shall report the taxes collected for the previous month and shall 75196
remit that amount, less any amounts paid for that month as 75197
required by division (B)(1) or (2) of this section. 75198

The payment of taxes by electronic funds transfer does not 75199

affect a vendor's obligation to file the monthly return as 75200
required under section 5739.12 of the Revised Code. 75201

(C) A vendor required by this section to remit taxes by 75202
electronic funds transfer may apply to the treasurer of state in 75203
the manner prescribed by the treasurer of state to be excused from 75204
that requirement. The treasurer of state may excuse the vendor 75205
from remittance by electronic funds transfer for good cause shown 75206
for the period of time requested by the vendor or for a portion of 75207
that period. The treasurer of state shall notify the tax 75208
commissioner and the vendor of the treasurer of state's decision 75209
as soon as is practicable. 75210

(D)(1) If a vendor that is required to remit payments under 75211
division (B) of this section fails to make a payment, the 75212
commissioner may impose an additional charge not to exceed five 75213
per cent of that unpaid amount. 75214

(2) If a vendor required by this section to remit taxes by 75215
electronic funds transfer remits those taxes by some means other 75216
than by electronic funds transfer as prescribed by this section 75217
and the rules adopted by the treasurer of state, and the treasurer 75218
of state determines that such failure was not due to reasonable 75219
cause or was due to willful neglect, the treasurer of state shall 75220
notify the tax commissioner of the failure to remit by electronic 75221
funds transfer and shall provide the commissioner with any 75222
information used in making that determination. The tax 75223
commissioner may impose an additional charge not to exceed the 75224
lesser of five per cent of the amount of the taxes required to be 75225
paid by electronic funds transfer or five thousand dollars. 75226

(3) Any additional charge imposed under division (D)(1) or 75227
(2) of this section is in addition to any other penalty or charge 75228
imposed under this chapter, and shall be considered as revenue 75229
arising from taxes imposed under this chapter. An additional 75230
charge may be collected by assessment in the manner prescribed by 75231

section 5739.13 of the Revised Code. The tax commissioner may 75232
waive all or a portion of such a charge and may adopt rules 75233
governing such waiver. 75234

No additional charge shall be imposed under division (D)(2) 75235
of this section against a vendor that has been notified of its 75236
obligation to remit taxes under this section and that remits its 75237
first two tax payments after such notification by some means other 75238
than electronic funds transfer. The additional charge may be 75239
imposed upon the remittance of any subsequent tax payment that the 75240
vendor remits by some means other than electronic funds transfer. 75241

Sec. 5739.17. (A) No person shall engage in making retail 75242
sales subject to a tax imposed by or pursuant to section 5739.02, 75243
5739.021, 5739.023, or 5739.026 of the Revised Code as a business 75244
without having a license therefor, except as otherwise provided in 75245
divisions (A)(1), (2), and (3) of this section. 75246

(1) In the dissolution of a partnership by death, the 75247
surviving partner may operate under the license of the partnership 75248
for a period of sixty days. 75249

(2) The heirs or legal representatives of deceased persons, 75250
and receivers and trustees in bankruptcy, appointed by any 75251
competent authority, may operate under the license of the person 75252
so succeeded in possession. 75253

(3) Two or more persons who are not partners may operate a 75254
single place of business under one license. In such case neither 75255
the retirement of any such person from business at that place of 75256
business, nor the entrance of any person, under an existing 75257
arrangement, shall affect the license or require the issuance of a 75258
new license, unless the person retiring from the business is the 75259
individual named on the vendor's license. 75260

Except as otherwise provided in this section, each applicant 75261

for a license shall make out and deliver to the county auditor of 75262
each county in which the applicant desires to engage in business, 75263
upon a blank to be furnished by such auditor for that purpose, a 75264
statement showing the name of the applicant, each place of 75265
business in the county where the applicant will make retail sales, 75266
the nature of the business, and any other information the tax 75267
commissioner reasonably prescribes in the form of a statement 75268
prescribed by the commissioner. 75269

At the time of making the application, the applicant shall 75270
pay into the county treasury a license fee in the sum of 75271
twenty-five dollars for each fixed place of business in the county 75272
that will be the situs of retail sales. Upon receipt of the 75273
application and exhibition of the county treasurer's receipt, 75274
showing the payment of the license fee, the county auditor shall 75275
issue to the applicant a license for each fixed place of business 75276
designated in the application, authorizing the applicant to engage 75277
in business at that location. If a vendor's identity changes, the 75278
vendor shall apply for a new license. If a vendor wishes to move 75279
an existing fixed place of business to a new location within the 75280
same county, the vendor shall obtain a new vendor's license or 75281
submit a request to the tax commissioner to transfer the existing 75282
vendor's license to the new location. When the new location has 75283
been verified as being within the same county, the commissioner 75284
shall authorize the transfer and notify the county auditor of the 75285
change of location. If a vendor wishes to move an existing fixed 75286
place of business to another county, the vendor's license shall 75287
not transfer and the vendor shall obtain a new vendor's license 75288
from the county in which the business is to be located. The form 75289
of the license shall be prescribed by the commissioner. The fees 75290
collected shall be credited to the general fund of the county. 75291

A vendor that makes retail sales subject to tax under Chapter 75292
5739. of the Revised Code pursuant to a permit issued by the 75293

division of liquor control shall obtain a vendor's license in the 75294
identical name and for the identical address as shown on the 75295
permit. 75296

Except as otherwise provided in this section, if a vendor has 75297
no fixed place of business and sells from a vehicle, each vehicle 75298
intended to be used within a county constitutes a place of 75299
business for the purpose of this section. 75300

(B) As used in this division, "transient vendor" means any 75301
person who makes sales of tangible personal property from vending 75302
machines located on land owned by others, who leases titled motor 75303
vehicles, titled watercraft, or titled outboard motors, who 75304
effectuates leases that are taxed according to division 75305
~~(H)(4)(A)(2)~~ of section ~~5739.01~~ 5739.02 of the Revised Code, or 75306
who, in the usual course of the person's business, transports 75307
inventory, stock of goods, or similar tangible personal property 75308
to a temporary place of business or temporary exhibition, show, 75309
fair, flea market, or similar event in a county in which the 75310
person has no fixed place of business, for the purpose of making 75311
retail sales of such property. A "temporary place of business" 75312
means any public or quasi-public place including, but not limited 75313
to, a hotel, rooming house, storeroom, building, part of a 75314
building, tent, vacant lot, railroad car, or motor vehicle that is 75315
temporarily occupied for the purpose of making retail sales of 75316
goods to the public. A place of business is not temporary if the 75317
same person conducted business at the place continuously for more 75318
than six months or occupied the premises as the person's permanent 75319
residence for more than six months, or if the person intends it to 75320
be a fixed place of business. 75321

Any transient vendor, in lieu of obtaining a vendor's license 75322
under division (A) of this section for counties in which the 75323
transient vendor has no fixed place of business, may apply to the 75324
tax commissioner, on a form prescribed by the commissioner, for a 75325

transient vendor's license. The transient vendor's license 75326
authorizes the transient vendor to make retail sales in any county 75327
in which the transient vendor does not maintain a fixed place of 75328
business. Any holder of a transient vendor's license shall not be 75329
required to obtain a separate vendor's license from the county 75330
auditor in that county. Upon the commissioner's determination that 75331
an applicant is a transient vendor, the applicant shall pay a 75332
license fee in the amount of twenty-five dollars, at which time 75333
the tax commissioner shall issue the license. The tax commissioner 75334
may require a vendor to be licensed as a transient vendor if, in 75335
the opinion of the commissioner, such licensing is necessary for 75336
the efficient administration of the tax. 75337

Any holder of a valid transient vendor's license may make 75338
retail sales at a temporary place of business or temporary 75339
exhibition, show, fair, flea market, or similar event, held 75340
anywhere in the state without complying with any provision of 75341
section 311.37 of the Revised Code. Any holder of a valid vendor's 75342
license may make retail sales as a transient vendor at a temporary 75343
place of business or temporary exhibition, show, fair, flea 75344
market, or similar event held in any county in which the vendor 75345
maintains a fixed place of business for which the vendor holds a 75346
vendor's license without obtaining a transient vendor's license. 75347

(C) As used in this division, "service vendor" means any 75348
person who, in the usual course of the person's business, sells 75349
services described in division (B)(3)(e), (f), (g), (h), (i), (j), 75350
(k), (l), ~~or~~ (m), (q), or (u) of section 5739.01 of the Revised 75351
Code. 75352

Every service vendor shall make application to the tax 75353
commissioner for a service vendor's license. Each applicant shall 75354
pay a license fee in the amount of twenty-five dollars. Upon the 75355
commissioner's determination that an applicant is a service vendor 75356
and payment of the fee, the commissioner shall issue the applicant 75357

a service vendor's license. 75358

Only sales described in division (B)(3)(e), (f), (g), (h), 75359
(i), (j), (k), (l), ~~or (m)~~, (g), or (u) of section 5739.01 of the 75360
Revised Code may be made under authority of a service vendor's 75361
license, and that license authorizes sales to be made at any place 75362
in this state. Any service vendor who makes sales of other 75363
services or tangible personal property subject to the sales tax 75364
also shall be licensed under division (A), (B), or (D) of this 75365
section. 75366

(D) As used in this division, "delivery vendor" means any 75367
vendor who engages in one or more of the activities described in 75368
divisions (D)(1) to (4) of this section, and who maintains no 75369
store, showroom, or similar fixed place of business or other 75370
location where merchandise regularly is offered for sale or 75371
displayed or shown in catalogs for selection or pick-up by 75372
consumers, or where consumers bring goods for repair or other 75373
service. 75374

(1) The vendor makes retail sales of tangible personal 75375
property; 75376

(2) The vendor rents or leases, at retail, tangible personal 75377
property, except titled motor vehicles, titled watercraft, or 75378
titled outboard motors; 75379

(3) The vendor provides a service, at retail, described in 75380
division (B)(3)(a), (b), (c), or (d) of section 5739.01 of the 75381
Revised Code; or 75382

(4) The vendor makes retail sales of warranty, maintenance or 75383
service contracts, or similar agreements as described in division 75384
(B)(7) of section 5739.01 of the Revised Code. 75385

A transient vendor or a seller registered pursuant to section 75386
5741.17 of the Revised Code is not a delivery vendor. 75387

Delivery vendors shall apply to the tax commissioner, on a 75388
form prescribed by the commissioner, for a delivery vendor's 75389
license. Each applicant shall pay a license fee of twenty-five 75390
dollars for each delivery vendor's license, to be credited to the 75391
general revenue fund. Upon the commissioner's determination that 75392
the applicant is a delivery vendor, the commissioner shall issue 75393
the license. A delivery vendor's license authorizes retail sales 75394
to be made throughout the state. All sales of the vendor must be 75395
reported under the delivery license. The commissioner may require 75396
a vendor to be licensed as a delivery vendor if, in the opinion of 75397
the commissioner, such licensing is necessary for the efficient 75398
administration of the tax. The commissioner shall not issue a 75399
delivery vendor license to a vendor who holds a license issued 75400
under division (A) of this section. 75401

(E) Any transient vendor who is issued a license pursuant to 75402
this section shall display the license or a copy of it 75403
prominently, in plain view, at every place of business of the 75404
transient vendor. Every owner, organizer, or promoter who operates 75405
a fair, flea market, show, exhibition, convention, or similar 75406
event at which transient vendors are present shall keep a 75407
comprehensive record of all such vendors, listing the vendor's 75408
name, permanent address, vendor's license number, and the type of 75409
goods sold. Such records shall be kept for four years and shall be 75410
open to inspection by the tax commissioner. 75411

Sec. 5739.21. (A) Four and two-tenths per cent of all money 75412
deposited into the state treasury under sections 5739.01 to 75413
5739.31 of the Revised Code and not required to be distributed as 75414
provided in section 5739.102 of the Revised Code or division (B) 75415
of this section shall be credited to the local government fund for 75416
distribution in accordance with section 5747.50 of the Revised 75417
Code, six-tenths of one per cent shall be credited to the local 75418

government revenue assistance fund for distribution in accordance 75419
with section 5747.61 of the Revised Code, and ninety-five and 75420
two-tenths per cent shall be credited to the general revenue fund. 75421

(B)(1) In any case where any county or transit authority has 75422
levied a tax or taxes pursuant to section 5739.021, 5739.023, or 75423
5739.026 of the Revised Code, the tax commissioner shall, within 75424
forty-five days after the end of each month, determine and certify 75425
to the director of budget and management the amount of the 75426
proceeds of such tax or taxes received during that month from 75427
billings and assessments ~~received during that month~~, or ~~shown on~~ 75428
associated with tax returns or reports filed during that month, to 75429
be returned to the county or transit authority levying the tax or 75430
taxes. The amount to be returned to each county and transit 75431
authority shall be a fraction of the aggregate amount of money 75432
collected with respect to each area in which one or more of such 75433
taxes are concurrently in effect with the tax levied by section 75434
5739.02 of the Revised Code, ~~the~~. The numerator of which the 75435
fraction is the rate of the tax levied by the county or transit 75436
authority and the denominator of ~~which the fraction~~ is the 75437
aggregate rate of such taxes applicable to such area; ~~provided,~~ 75438
~~that the~~. The amount to be returned to each county or transit 75439
authority shall be reduced by the amount of any refunds of county 75440
or transit authority tax paid pursuant to section 5739.07 of the 75441
Revised Code during the same month, or transfers made pursuant to 75442
division (B)(2) of section 5703.052 of the Revised Code. 75443

(2) On a periodic basis, using the best information 75444
available, the tax commissioner shall distribute any amount of a 75445
county or transit authority tax that cannot be distributed under 75446
division (B)(1) of this section. Through audit or other means, the 75447
commissioner shall attempt to obtain the information necessary to 75448
make the distribution as provided under that division and, on 75449
receipt of that information, shall make adjustments to 75450

distributions previously made under this division. 75451

(C) The aggregate amount to be returned to any county or 75452
transit authority shall be reduced by one per cent, which shall be 75453
certified directly to the credit of the local sales tax 75454
administrative fund, which is hereby created in the state 75455
treasury. For the purpose of determining the amount to be returned 75456
to a county and transit authority in which the rate of tax imposed 75457
by the transit authority has been reduced under section 5739.028 75458
of the Revised Code, the tax commissioner shall use the respective 75459
rates of tax imposed by the county or transit authority that 75460
results from the change in the rates authorized under that 75461
section. ~~The~~ 75462

(D) The director of budget and management shall transfer, 75463
from the same funds and in the same proportions specified in 75464
division (A) of this section, to the permissive tax distribution 75465
fund created by division (B)(1) of section 4301.423 of the Revised 75466
Code and to the local sales tax administrative fund, the amounts 75467
certified by the tax commissioner. The tax commissioner shall 75468
then, on or before the twentieth day of the month in which such 75469
certification is made, provide for payment of such respective 75470
amounts to the county treasurer and to the fiscal officer of the 75471
transit authority levying the tax or taxes. The amount transferred 75472
to the local sales tax administrative fund is for use by the tax 75473
commissioner in defraying costs incurred in administering such 75474
taxes levied by a county or transit authority. 75475

Sec. 5739.33. If any corporation, limited liability company, 75476
or business trust required to file returns and to remit tax due to 75477
the state under this chapter, including a holder of a direct 75478
payment permit under section 5739.031 of the Revised Code, fails 75479
for any reason to make the filing or payment, any of its employees 75480
having control or supervision of or charged with the 75481

responsibility of filing returns and making payments, or any of 75482
its officers, members, managers, or trustees who are responsible 75483
for the execution of the corporation's, limited liability 75484
company's, or business trust's fiscal responsibilities, shall be 75485
personally liable for the failure. The dissolution, termination, 75486
or bankruptcy of a corporation, limited liability company, or 75487
business trust shall not discharge a responsible officer's, 75488
member's, manager's, employee's, or trustee's liability for a 75489
failure of the corporation, limited liability company, or business 75490
trust to file returns or remit tax due. The sum due for the 75491
liability may be collected by assessment in the manner provided in 75492
section 5739.13 of the Revised Code. 75493

Sec. 5741.01. As used in this chapter: 75494

(A) "Person" includes individuals, receivers, assignees, 75495
trustees in bankruptcy, estates, firms, partnerships, 75496
associations, joint-stock companies, joint ventures, clubs, 75497
societies, corporations, business trusts, governments, and 75498
combinations of individuals of any form. 75499

(B) "Storage" means and includes any keeping or retention in 75500
this state for use or other consumption in this state. 75501

(C) "Use" means and includes the exercise of any right or 75502
power incidental to the ownership of the thing used. A thing is 75503
also "used" in this state if its consumer gives or otherwise 75504
distributes it, without charge, to recipients in this state. 75505

(D) "Purchase" means acquired or received for a 75506
consideration, whether such acquisition or receipt was effected by 75507
a transfer of title, or of possession, or of both, or a license to 75508
use or consume; whether such transfer was absolute or conditional, 75509
and by whatever means the transfer was effected; and whether the 75510
consideration was money, credit, barter, or exchange. Purchase 75511
includes production, even though the article produced was used, 75512

stored, or consumed by the producer. The transfer of copyrighted 75513
motion picture films for exhibition purposes is not a purchase, 75514
except such films as are used solely for advertising purposes. 75515

(E) "Seller" means the person from whom a purchase is made, 75516
and includes every person engaged in this state or elsewhere in 75517
the business of selling tangible personal property or providing a 75518
service for storage, use, or other consumption or benefit in this 75519
state; and when, in the opinion of the tax commissioner, it is 75520
necessary for the efficient administration of this chapter, to 75521
regard any salesman, representative, peddler, or canvasser as the 75522
agent of a dealer, distributor, supervisor, or employer under whom 75523
the person operates, or from whom the person obtains tangible 75524
personal property, sold by the person for storage, use, or other 75525
consumption in this state, irrespective of whether or not the 75526
person is making such sales on the person's own behalf, or on 75527
behalf of such dealer, distributor, supervisor, or employer, the 75528
commissioner may regard the person as such agent, and may regard 75529
such dealer, distributor, supervisor, or employer as the seller. 75530
"Seller" does not include any person to the extent the person 75531
provides a communications medium, such as, but not limited to, 75532
newspapers, magazines, radio, television, or cable television, by 75533
means of which sellers solicit purchases of their goods or 75534
services. 75535

(F) "Consumer" means any person who has purchased tangible 75536
personal property or has been provided a service for storage, use, 75537
or other consumption or benefit in this state. "Consumer" does not 75538
include a person who receives, without charge, tangible personal 75539
property or a service. 75540

A person who performs a facility management or similar 75541
service contract for a contractee is a consumer of all tangible 75542
personal property and services purchased for use in connection 75543
with the performance of such contract, regardless of whether title 75544

to any such property vests in the contractee. The purchase of such 75545
property and services is not subject to the exception for resale 75546
under division (E)~~(1)~~ of section 5739.01 of the Revised Code. 75547

(G)~~(1)~~ "Price," except as provided in the case of watercraft, 75548
~~outboard motors, or new motor vehicles, means the aggregate value~~ 75549
~~in money of anything paid or delivered, or promised to be paid or~~ 75550
~~delivered, by a consumer to a seller in the complete performance~~ 75551
~~of the transaction by which tangible personal property has been~~ 75552
~~purchased or a service has been provided for storage, use, or~~ 75553
~~other consumption or benefit in this state, without any deduction~~ 75554
~~or exclusion on account of the cost of the property sold, cost of~~ 75555
~~materials used, labor or service cost, interest, discount paid or~~ 75556
~~allowed after the sale is consummated, or any other expense. If~~ 75557
~~the transaction consists of the rental or lease of tangible~~ 75558
~~personal property, "price" means the aggregate value in money of~~ 75559
~~anything paid or delivered, or promised to be paid or delivered by~~ 75560
~~the lessee to the lessor, in the complete performance of the~~ 75561
~~rental or lease, without any deduction or exclusion of tax,~~ 75562
~~interest, labor or service charge, damage liability waiver,~~ 75563
~~termination or damage charge, discount paid or allowed after the~~ 75564
~~lease is consummated, or any other expense. Except as provided in~~ 75565
~~division (C)(6) of this section, the tax shall be calculated and~~ 75566
~~collected by the lessor on each payment made by the lessee. If a~~ 75567
~~consumer produces the tangible personal property used by the~~ 75568
~~consumer, the price is the produced cost of such tangible personal~~ 75569
~~property. "Price" does not include delivery charges that are~~ 75570
~~separately stated on the initial invoice or initial billing~~ 75571
~~rendered by the seller.~~ 75572

~~The tax collected by the seller from the consumer under this~~ 75573
~~chapter is not a part of the price, but is a tax collection for~~ 75574
~~the benefit of the state, and of counties levying an additional~~ 75575
~~use tax pursuant to section 5741.021 or 5741.023 of the Revised~~ 75576

~~Code and of transit authorities levying an additional use tax 75577
pursuant to section 5741.022 of the Revised Code and, except for 75578
the discount authorized under section 5741.12 of the Revised Code 75579
and the effects of any rounding pursuant to section 5703.055 of 75580
the Revised Code, no person other than the state or such a county 75581
or transit authority shall derive any benefit from the collection 75582
or payment of such tax. 75583~~

~~As used in division divisions (G)(1)(2) to (6) of this 75584
section, "delivery charges" means charges by the seller for 75585
preparation and delivery to a location designated by the consumer 75586
of tangible personal property or a service, including 75587
transportation, shipping, postage, handling, crating, and packing 75588
has the same meaning as in division (H)(1) of section 5739.01 of 75589
the Revised Code. 75590~~

~~(2) In the case of watercraft, outboard motors, or new motor 75591
vehicles, "price" has the same meaning as in division divisions 75592
(H)(2) and (3) of section 5739.01 of the Revised Code. 75593~~

~~(3) In the case of a nonresident business consumer that 75594
purchases and uses tangible personal property outside this state 75595
and subsequently temporarily stores, uses, or otherwise consumes 75596
such tangible personal property in the conduct of business in this 75597
state, the consumer or the tax commissioner may determine the 75598
price based on the value of the temporary storage, use, or other 75599
consumption, in lieu of determining the price pursuant to division 75600
(G)(1) of this section. A price determination made by the consumer 75601
is subject to review and redetermination by the commissioner. 75602~~

~~(4) In the case of tangible personal property held in this 75603
state as inventory for sale or lease, and that is temporarily 75604
stored, used, or otherwise consumed in a taxable manner, the price 75605
is the value of the temporary use. A price determination made by 75606
the consumer is subject to review and redetermination by the 75607
commissioner. 75608~~

(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 75641
activities at residents of this state. 75642

(I) "Substantial nexus with this state" means that the seller 75643
has sufficient contact with this state, in accordance with Section 75644
8 of Article I of the Constitution of the United States, to allow 75645
the state to require the seller to collect and remit use tax on 75646
sales of tangible personal property or services made to consumers 75647
in this state. "Substantial nexus with this state" exists when the 75648
seller does any of the following: 75649

(1) Maintains a place of business within this state, whether 75650
operated by employees or agents of the seller, by a member of an 75651
affiliated group, as ~~described~~ defined in division (B)(3)(e) of 75652
section 5739.01 of the Revised Code, of which the seller is a 75653
member, or by a franchisee using a trade name of the seller; 75654

(2) Regularly has employees, agents, representatives, 75655
solicitors, installers, repairmen, salesmen, or other individuals 75656
in this state for the purpose of conducting the business of the 75657
seller; 75658

(3) Uses a person in this state for the purpose of receiving 75659
or processing orders of the seller's goods or services; 75660

(4) Makes regular deliveries of tangible personal property 75661
into this state by means other than common carrier; 75662

(5) Has membership in an affiliated group, as described in 75663
division (B)(3)(e) of section 5739.01 of the Revised Code, at 75664
least one other member of which has substantial nexus with this 75665
state; 75666

(6) Owns tangible personal property that is rented or leased 75667
to a consumer in this state, or offers tangible personal property, 75668
on approval, to consumers in this state; 75669

(7) Except as provided in section 5703.65 of the Revised 75670

Code, is registered with the secretary of state to do business in 75671
this state or is registered or licensed by any state agency, 75672
board, or commission to transact business in this state or to make 75673
sales to persons in this state; 75674

(8) Has any other contact with this state that would allow 75675
this state to require the seller to collect and remit use tax 75676
under Section 8 of Article I of the Constitution of the United 75677
States. 75678

(J) "Fiscal officer" means, with respect to a regional 75679
transit authority, the secretary-treasurer thereof, and with 75680
respect to a county which is a transit authority, the fiscal 75681
officer of the county transit board appointed pursuant to section 75682
306.03 of the Revised Code or, if the board of county 75683
commissioners operates the county transit system, the county 75684
auditor. 75685

(K) "Territory of the transit authority" means all of the 75686
area included within the territorial boundaries of a transit 75687
authority as they from time to time exist. Such territorial 75688
boundaries must at all times include all the area of a single 75689
county or all the area of the most populous county which is a part 75690
of such transit authority. County population shall be measured by 75691
the most recent census taken by the United States census bureau. 75692

(L) "Transit authority" means a regional transit authority 75693
created pursuant to section 306.31 of the Revised Code or a county 75694
in which a county transit system is created pursuant to section 75695
306.01 of the Revised Code. For the purposes of this chapter, a 75696
transit authority must extend to at least the entire area of a 75697
single county. A transit authority which includes territory in 75698
more than one county must include all the area of the most 75699
populous county which is a part of such transit authority. County 75700
population shall be measured by the most recent census taken by 75701
the United States census bureau. 75702

(M) "Providing a service" has the same meaning as in division 75703
(X) of section 5739.01 of the Revised Code. 75704

(N) "Other consumption" includes receiving the benefits of a 75705
service. 75706

(O) "~~Lease~~" ~~means any transfer for a consideration of the~~ 75707
~~possession of and right to use, but not title to, tangible~~ 75708
~~personal property for a fixed period of time greater than thirty~~ 75709
~~days or for an open ended period of time with a minimum fixed~~ 75710
~~period of more than thirty days or "rental" has the same meaning~~ 75711
~~as in division (UU) of section 5739.01 of the Revised Code.~~ 75712

(P) "Certified service provider" has the same meaning as in 75713
section 5740.01 of the Revised Code. 75714

Sec. 5741.02. (A)(1) For the use of the general revenue fund 75715
of the state, an excise tax is hereby levied on the storage, use, 75716
or other consumption in this state of tangible personal property 75717
or the benefit realized in this state of any service provided. The 75718
tax shall be collected ~~pursuant to the schedules as provided~~ in 75719
section 5739.025 of the Revised Code, provided that on and after 75720
July 1, 2003, and on or before June 30, 2005, the rate of the tax 75721
shall be six per cent. On and after July 1, 2005, the rate of the 75722
tax shall be five per cent. 75723

(2) In the case of the lease or rental, with a fixed term of 75724
more than thirty days or an indefinite term with a minimum period 75725
of more than thirty days, of any motor vehicles designed by the 75726
manufacturer to carry a load of not more than one ton, watercraft, 75727
outboard motor, or aircraft, or of any tangible personal property, 75728
other than motor vehicles designed by the manufacturer to carry a 75729
load of more than one ton, to be used by the lessee or renter 75730
primarily for business purposes, the tax shall be collected by the 75731
seller at the time the lease or rental is consummated and shall be 75732

calculated by the seller on the basis of the total amount to be 75733
paid by the lessee or renter under the lease or rental agreement. 75734
If the total amount of the consideration for the lease or rental 75735
includes amounts that are not calculated at the time the lease or 75736
rental is executed, the tax shall be calculated and collected by 75737
the seller at the time such amounts are billed to the lessee or 75738
renter. In the case of an open-end lease or rental, the tax shall 75739
be calculated by the seller on the basis of the total amount to be 75740
paid during the initial fixed term of the lease or rental, and for 75741
each subsequent renewal period as it comes due. As used in this 75742
division, "motor vehicle" has the same meaning as in section 75743
4501.01 of the Revised Code, and "watercraft" includes an outdrive 75744
unit attached to the watercraft. 75745

(3) Except as provided in division (A)(2) of this section, in 75746
the case of a transaction, the price of which consists in whole or 75747
part of the lease or rental of tangible personal property, the tax 75748
shall be measured by the installments of those leases or rentals. 75749

(B) Each consumer, storing, using, or otherwise consuming in 75750
this state tangible personal property or realizing in this state 75751
the benefit of any service provided, shall be liable for the tax, 75752
and such liability shall not be extinguished until the tax has 75753
been paid to this state; provided, that the consumer shall be 75754
relieved from further liability for the tax if the tax has been 75755
paid to a seller in accordance with section 5741.04 of the Revised 75756
Code or prepaid by the seller in accordance with section 5741.06 75757
of the Revised Code. 75758

(C) The tax does not apply to the storage, use, or 75759
consumption in this state of the following described tangible 75760
personal property or services, nor to the storage, use, or 75761
consumption or benefit in this state of tangible personal property 75762
or services purchased under the following described circumstances: 75763

(1) When the sale of property or service in this state is 75764

subject to the excise tax imposed by sections 5739.01 to 5739.31 75765
of the Revised Code, provided said tax has been paid; 75766

(2) Except as provided in division (D) of this section, 75767
tangible personal property or services, the acquisition of which, 75768
if made in Ohio, would be a sale not subject to the tax imposed by 75769
sections 5739.01 to 5739.31 of the Revised Code; 75770

(3) Property or services, the storage, use, or other 75771
consumption of or benefit from which this state is prohibited from 75772
taxing by the Constitution of the United States, laws of the 75773
United States, or the Constitution of this state. This exemption 75774
shall not exempt from the application of the tax imposed by this 75775
section the storage, use, or consumption of tangible personal 75776
property that was purchased in interstate commerce, but that has 75777
come to rest in this state, provided that fuel to be used or 75778
transported in carrying on interstate commerce that is stopped 75779
within this state pending transfer from one conveyance to another 75780
is exempt from the excise tax imposed by this section and section 75781
5739.02 of the Revised Code; 75782

(4) Transient use of tangible personal property in this state 75783
by a nonresident tourist or vacationer, or a non-business use 75784
within this state by a nonresident of this state, if the property 75785
so used was purchased outside this state for use outside this 75786
state and is not required to be registered or licensed under the 75787
laws of this state; 75788

(5) Tangible personal property or services rendered, upon 75789
which taxes have been paid to another jurisdiction to the extent 75790
of the amount of the tax paid to such other jurisdiction. Where 75791
the amount of the tax imposed by this section and imposed pursuant 75792
to section 5741.021, 5741.022, or 5741.023 of the Revised Code 75793
exceeds the amount paid to another jurisdiction, the difference 75794
shall be allocated between the tax imposed by this section and any 75795
tax imposed by a county or a transit authority pursuant to section 75796

5741.021, 5741.022, or 5741.023 of the Revised Code, in proportion 75797
to the respective rates of such taxes. 75798

As used in this subdivision, "taxes paid to another 75799
jurisdiction" means the total amount of retail sales or use tax or 75800
similar tax based upon the sale, purchase, or use of tangible 75801
personal property or services rendered legally, levied by and paid 75802
to another state or political subdivision thereof, or to the 75803
District of Columbia, where the payment of such tax does not 75804
entitle the taxpayer to any refund or credit for such payment. 75805

(6) The transfer of a used manufactured home or used mobile 75806
home, as defined by section 5739.0210 of the Revised Code, made on 75807
or after January 1, 2000; 75808

(7) Drugs that are or are intended to be distributed free of 75809
charge to a practitioner licensed to prescribe, dispense, and 75810
administer drugs to a human being in the course of a professional 75811
practice and that by law may be dispensed only by or upon the 75812
order of such a practitioner. 75813

(D) The tax applies to the storage, use, or other consumption 75814
in this state of tangible personal property or services, the 75815
acquisition of which at the time of sale was excepted under 75816
division (E)~~(1)~~ of section 5739.01 of the Revised Code from the 75817
tax imposed by section 5739.02 of the Revised Code, but which has 75818
subsequently been temporarily or permanently stored, used, or 75819
otherwise consumed in a taxable manner. 75820

(E)(1) If any transaction is claimed to be exempt under 75821
division (E) of section 5739.01 of the Revised Code or under 75822
section 5739.02 of the Revised Code, with the exception of 75823
divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised 75824
Code, the consumer shall provide to the seller, and the seller 75825
shall obtain from the consumer, a certificate specifying the 75826
reason that the transaction is not subject to the tax. The 75827

certificate shall be provided either in a hard copy form or 75828
electronic form, as prescribed by the tax commissioner. If the 75829
transaction is claimed to be exempt under division (B)(13) of 75830
section 5739.02 of the Revised Code, the exemption certificate 75831
shall be provided by both the contractor and contractee. Such 75832
contractee shall be deemed to be the consumer of all items 75833
purchased under the claim of exemption if it is subsequently 75834
determined that the exemption is not properly claimed. The 75835
certificate shall be in such form as the tax commissioner by rule 75836
prescribes. The seller shall maintain records, including exemption 75837
certificates, of all sales on which a consumer has claimed an 75838
exemption, and provide them to the tax commissioner on request. 75839

(2) If no certificate is provided or obtained within the 75840
period for filing the return for the period in which the 75841
transaction is consummated, it shall be presumed that the tax 75842
applies. The failure to have so provided or obtained a certificate 75843
shall not preclude a seller or consumer from establishing, within 75844
one hundred twenty days of the giving of notice by the 75845
commissioner of intention to levy an assessment, that the 75846
transaction is not subject to the tax. 75847

(F) A seller who files a petition for reassessment contesting 75848
the assessment of tax on transactions for which the seller 75849
obtained no valid exemption certificates, and for which the seller 75850
failed to establish that the transactions were not subject to the 75851
tax during the one-hundred-twenty-day period allowed under 75852
division (E) of this section, may present to the tax commissioner 75853
additional evidence to prove that the transactions were exempt. 75854
The seller shall file such evidence within ninety days of the 75855
receipt by the seller of the notice of assessment, except that, 75856
upon application and for reasonable cause, the tax commissioner 75857
may extend the period for submitting such evidence thirty days. 75858

(G) For the purpose of the proper administration of sections 75859

5741.01 to 5741.22 of the Revised Code, and to prevent the evasion 75860
of the tax hereby levied, it shall be presumed that any use, 75861
storage, or other consumption of tangible personal property in 75862
this state is subject to the tax until the contrary is 75863
established. 75864

(H) The tax collected by the seller from the consumer under 75865
this chapter is not part of the price, but is a tax collection for 75866
the benefit of the state, and of counties levying an additional 75867
use tax pursuant to section 5741.021 or 5741.023 of the Revised 75868
Code and of transit authorities levying an additional use tax 75869
pursuant to section 5741.022 of the Revised Code. Except for the 75870
discount authorized under section 5741.12 of the Revised Code and 75871
the effects of any rounding pursuant to section 5703.055 of the 75872
Revised Code, no person other than the state or such a county or 75873
transit authority shall derive any benefit from the collection of 75874
such tax. 75875

Sec. 5741.021. (A) For the purpose of providing additional 75876
general revenues for the county or supporting criminal and 75877
administrative justice services in the county, or both, and to pay 75878
the expenses of administering such levy, any county which levies a 75879
tax pursuant to section 5739.021 of the Revised Code shall levy a 75880
tax at the same rate levied pursuant to section 5739.021 of the 75881
Revised Code on the storage, use, or other consumption in the 75882
county of the following: 75883

(1) Motor vehicles ~~acquired on or after May 1, 1970,~~ and 75884
watercraft and outboard motors required to be titled in the county 75885
pursuant to Chapter 1548. of the Revised Code and ~~acquired on or~~ 75886
~~after April 1, 1990,~~ by a transaction subject to the tax imposed 75887
by section 5739.02 of the Revised Code; 75888

(2) In addition to the tax imposed by section 5741.02 of the 75889
Revised Code, tangible personal property and services subject to 75890

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 75923
taxes paid pursuant to those sections is equal to or greater than 75924
the sum of the taxes due under this section and sections 5741.022 75925
and 5741.023 of the Revised Code. If the sum of the taxes paid is 75926
less than the sum of the taxes due under this section and sections 75927
5741.022 and 5741.023 of the Revised Code, the amount of tax paid 75928
shall be credited against the amount of tax due. 75929

(E) As used in this section, "criminal and administrative 75930
justice services" has the same meaning as in section 5739.021 of 75931
the Revised Code. 75932

Sec. 5741.022. (A) For the purpose of providing additional 75933
general revenues for the transit authority and paying the expenses 75934
of administering such levy, any transit authority as defined in 75935
section 5741.01 of the Revised Code that levies a tax pursuant to 75936
section 5739.023 of the Revised Code shall levy a tax at the same 75937
rate levied pursuant to such section on the storage, use, or other 75938
consumption in the territory of the transit authority of the 75939
following: 75940

(1) Motor vehicles ~~acquired on or after June 29, 1974,~~ and 75941
watercraft and outboard motors required to be titled in the county 75942
pursuant to Chapter 1548. of the Revised Code and acquired ~~on or~~ 75943
~~after April 1, 1990,~~ by a transaction subject to the tax imposed 75944
by section 5739.02 of the Revised Code; 75945

(2) In addition to the tax imposed by section 5741.02 of the 75946
Revised Code, tangible personal property and services subject to 75947
the tax levied by this state as provided in section 5741.02 of the 75948
Revised Code, and tangible personal property and services 75949
purchased in another county within this state by a transaction 75950
subject to the tax imposed by section 5739.02 of the Revised Code. 75951

The tax shall be in effect at the same time and at the same 75952
rate and shall be levied pursuant to the resolution of the 75953

legislative authority of the transit authority levying a sales tax 75954
pursuant to section 5739.023 of the Revised Code. 75955

(B) The tax levied pursuant to this section on the storage, 75956
use, or other consumption of tangible personal property and on the 75957
benefit of a service realized shall be in addition to the tax 75958
levied by section 5741.02 of the Revised Code and, except as 75959
provided in division (D) of this section, any tax levied pursuant 75960
to sections 5741.021 and 5741.023 of the Revised Code. 75961

(C) The additional tax levied by the authority shall be 75962
collected pursuant to ~~the schedules in~~ section 5739.025 of the 75963
Revised Code. 75964

(D) The tax levied pursuant to this section shall not be 75965
applicable to any benefit of a service realized or to any storage, 75966
use, or consumption of property not within the taxing power of a 75967
transit authority under the constitution of the United States or 75968
the constitution of this state, or to property or services on 75969
which a tax levied by a county or transit authority pursuant to 75970
this section or section 5739.021, 5739.023, 5739.026, 5741.021, or 75971
5741.023 of the Revised Code has been paid, if the sum of the 75972
taxes paid pursuant to those sections is equal to or greater than 75973
the sum of the taxes due under this section and sections 5741.021 75974
and 5741.023 of the Revised Code. If the sum of the taxes paid is 75975
less than the sum of the taxes due under this section and sections 75976
5741.021 and 5741.023 of the Revised Code, the amount of tax paid 75977
shall be credited against the amount of tax due. 75978

(E) The rate of a tax levied under this section is subject to 75979
reduction under section 5739.028 of the Revised Code if a ballot 75980
question is approved by voters pursuant to that section. 75981

Sec. 5741.023. (A) For the same purposes for which it has 75982
imposed a tax under section 5739.026 of the Revised Code, any 75983
county ~~which~~ that levies a tax pursuant to such section shall levy 75984

a tax at the same rate levied pursuant to such section on the 75985
storage, use, or other consumption in the county of the following: 75986

(1) Motor vehicles, and watercraft and outboard motors 75987
required to be titled in the county pursuant to Chapter 1548. of 75988
the Revised Code, acquired by a transaction subject to the tax 75989
imposed by section 5739.02 of the Revised Code; 75990

(2) In addition to the tax imposed by section 5741.02 of the 75991
Revised Code, tangible personal property and services subject to 75992
the tax levied by this state as provided in section 5741.02 of the 75993
Revised Code, and tangible personal property and services 75994
purchased in another county within this state by a transaction 75995
subject to the tax imposed by section 5739.02 of the Revised Code. 75996

The tax shall be levied pursuant to a resolution of the board 75997
of county commissioners, which shall be adopted in the same manner 75998
as provided in section 5739.026 of the Revised Code. Such 75999
resolution shall be adopted and shall become effective on the same 76000
day as the resolution adopted by the board of county commissioners 76001
levying a sales tax pursuant to such section and shall remain in 76002
effect until such sales tax is repealed or expires. 76003

(B) The tax levied pursuant to this section shall be in 76004
addition to the tax levied by section 5741.02 of the Revised Code 76005
and, except as provided in division (D) of this section, any tax 76006
levied pursuant to sections 5741.021 and 5741.022 of the Revised 76007
Code. 76008

(C) The additional tax levied by the county shall be 76009
collected pursuant to ~~the schedules in~~ section 5739.025 of the 76010
Revised Code. 76011

(D) The tax levied pursuant to this section shall not be 76012
applicable to any benefit of a service realized or to any storage, 76013
use, or consumption of property not within the taxing power of a 76014
county under the constitution of the United States or the 76015

constitution of this state, or to property or services on which 76016
tax levied by a county or transit authority pursuant to this 76017
section or section 5739.021, 5739.023, 5739.026, 5741.021, or 76018
5741.022 of the Revised Code has been paid, if the sum of the 76019
taxes paid pursuant to those sections is equal to or greater than 76020
the sum of the taxes due under this section and sections 5741.021 76021
and 5741.022 of the Revised Code. If the sum of the taxes paid is 76022
less than the sum of the taxes due under this section and sections 76023
5741.021 and 5741.022 of the Revised Code, the amount of tax paid 76024
shall be credited against the amount of tax due. 76025

Sec. 5741.121. (A) If the total amount of tax required to be 76026
paid by a seller or consumer under section 5741.12 of the Revised 76027
Code for any year ~~indicated in the following schedule~~ equals or 76028
~~exceeds the amount prescribed for that year in the schedule~~ 76029
seventy-five thousand dollars, the seller or consumer shall remit 76030
each monthly tax payment in the second ensuing and each succeeding 76031
year by electronic funds transfer as prescribed by division (B) of 76032
this section. 76033

Year	1992	1993 through 1999	2000 and thereafter	
Tax payment	\$1,200,000	\$600,000	\$60,000	76035

If a seller's or consumer's tax payment for each of two 76036
consecutive years ~~beginning with 2000~~ is less than ~~sixty~~ 76037
seventy-five thousand dollars, the seller or consumer is relieved 76038
of the requirement to remit taxes by electronic funds transfer for 76039
the year that next follows the second of the consecutive years in 76040
which the tax payment is less than ~~sixty thousand dollars~~ that 76041
amount, and is relieved of that requirement for each succeeding 76042
year, unless the tax payment in a subsequent year equals or 76043
exceeds ~~sixty~~ seventy-five thousand dollars. 76044

The tax commissioner shall notify each seller or consumer 76045
required to remit taxes by electronic funds transfer of the 76046

seller's or consumer's obligation to do so, shall maintain an 76047
updated list of those sellers and consumers, and shall timely 76048
certify the list and any additions thereto or deletions therefrom 76049
to the treasurer of state. Failure by the tax commissioner to 76050
notify a seller or consumer subject to this section to remit taxes 76051
by electronic funds transfer does not relieve the seller or 76052
consumer of the obligation to remit taxes by electronic funds 76053
transfer. 76054

(B) Sellers and consumers required by division (A) of this 76055
section to remit payments by electronic funds transfer shall remit 76056
such payments to the treasurer of state in the manner prescribed 76057
by this section and rules adopted by the treasurer of state under 76058
section 113.061 of the Revised Code, and on or before the 76059
following dates: 76060

(1)(a) On or before the ~~eleventh~~ fifteenth day of each month, 76061
a seller shall remit an amount equal to the taxes collected during 76062
the first ~~seven~~ eleven days of the month. ~~On or before the~~ 76063
~~eighteenth day of each month, a seller shall remit an amount equal~~ 76064
~~to the taxes collected on the eighth through the fourteenth day of~~ 76065
~~the month.~~ On or before the twenty-fifth day of each month, a 76066
seller shall remit an amount equal to the taxes collected on the 76067
~~fifteenth~~ twelfth through the twenty-first day of the month. 76068

(b) In lieu of remitting the actual amounts collected for the 76069
periods specified in division (B)(1)(a) of this section, a seller 76070
may, on or before each of the ~~eleventh, eighteenth,~~ fifteenth and 76071
twenty-fifth days of each month, remit an amount equal to 76072
~~one-fourth~~ thirty-seven and one-half per cent of the seller's 76073
total tax liability for the same month in the preceding calendar 76074
year. 76075

(2) On or before each of the ~~eleventh, eighteenth,~~ fifteenth 76076
and twenty-fifth days of each month, a consumer shall remit an 76077
amount equal to ~~one-fourth~~ thirty-seven and one-half per cent of 76078

the consumer's total tax liability for the same month in the 76079
preceding calendar year. 76080

(3) On or before the twenty-third day of each month, a seller 76081
shall report the taxes collected and a consumer shall report the 76082
taxes due for the previous month and shall remit that amount, less 76083
any amounts paid for that month as required by division (B)(1)(a) 76084
or (b) or (B)(2) of this section. 76085

The payment of taxes by electronic funds transfer does not 76086
affect a seller's or consumer's obligation to file the monthly 76087
return as required under section 5741.12 of the Revised Code. 76088

(C) A seller or consumer required by this section to remit 76089
taxes by electronic funds transfer may apply to the treasurer of 76090
state in the manner prescribed by the treasurer of state to be 76091
excused from that requirement. The treasurer of state may excuse 76092
the seller or consumer from remittance by electronic funds 76093
transfer for good cause shown for the period of time requested by 76094
the seller or consumer or for a portion of that period. The 76095
treasurer of state shall notify the tax commissioner and the 76096
seller or consumer of the treasurer of state's decision as soon as 76097
is practicable. 76098

(D)(1) If a seller or consumer that is required to remit 76099
payments under division (B) of this section fails to make a 76100
payment, the commissioner may impose an additional charge not to 76101
exceed five per cent of that unpaid amount. 76102

(2) If a seller or consumer required by this section to remit 76103
taxes by electronic funds transfer remits those taxes by some 76104
means other than by electronic funds transfer as prescribed by the 76105
rules adopted by the treasurer of state, and the treasurer of 76106
state determines that such failure was not due to reasonable cause 76107
or was due to willful neglect, the treasurer of state shall notify 76108
the tax commissioner of the failure to remit by electronic funds 76109

transfer and shall provide the commissioner with any information 76110
used in making that determination. The tax commissioner may impose 76111
an additional charge not to exceed the lesser of five per cent of 76112
the amount of the taxes required to be paid by electronic funds 76113
transfer or five thousand dollars. 76114

(3) Any additional charge imposed under this section is in 76115
addition to any other penalty or charge imposed under this 76116
chapter, and shall be considered as revenue arising from taxes 76117
imposed under this chapter. An additional charge may be collected 76118
by assessment in the manner prescribed by section 5741.13 of the 76119
Revised Code. The tax commissioner may waive all or a portion of 76120
such a charge and may adopt rules governing such waiver. 76121

No additional charge shall be imposed under division (D)(2) 76122
of this section against a seller or consumer that has been 76123
notified of the obligation to remit taxes under this section and 76124
that remits its first two tax payments after such notification by 76125
some means other than electronic funds transfer. The additional 76126
charge may be imposed upon the remittance of any subsequent tax 76127
payment that the seller or consumer remits by some means other 76128
than electronic funds transfer. 76129

Sec. 5741.25. If any corporation, limited liability company, 76130
or business trust registered or required to be registered under 76131
section 5741.17 of the Revised Code and required to file returns 76132
and remit tax due to the state under this chapter fails for any 76133
reason to make the filing or payment, any of its employees having 76134
control or supervision of or charged with the responsibility of 76135
filing returns and making payments, or any of its officers, 76136
members, managers, or trustees who are responsible for the 76137
execution of the corporation's, limited liability company's, or 76138
business trust's fiscal responsibilities, shall be personally 76139
liable for the failure. The dissolution, termination, or 76140

bankruptcy of a corporation, limited liability company, or 76141
business trust shall not discharge a responsible officer's, 76142
member's, manager's, employee's, or trustee's liability for a 76143
failure of the corporation, limited liability company, or business 76144
trust to file returns or remit tax due. The sum due for the 76145
liability may be collected by assessment in the manner provided in 76146
section 5741.11 or 5741.13 of the Revised Code. 76147

Sec. 5743.05. All stamps provided for by section 5743.03 of 76148
the Revised Code, when procured by the tax commissioner, shall be 76149
immediately delivered to the treasurer of state, who shall execute 76150
a receipt therefor showing the number and aggregate face value of 76151
each denomination received by the treasurer of state and any other 76152
information that the commissioner requires to enforce the 76153
collection and distribution of all taxes imposed under section 76154
5743.024 or 5743.026 of the Revised Code, and deliver the receipt 76155
to the commissioner. The treasurer of state shall sell the stamps 76156
and, on the fifth day of each month, make a report showing all 76157
sales made during the preceding month, with the names of 76158
purchasers, the number of each denomination, the aggregate face 76159
value purchased by each, and any other information as the 76160
commissioner requires to enforce the collection and distribution 76161
of all taxes imposed under section 5743.024 of the Revised Code, 76162
and deliver it to the commissioner. The treasurer of state shall 76163
be accountable for all stamps received and unsold. The stamps 76164
shall be sold and accounted for at their face value, except the 76165
commissioner shall, by rule certified to the treasurer of state, 76166
authorize the sale of stamps and meter impressions to wholesale or 76167
retail dealers in this state, or to wholesale dealers outside this 76168
state, at a discount of not less than one and eight-tenths per 76169
cent or more than ten per cent of their face value, as a 76170
commission for affixing and canceling the stamps or meter 76171
impressions. 76172

The commissioner, by rule certified to the treasurer of 76173
state, shall authorize the delivery of stamps and meter 76174
impressions to wholesale and retail dealers in this state and to 76175
wholesale dealers outside this state on credit ~~when the purchaser~~ 76176
~~files.~~ If such a dealer has not been in good credit standing with 76177
this state for five consecutive years preceding the purchase, the 76178
tax commissioner shall require the dealer to file with the 76179
commissioner a bond to the state in the amount and in the form 76180
prescribed by the commissioner, ~~and~~ with surety to the 76181
satisfaction of the ~~treasurer of state~~ commissioner, conditioned 76182
on payment to the treasurer of state within thirty days for stamps 76183
or meter impressions delivered within that time. If such a dealer 76184
has been in good credit standing with this state for five 76185
consecutive years preceding the purchase, the tax commissioner 76186
shall not require that the dealer file such a bond but shall 76187
require payment for the stamps and meter impressions within thirty 76188
days after purchase of the stamps and meter impressions. Stamps 76189
and meter impressions sold to a dealer not required to file a bond 76190
shall be sold at face value. The maximum amount that may be sold 76191
on credit to a dealer not required to file a bond shall equal one 76192
hundred ten per cent of the dealer's average monthly purchases 76193
over the preceding calendar year. The maximum amount shall be 76194
adjusted to reflect any changes in the tax rate and may be 76195
adjusted, upon application to the tax commissioner by the dealer, 76196
to reflect changes in the business operations of the dealer. The 76197
maximum amount shall be applicable to the period of July through 76198
April. Payment by a dealer not required to file a bond shall be 76199
remitted by electronic funds transfer as prescribed by section 76200
5743.051 of the Revised Code. If a dealer not required to file a 76201
bond fails to make the payment in full within the thirty-day 76202
period, the treasurer of state shall not thereafter sell stamps or 76203
meter impressions to that dealer until the dealer pays the 76204
outstanding amount, including penalty and interest on that amount 76205

as prescribed in this chapter, and the commissioner thereafter may 76206
require the dealer to file a bond until the dealer is restored to 76207
good standing. The commissioner shall limit delivery of stamps and 76208
meter impressions on credit to the period running from the first 76209
day of July of the fiscal year until the first day of the 76210
following May. Any discount allowed as a commission for affixing 76211
and canceling stamps or meter impressions shall be allowed with 76212
respect to sales of stamps and meter impressions on credit. 76213

The treasurer of state shall redeem and pay for any 76214
destroyed, unused, or spoiled tax stamps and any unused meter 76215
impressions at their net value, and shall refund to wholesale 76216
dealers the net amount of state and county taxes paid erroneously 76217
or paid on cigarettes that have been sold in interstate or foreign 76218
commerce or that have become unsalable, and the net amount of 76219
county taxes that were paid on cigarettes that have been sold at 76220
retail or for retail sale outside a taxing county. 76221

An application for a refund of tax shall be filed with the 76222
tax commissioner, on the form prescribed by the commissioner for 76223
that purpose, within three years from the date the tax stamps are 76224
destroyed or spoiled, from the date of the erroneous payment, or 76225
from the date that cigarettes on which taxes have been paid have 76226
been sold in interstate or foreign commerce or have become 76227
unsalable. 76228

On the filing of the application, the commissioner shall 76229
determine the amount of refund to which the applicant is entitled, 76230
payable from receipts of the state tax, and, if applicable, 76231
payable from receipts of a county tax . If the amount is less than 76232
that claimed, the ~~commission~~ commissioner shall certify the amount 76233
to the director of budget and management and treasurer of state 76234
for payment from the tax refund fund created by section 5703.052 76235
of the Revised Code. If the amount is less than that claimed, the 76236
commissioner shall proceed in accordance with section 5703.70 of 76237

the Revised Code. 76238

If a refund is granted for payment of an illegal or erroneous 76239
assessment issued by the department, the refund shall include 76240
interest on the amount of the refund from the date of the 76241
overpayment. The interest shall be computed at the rate per annum 76242
prescribed by section 5703.47 of the Revised Code. 76243

Sec. 5743.051. This section applies to any wholesale or 76244
retail cigarette dealer required by section 5743.05 of the Revised 76245
Code to remit payment for tax stamps and meter impressions by 76246
electronic funds transfer. The tax commissioner shall notify each 76247
dealer of the dealer's obligation to do so and shall maintain an 76248
updated list of those dealers. Failure by the tax commissioner to 76249
notify a dealer subject to this section to remit taxes by 76250
electronic funds transfer does not relieve the dealer of its 76251
obligation to remit taxes by electronic funds transfer. 76252

A dealer required to remit payments by electronic funds 76253
transfer shall remit such payments to the treasurer of state in 76254
the manner prescribed by rules adopted by the treasurer of state 76255
under section 113.061 of the Revised Code and within the time 76256
prescribed for such a dealer by section 5743.05 of the Revised 76257
Code. 76258

A dealer required to remit taxes by electronic funds transfer 76259
may apply to the tax commissioner in the manner prescribed by the 76260
tax commissioner to be excused from that requirement. The tax 76261
commissioner may excuse the dealer from remittance by electronic 76262
funds transfer for good cause shown for the period of time 76263
requested by the dealer or for a portion of that period. 76264

If a dealer required to remit taxes by electronic funds 76265
transfer remits those taxes by some other means, the treasurer of 76266
state shall notify the tax commissioner of the failure to remit by 76267
electronic funds transfer. If the tax commissioner determines that 76268

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 76300
placement of a sticker to cover information on or add information 76301
to the package; 76302

(4) Has been imported or brought into the United States after 76303
January 1, 2000, in violation of section 5754 of the "Internal 76304
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 5754, or 76305
regulations adopted under that section; 76306

(5) Is produced by a tobacco product manufacturer or is part 76307
of a brand family that is not included in the directory 76308
established under section 1346.05 of the Revised Code. 76309

(B) No person shall sell or offer to sell any roll-your-own 76310
tobacco to any person in this state if the roll-your-own tobacco 76311
is not included in the directory established under section 1346.05 76312
of the Revised Code. Any roll-your-own tobacco in the possession 76313
of a retail dealer in this state shall be prima facie evidence of 76314
offering to sell to a person in this state. 76315

(C) Whenever the tax commissioner discovers any packages to 76316
which stamps have been affixed in violation of this section, or 76317
any roll-your-own tobacco sold or offered for sale in violation of 76318
this section, the tax commissioner may seize the packages or 76319
roll-your-own tobacco, which shall ~~thereupon~~ be forfeited to the 76320
state, and shall order ~~their~~ the destruction of the packages or 76321
roll-your-own tobacco, provided that the seizure and destruction 76322
shall not exempt any person from prosecution or from the fine or 76323
imprisonment provided for the violation of this section. 76324

(D) As used in this section, "roll-your-own" has the same 76325
meaning as in section 1346.01 of the Revised Code, and "tobacco 76326
product manufacturer" and "brand family" have the same meanings as 76327
in section 1346.04 of the Revised Code. 76328

Sec. 5743.45. (A) As used in this section, "felony" has the 76329

same meaning as in section 109.511 of the Revised Code. 76330

(B) For purposes of enforcing this chapter and Chapters 76331
5728., 5735., 5739., 5741., and 5747. of the Revised Code and 76332
subject to division (C) of this section, the tax commissioner, by 76333
journal entry, may delegate any investigation powers of the 76334
commissioner to an employee of the department of taxation who has 76335
been certified by the Ohio peace officer training commission and 76336
who is engaged in the enforcement of those chapters. A separate 76337
journal entry shall be entered for each employee to whom that 76338
power is delegated. Each journal entry shall be a matter of public 76339
record and shall be maintained in an administrative portion of the 76340
journal as provided for in division (L) of section 5703.05 of the 76341
Revised Code. When that journal entry is completed, the employee 76342
to whom it pertains, while engaged within the scope of the 76343
employee's duties in enforcing the provisions of this chapter or 76344
Chapter 5728., 5735., 5739., 5741., or 5747. of the Revised Code, 76345
has the power of a police officer to carry concealed weapons, make 76346
arrests, and obtain warrants for violations of any provision in 76347
those chapters. The commissioner, at any time, may suspend or 76348
revoke ~~that~~ the commissioner's delegation by journal entry. No 76349
employee of the department shall divulge any information acquired 76350
as a result of an investigation pursuant to this chapter or 76351
Chapter 5728., 5735., 5739., 5741., or 5747. of the Revised Code, 76352
except as may be required by the commissioner or a court. 76353

(C)(1) The tax commissioner shall not delegate any 76354
investigation powers to an employee of the department of taxation 76355
pursuant to division (B) of this section on a permanent basis, on 76356
a temporary basis, for a probationary term, or on other than a 76357
permanent basis if the employee previously has been convicted of 76358
or has pleaded guilty to a felony. 76359

(2)(a) The tax commissioner shall revoke the delegation of 76360
investigation powers to an employee to whom the delegation was 76361

made pursuant to division (B) of this section if that employee 76362
does either of the following: 76363

(i) Pleads guilty to a felony; 76364

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 76365
plea agreement as provided in division (D) of section 2929.29 of 76366
the Revised Code in which the employee agrees to surrender the 76367
certificate awarded to that employee under section 109.77 of the 76368
Revised Code. 76369

(b) The tax commissioner shall suspend the delegation of 76370
investigation powers to an employee to whom the delegation was 76371
made pursuant to division (B) of this section if that employee is 76372
convicted, after trial, of a felony. If the employee files an 76373
appeal from that conviction and the conviction is upheld by the 76374
highest court to which the appeal is taken or if the employee does 76375
not file a timely appeal, the commissioner shall revoke the 76376
delegation of investigation powers to that employee. If the 76377
employee files an appeal that results in that employee's acquittal 76378
of the felony or conviction of a misdemeanor, or in the dismissal 76379
of the felony charge against that employee, the commissioner shall 76380
reinstate the delegation of investigation powers to that employee. 76381
The suspension, revocation, and reinstatement of the delegation of 76382
investigation powers to an employee under division (C)(2) of this 76383
section shall be made by journal entry pursuant to division (B) of 76384
this section. An employee to whom the delegation of investigation 76385
powers is reinstated under division (C)(2)(b) of this section 76386
shall not receive any back pay for the exercise of those 76387
investigation powers unless that employee's conviction of the 76388
felony was reversed on appeal, or the felony charge was dismissed, 76389
because the court found insufficient evidence to convict the 76390
employee of the felony. 76391

(3) Division (C) of this section does not apply regarding an 76392
offense that was committed prior to January 1, 1997. 76393

(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 76424
forward for that taxable year, by multiplying the tax owed, or the 76425
loss for the taxable year, by fifty per cent. 76426

(D) "Disregarded entity" means an entity that, for its 76427
taxable year, is by default, or has elected to be, disregarded as 76428
an entity separate from its owner pursuant to 26 C.F.R. 76429
301.7701-3. 76430

(E) "Taxable year" of a taxpayer is the taxpayer's taxable 76431
year for federal income tax purposes. 76432

(F) "Federal taxable income" means taxable income, before 76433
operating loss deduction and special deductions, as required to be 76434
reported for the taxpayer's taxable year under the Internal 76435
Revenue Code. 76436

(G) "Adjusted federal taxable income" means federal taxable 76437
income adjusted as follows: 76438

(1) Deduct intangible income as defined in section 718.01 of 76439
the Revised Code to the extent included in federal taxable income; 76440

(2) Add expenses incurred in the production of such 76441
intangible income; 76442

(3) If, with respect to a qualifying taxpayer and a 76443
qualifying asset there occurs a qualifying taxable event, the 76444
qualifying taxpayer shall reduce its federal taxable income, as 76445
defined in division (F) of this section, by the amount of the 76446
book-tax ~~differential~~ difference for that qualifying asset if the 76447
book-tax ~~differential~~ difference is greater than zero, and shall 76448
increase its federal taxable income by the absolute value of the 76449
amount of the book-tax ~~differential~~ difference for that qualifying 76450
asset if the book-tax ~~differential~~ difference is less than zero. 76451
The adjustments provided in division (G)(3) of this section are 76452
subject to divisions (B)(3), (4), and (5) of section 5733.0510 of 76453
the Revised Code to the extent those divisions apply to the 76454

adjustments in that section for the taxable year. A taxpayer shall 76455
not deduct or add any amount under division (G)(3) of this section 76456
with respect to a qualifying asset the sale, exchange, or other 76457
disposition of which resulted in the recognition of a gain or loss 76458
that the taxpayer deducted or added, respectively, under division 76459
(G)(1) or (2) of this section. 76460

For the purposes of division (G)(3) of this section, ~~"net~~ 76461
~~income"~~ has the same meaning as in section 5733.04 of the Revised 76462
Code, and "book-tax differential difference," "qualifying 76463
taxpayer," "qualifying asset," and "qualifying taxable event" have 76464
the same meanings as in section 5733.0510 of the Revised Code. 76465

(4) If the taxpayer is not a C corporation and is not an 76466
individual, the taxpayer shall compute "adjusted federal taxable 76467
income" as if the taxpayer were a C corporation, except: 76468

(a) Guaranteed payments and other similar amounts paid or 76469
accrued to a partner, former partner, or member or former member 76470
shall not be allowed as a deductible expense; and 76471

(b) With respect to each owner or owner-employee of the 76472
taxpayer, amounts paid or accrued to a qualified self-employed 76473
retirement plan and amounts paid or accrued to or for health 76474
insurance or life insurance shall not be allowed as a deduction. 76475

Nothing in this division shall be construed as allowing the 76476
taxpayer to deduct any amount more than once. 76477

(5) Add or deduct the amounts described in section 5733.0511 76478
of the Revised Code for qualifying telephone company taxpayers. 76479

(H) "Internal Revenue Code" means the "Internal Revenue Code 76480
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as ~~amended~~ it existed on 76481
December 31, 2001. 76482

(I) "Ohio net income" means the amount determined under 76483
division (B) of section 5745.02 of the Revised Code. 76484

Sec. 5745.02. (A) The annual report filed under section 76485
5745.03 of the Revised Code determines a taxpayer's Ohio net 76486
income and the portion of Ohio net income to be apportioned to a 76487
municipal corporation. 76488

(B) A taxpayer's Ohio net income is determined by multiplying 76489
the taxpayer's adjusted federal taxable income by the sum of the 76490
property factor multiplied by one-third, the payroll factor 76491
multiplied by one-third, and the sales factor multiplied by 76492
one-third. If the denominator of one of the factors is zero, the 76493
remaining two factors each shall be multiplied by one-half instead 76494
of one-third; if the denominator of two of the factors is zero, 76495
the remaining factor shall be multiplied by one. The property, 76496
payroll, and sales factors shall be determined in the manner 76497
prescribed by divisions (B)(1), (2), and (3) of this section. 76498

(1) The property factor is a fraction, the numerator of which 76499
is the average value of the taxpayer's real and tangible personal 76500
property owned or rented, and used in business in this state 76501
during the taxable year, and the denominator of which is the 76502
average value of all the taxpayer's real and tangible personal 76503
property owned or rented, and used in business everywhere during 76504
such year. Property owned by the taxpayer is valued at its 76505
original cost. Property rented by the taxpayer is valued at eight 76506
times the net annual rental rate. "Net annual rental rate" means 76507
the annual rental rate paid by the taxpayer less any annual rental 76508
rate received by the taxpayer from subrentals. The average value 76509
of property shall be determined by averaging the values at the 76510
beginning and the end of the taxable year, but the tax 76511
commissioner may require the averaging of monthly values during 76512
the taxable year, if reasonably required to reflect properly the 76513
average value of the taxpayer's property. 76514

(2) The payroll factor is a fraction, the numerator of which 76515

is the total amount paid in this state during the taxable year by 76516
the taxpayer for compensation, and the denominator of which is the 76517
total compensation paid everywhere by the taxpayer during such 76518
year. Compensation means any form of remuneration paid to an 76519
employee for personal services. Compensation is paid in this state 76520
if: (a) the recipient's service is performed entirely within this 76521
state, (b) the recipient's service is performed both within and 76522
without this state, but the service performed without this state 76523
is incidental to the recipient's service within this state, or (c) 76524
some of the service is performed within this state and either the 76525
base of operations, or if there is no base of operations, the 76526
place from which the service is directed or controlled is within 76527
this state, or the base of operations or the place from which the 76528
service is directed or controlled is not in any state in which 76529
some part of the service is performed, but the recipient's 76530
residence is in this state. 76531

(3) The sales factor is a fraction, the numerator of which is 76532
the total sales in this state by the taxpayer during the taxable 76533
year, and the denominator of which is the total sales by the 76534
taxpayer everywhere during such year. Sales of electricity shall 76535
be situated to this state in the manner provided under section 76536
5733.059 of the Revised Code. In determining the numerator and 76537
denominator of the sales factor, receipts from the sale or other 76538
disposal of a capital asset or an asset described in section 1231 76539
of the Internal Revenue Code shall be eliminated. Also, in 76540
determining the numerator and denominator of the sales factor, in 76541
the case of a reporting taxpayer owning at least eighty per cent 76542
of the issued and outstanding common stock of one or more 76543
insurance companies or public utilities, except an electric 76544
company, a combined company, or a telephone company, or owning at 76545
least twenty-five per cent of the issued and outstanding common 76546
stock of one or more financial institutions, receipts received by 76547
the reporting taxpayer from such utilities, insurance companies, 76548

and financial institutions shall be eliminated. 76549

For the purpose of division (B)(3) of this section, sales of 76550
tangible personal property are in this state where such property 76551
is received in this state by the purchaser. In the case of 76552
delivery of tangible personal property by common carrier or by 76553
other means of transportation, the place at which such property is 76554
ultimately received after all transportation has been completed 76555
shall be considered as the place at which such property is 76556
received by the purchaser. Direct delivery in this state, other 76557
than for purposes of transportation, to a person or firm 76558
designated by a purchaser constitutes delivery to the purchaser in 76559
this state, and direct delivery outside this state to a person or 76560
firm designated by a purchaser does not constitute delivery to the 76561
purchaser in this state, regardless of where title passes or other 76562
conditions of sale. 76563

Sales, other than sales of electricity or tangible personal 76564
property, are in this state if either the income-producing 76565
activity is performed solely in this state, or the 76566
income-producing activity is performed both within and without 76567
this state and a greater proportion of the income-producing 76568
activity is performed within this state than in any other state, 76569
based on costs of performance. 76570

For the purposes of division (B)(3) of this section, the tax 76571
commissioner may adopt rules to apportion sales within this state. 76572

(C) The portion of a taxpayer's Ohio net income taxable by 76573
each municipal corporation imposing an income tax shall be 76574
determined by multiplying the taxpayer's Ohio net income by the 76575
sum of the municipal property factor multiplied by one-third, the 76576
municipal payroll factor multiplied by one-third, and the 76577
municipal sales factor multiplied by one-third, and subtracting 76578
from the product so obtained any "municipal net operating loss 76579
carryforward from prior taxable years." If the denominator of one 76580

of the factors is zero, the remaining two factors each shall be 76581
multiplied by one-half instead of one-third; if the denominator of 76582
two of the factors is zero, the remaining factor shall be 76583
multiplied by one. In calculating the "municipal net operating 76584
loss carryforward from prior taxable years" for each municipal 76585
corporation, net operating losses are apportioned in and out of a 76586
municipal corporation for the taxable year in which the net 76587
operating loss occurs in the same manner that positive net income 76588
would have been so apportioned. Any net operating loss for a 76589
municipal corporation may be applied to subsequent net income in 76590
that municipal corporation to reduce that income to zero or until 76591
the net operating loss has been fully used as a deduction. The 76592
unused portion of net operating losses for each taxable year 76593
apportioned to a municipal corporation may only be applied against 76594
the income apportioned to that municipal corporation for five 76595
subsequent taxable years. Net operating losses occurring in 76596
taxable years ending before 2002 may not be subtracted under this 76597
section. 76598

A taxpayer's municipal property, municipal payroll, and 76599
municipal sales factors for a municipal corporation shall be 76600
determined as provided in divisions (C)(1), (2), and (3) of this 76601
section. 76602

(1) The municipal property factor is the quotient obtained by 76603
dividing (a) the average value of real and tangible personal 76604
property owned or rented by the taxpayer and used in business in 76605
the municipal corporation during the taxable year by (b) the 76606
average value of all of the taxpayer's real and tangible personal 76607
property owned or rented and used in business during that taxable 76608
year in this state. The value and average value of such property 76609
shall be determined in the same manner provided in division (B)(1) 76610
of this section. 76611

(2) The municipal payroll factor is the quotient obtained by 76612

dividing (a) the total amount of compensation earned in the 76613
municipal corporation by the taxpayer's employees during the 76614
taxable year for services performed for the taxpayer and that is 76615
subject to income tax withholding by the municipal corporation by 76616
(b) the total amount of compensation paid by the taxpayer to its 76617
employees in this state during the taxable year. Compensation has 76618
the same meaning as in division (B)(2) of this section. 76619

(3) The municipal sales factor is a fraction, the numerator 76620
of which is the taxpayer's total sales in a municipal corporation 76621
during the taxable year, and the denominator of which is the 76622
taxpayer's total sales in this state during such year. 76623

For the purpose of division (C)(3) of this section, sales of 76624
tangible personal property are in the municipal corporation where 76625
such property is received in the municipal corporation by the 76626
purchaser. Sales of electricity directly to the consumer, as 76627
defined in section 5733.059 of the Revised Code, shall be 76628
considered sales of tangible personal property. In the case of the 76629
delivery of tangible personal property by common carrier or by 76630
other means of transportation, the place at which such property 76631
ultimately is received after all transportation has been completed 76632
shall be considered as the place at which the property is received 76633
by the purchaser. Direct delivery in the municipal corporation, 76634
other than for purposes of transportation, to a person or firm 76635
designated by a purchaser constitutes delivery to the purchaser in 76636
that municipal corporation, and direct delivery outside the 76637
municipal corporation to a person or firm designated by a 76638
purchaser does not constitute delivery to the purchaser in that 76639
municipal corporation, regardless of where title passes or other 76640
conditions of sale. Sales, other than sales of tangible personal 76641
property, are in the municipal corporation if either: 76642

(a) The income-producing activity is performed solely in the 76643
municipal corporation; 76644

(b) The income-producing activity is performed both within 76645
and without the municipal corporation and a greater proportion of 76646
the income-producing activity is performed within that municipal 76647
corporation than any other location in this state, based on costs 76648
of performance. 76649

For the purposes of division (C)(3) of this section, the tax 76650
commissioner may adopt rules to apportion sales within each 76651
municipal corporation. 76652

(D) If a taxpayer is a combined company as defined in section 76653
5727.01 of the Revised Code, the municipal property, payroll, and 76654
sales factors under division (C) of this section shall be adjusted 76655
as follows: 76656

(1) The numerator of the municipal property factor shall 76657
include only the value, as determined under division (C)(1) of 76658
this section, of the company's real and tangible property in the 76659
municipal corporation attributed to the company's activity as an 76660
electric company using the same methodology prescribed under 76661
section 5727.03 of the Revised Code for taxable tangible personal 76662
property. 76663

(2) The numerator of the municipal payroll factor shall 76664
include only compensation paid in the municipal corporation by the 76665
company to its employees for personal services rendered in the 76666
company's activity as an electric company. 76667

(3) The numerator of the municipal sales factor shall include 76668
only the sales of tangible personal property and services, as 76669
determined under division (C)(3) of this section, made in the 76670
municipal corporation in the course of the company's activity as 76671
an electric company. 76672

(E)(1) If the provisions for apportioning adjusted federal 76673
taxable income or Ohio net income under ~~division~~ divisions (B), 76674
(C), and (D) of this section do not fairly represent business 76675

activity in this state or among municipal corporations, the tax 76676
commissioner may adopt rules for apportioning such income by an 76677
alternative method that fairly represents business activity in 76678
this state or among municipal corporations. 76679

(2) If any of the factors determined under division (B), (C), 76680
or (D) of this section does not fairly represent the extent of a 76681
taxpayer's business activity in this state or among municipal 76682
corporations, the taxpayer may request, or the tax commissioner 76683
may require, that the taxpayer's adjusted federal taxable income 76684
or Ohio net income be determined by an alternative method, 76685
including any of the alternative methods enumerated in division 76686
(B)(2)(d) of section 5733.05 of the Revised Code. A taxpayer 76687
requesting an alternative method shall make the request in writing 76688
to the tax commissioner either with the annual report, a timely 76689
filed amended report, or a timely filed petition for reassessment. 76690
When the tax commissioner requires or permits an alternative 76691
method under division (E)(2) of this section, the tax commissioner 76692
shall cause a written notice to that effect to be delivered to any 76693
municipal corporation that would be affected by application of the 76694
alternative method. Nothing in this division shall be construed to 76695
extend any statute of limitations under this chapter. 76696

(F)(1) The tax commissioner may adopt rules providing for the 76697
combination of adjusted federal taxable incomes of taxpayers 76698
satisfying the ownership or control requirements of section 76699
5733.052 of the Revised Code if the tax commissioner finds that 76700
such combinations are necessary to properly reflect adjusted 76701
federal taxable income, Ohio net income, or the portion of Ohio 76702
net income to be taxable by municipal corporations. 76703

(2) A taxpayer satisfying the ownership or control 76704
requirements of section 5733.052 of the Revised Code with respect 76705
to one or more other taxpayers may not combine their adjusted 76706
federal taxable incomes for the purposes of this section unless 76707

rules are adopted under division (F)(1) of this section allowing 76708
such a combination or the tax commissioner finds that such a 76709
combination is necessary to properly reflect the taxpayers' 76710
adjusted federal taxable incomes, Ohio net incomes, or the portion 76711
of Ohio net incomes to be subject to taxation within a municipal 76712
corporation. 76713

(G) The tax commissioner may adopt rules providing for 76714
alternative apportionment methods for a telephone company. 76715

Sec. 5745.04. (A) As used in this section, "combined tax 76716
liability" means the total of a taxpayer's income tax liabilities 76717
to all municipal corporations in this state for a taxable year. 76718

(B) Beginning with its taxable year beginning in 2003, each 76719
taxpayer shall file a declaration of estimated tax report with, 76720
and remit estimated taxes to, the tax commissioner, payable to the 76721
treasurer of state, at the times and in the amounts prescribed in 76722
divisions (B)(1) to (4) of this section. This division also 76723
applies to a taxpayer having a taxable year consisting of fewer 76724
than twelve months, at least one of which is in 2002, that ends 76725
before January 1, 2003. The first taxable year a taxpayer is 76726
subject to this chapter, the estimated taxes the taxpayer is 76727
required to remit under this section shall be based solely on the 76728
current taxable year and not on the liability for the preceding 76729
taxable year. 76730

(1) Not less than twenty-five per cent of the combined tax 76731
liability for the preceding taxable year or twenty per cent of the 76732
combined tax liability for the current taxable year shall have 76733
been remitted not later than the fifteenth day of the fourth month 76734
after the end of the preceding taxable year. 76735

(2) Not less than fifty per cent of the combined tax 76736
liability for the preceding taxable year or forty per cent of the 76737
combined tax liability for the current taxable year shall have 76738

been remitted not later than the fifteenth day of the sixth month 76739
after the end of the preceding taxable year. 76740

(3) Not less than seventy-five per cent of the combined tax 76741
liability for the preceding taxable year or sixty per cent of the 76742
combined tax liability for the current taxable year shall have 76743
been remitted not later than the fifteenth day of the ninth month 76744
after the end of the preceding taxable year. 76745

(4) Not less than one hundred per cent of the combined tax 76746
liability for the preceding taxable year or eighty per cent of the 76747
combined tax liability for the current taxable year shall have 76748
been remitted not later than the fifteenth day of the twelfth 76749
month after the end of the preceding taxable year. 76750

(C) Each taxpayer shall report on the declaration of 76751
estimated tax report the portion of the remittance that the 76752
taxpayer estimates that it owes to each municipal corporation for 76753
the taxable year. 76754

(D) Upon receiving a declaration of estimated tax report and 76755
remittance of estimated taxes under this section, the tax 76756
commissioner shall immediately forward to the treasurer of state 76757
such remittance. The treasurer of state shall credit ninety-eight 76758
and one-half per cent of the remittance to the municipal income 76759
tax fund and credit the remainder to the municipal income tax 76760
administrative fund. 76761

(E) If any remittance of estimated taxes is for one thousand 76762
dollars or more, the taxpayer shall make the remittance by 76763
electronic funds transfer as prescribed by section 5745.04 of the 76764
Revised Code. 76765

(F) Notwithstanding section 5745.08 or 5745.09 of the Revised 76766
Code, no penalty or interest shall be imposed on a taxpayer if the 76767
declaration of estimated tax report is properly filed, and the 76768
estimated tax is paid, within the time prescribed by division (B) 76769

of this section. 76770

Sec. 5747.02. (A) For the purpose of providing revenue for 76771
the support of schools and local government functions, to provide 76772
relief to property taxpayers, to provide revenue for the general 76773
revenue fund, and to meet the expenses of administering the tax 76774
levied by this chapter, there is hereby levied on every 76775
individual, trust, and estate residing in or earning or receiving 76776
income in this state, on every individual, trust, and estate 76777
earning or receiving lottery winnings, prizes, or awards pursuant 76778
to Chapter 3770. of the Revised Code, and on every individual, 76779
trust, and estate otherwise having nexus with or in this state 76780
under the Constitution of the United States, an annual tax 76781
measured in the case of individuals by Ohio adjusted gross income 76782
less an exemption for the taxpayer, the taxpayer's spouse, and 76783
each dependent as provided in section 5747.025 of the Revised 76784
Code; measured in the case of trusts by modified Ohio taxable 76785
income under division (D) of this section; and measured in the 76786
case of estates by Ohio taxable income. The tax imposed by this 76787
section on the balance thus obtained is hereby levied as follows: 76788

OHIO ADJUSTED GROSS INCOME LESS		76789
EXEMPTIONS (INDIVIDUALS)		
OR		76790
MODIFIED OHIO		76791
TAXABLE INCOME (TRUSTS)		76792
OR		76793
OHIO TAXABLE INCOME (ESTATES)	TAX	76794
\$5,000 or less	.743%	76795
More than \$5,000 but not more than \$10,000	\$37.15 plus 1.486% of the amount in excess of \$5,000	76796
More than \$10,000 but not more than \$15,000	\$111.45 plus 2.972% of the amount in excess of \$10,000	76797
More than \$15,000 but not more	\$260.05 plus 3.715% of the	76798

than \$20,000	amount in excess of \$15,000	
More than \$20,000 but not more than \$40,000	\$445.80 plus 4.457% of the amount in excess of \$20,000	76799
More than \$40,000 but not more than \$80,000	\$1,337.20 plus 5.201% of the amount in excess of \$40,000	76800
More than \$80,000 but not more than \$100,000	\$3,417.60 plus 5.943% of the amount in excess of \$80,000	76801
More than \$100,000 but not more than \$200,000	\$4,606.20 plus 6.9% of the amount in excess of \$100,000	76802
More than \$200,000	\$11,506.20 plus 7.5% of the amount in excess of \$200,000	76803

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 76825
beginning in the calendar year in which that certification is 76826
made. 76827

(C) The levy of this tax on income does not prevent a 76828
municipal corporation, a joint economic development zone created 76829
under section 715.691, or a joint economic development district 76830
created under section 715.70 or 715.71 or sections 715.72 to 76831
715.81 of the Revised Code from levying a tax on income. 76832

(D) This division applies only to taxable years of a trust 76833
beginning in 2002, 2003, or 2004. 76834

(1) The tax imposed by this section on a trust shall be 76835
computed by multiplying the Ohio modified taxable income of the 76836
trust by the rates prescribed by division (A) of this section. 76837

(2) A credit is allowed against the tax computed under 76838
division (D) of this section equal to the lesser of (1) the tax 76839
paid to another state or the District of Columbia on the trust's 76840
modified nonbusiness income, other than the portion of the trust's 76841
nonbusiness income that is qualifying investment income as defined 76842
in section 5747.012 of the Revised Code, or (2) the effective tax 76843
rate, based on modified Ohio taxable income, multiplied by the 76844
trust's modified nonbusiness income other than the portion of 76845
trust's nonbusiness income that is qualifying investment income. 76846
The credit applies before any other applicable credits. 76847

(3) The credits enumerated in divisions (A)(1) to (13) of 76848
section 5747.98 of the Revised Code do not apply to a trust 76849
subject to this division. Any credits enumerated in other 76850
divisions of section 5747.98 of the Revised Code apply to a trust 76851
subject to this division. To the extent that the trust distributes 76852
income for the taxable year for which a credit is available to the 76853
trust, the credit shall be shared by the trust and its 76854
beneficiaries. The tax commissioner and the trust shall be guided 76855

by applicable regulations of the United States treasury regarding 76856
the sharing of credits. 76857

(E) For the purposes of this section, "trust" means any trust 76858
described in Subchapter J of Chapter 1 of the Internal Revenue 76859
Code, excluding trusts that are not irrevocable as defined in 76860
division (I)(3)(b) of section 5747.01 of the Revised Code and that 76861
have no modified Ohio taxable income for the taxable year, 76862
charitable remainder trusts, qualified funeral trusts and preneed 76863
funeral contract trusts established pursuant to section 1111.19 of 76864
the Revised Code that are not qualified funeral trusts, endowment 76865
and perpetual care trusts, qualified settlement trusts and funds, 76866
designated settlement trusts and funds, and trusts exempted from 76867
taxation under section 501(a) of the Internal Revenue Code. 76868

Sec. 5747.026. (A) For taxable years beginning on or after 76869
January 1, 2002, a member of the national guard or a member of a 76870
reserve component of the armed forces of the United States called 76871
to active or other duty under operation Iraqi freedom may apply to 76872
the tax commissioner for an extension for filing of the return and 76873
payment of taxes required under Chapter 5747. of the Revised Code 76874
during the period of the member's duty service and for sixty days 76875
thereafter. The application shall be filed on or before the 76876
sixtieth day after the member's duty terminates. An applicant 76877
shall provide such evidence as the commissioner considers 76878
necessary to demonstrate eligibility for the extension. 76879

(B)(1) If the commissioner determines that an applicant is 76880
qualified for an extension under this section, the commissioner 76881
shall enter into a contract with the applicant for the payment of 76882
the tax in installments that begin on the sixty-first day after 76883
the applicant's duty under operation Iraqi freedom terminates. 76884
Except as provided in division (B)(3) of this section, the 76885
commissioner may prescribe such contract terms as the commissioner 76886

considers appropriate. 76887

(2) If the commissioner determines that an applicant is 76888
qualified for an extension under this section, the applicant shall 76889
not be required to file any return, report, or other tax document 76890
before the sixty-first day after the applicant's duty under 76891
operation Iraqi freedom terminates. 76892

(3) Taxes paid pursuant to a contract entered into under 76893
division (B)(1) of this section are not delinquent. The tax 76894
commissioner shall not require any payments of penalties or 76895
interest in connection with such taxes. 76896

(C) The tax commissioner shall adopt rules necessary to 76897
administer this section, including rules establishing the 76898
following: 76899

(1) Forms and procedures by which applicants may apply for 76900
extensions; 76901

(2) Criteria for eligibility; 76902

(3) A schedule for repayment of deferred taxes. 76903

Sec. 5747.12. If a person entitled to a refund under section 76904
5747.11 or 5747.13 of the Revised Code is indebted to this state 76905
for any tax, workers' compensation premium due under section 76906
4123.35 of the Revised Code, unemployment compensation 76907
contribution due under section 4141.25 of the Revised Code, or fee 76908
administered by the tax commissioner that is paid to the state or 76909
to the clerk of courts pursuant to section 4505.06 of the Revised 76910
Code, or any charge, penalty, or interest arising from such a tax, 76911
workers' compensation premium, unemployment compensation 76912
contribution, or fee, the amount refundable may be applied in 76913
satisfaction of the debt. If the amount refundable is less than 76914
the amount of the debt, it may be applied in partial satisfaction 76915
of the debt. If the amount refundable is greater than the amount 76916

of the debt, the amount remaining after satisfaction of the debt 76917
shall be refunded. If the person has more than one such debt, any 76918
debt subject to section 5739.33 or division (G) of section 5747.07 76919
of the Revised Code shall be satisfied first. This section applies 76920
only to debts that have become final. 76921

The tax commissioner may, with the consent of the taxpayer, 76922
provide for the crediting, against tax imposed under this chapter 76923
or Chapter 5748. of the Revised Code and due for any taxable year, 76924
of the amount of any refund due the taxpayer under this chapter or 76925
Chapter 5748. of the Revised Code, as appropriate, for a preceding 76926
taxable year. 76927

Sec. 5747.31. (A) This section applies to an individual or 76928
estate that is a proprietor or a pass-through entity investor. 76929

(B) A taxpayer described in division (A) of this section is 76930
allowed a credit that shall be computed and claimed in the same 76931
manner as the credit allowed to corporations in section 5733.33 of 76932
the Revised Code. The taxpayer shall claim one-seventh of the 76933
credit amount for the calendar year in which the new manufacturing 76934
machinery and equipment is purchased for use in the county by the 76935
taxpayer or partnership. One-seventh of the taxpayer credit amount 76936
is allowed for each of the six ensuing taxable years. The taxpayer 76937
shall claim the credit in the order required under section 5747.98 76938
of the Revised Code. 76939

The taxpayer shall file with the department of development a 76940
notice of intent to claim the credit in accordance with division 76941
(E) of section 5733.33 of the Revised Code. 76942

(C)(1) A taxpayer described in division (A) of this section 76943
is allowed a credit that shall be computed in the same manner as 76944
the credit allowed to a corporation in section 5733.39 of the 76945
Revised Code, with the following adjustments: 76946

(a) Substitute "taxable year" for "tax year" wherever "tax year" appears in section 5733.39 of the Revised Code; 76947
76948

(b) Substitute "5747.02" for "5733.06" wherever "5733.06" appears in section 5733.39 of the Revised Code; 76949
76950

(c) Substitute "5747.98" for "5733.98" wherever "5733.98" appears in section 5733.39 of the Revised Code; 76951
76952

(d) The credit allowed under division (C) of this section shall be subject to the same disallowance for the carryover or carryback of any unused credit as provided in division (C) of section 5733.39 of the Revised Code. 76953
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(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. 76957
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(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. 76963
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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~~ 76968
76969
76970

(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 76971
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commission from the county general fund in the current fiscal year 76977
by more than ten per cent of that appropriation, the board of 76978
county commissioners, by resolution, may create not more than six 76979
memberships on the veterans service commission in addition to the 76980
memberships provided for by section 5901.02 of the Revised Code. 76981
The board shall prescribe the number of years ~~such~~ the additional 76982
memberships shall exist, which shall not exceed five years. Once a 76983
board of county commissioners creates ~~such~~ any additional 76984
memberships, it may not create further additional memberships 76985
under this section if the total number of such memberships would 76986
exceed six. The board shall appoint persons who are residents of 76987
the county and who are honorably discharged or honorably separated 76988
veterans to each of the additional memberships, for terms 76989
prescribed by the board and commencing on a date fixed by the 76990
board. Each person appointed to an additional membership shall 76991
file, within sixty days after the date of the appointment, the 76992
person's form DD214 with the governor's office of veterans affairs 76993
in accordance with guidelines established by the director of that 76994
office. 76995

(2) If the board of county commissioners appoints ~~such~~ 76996
additional members as described in division (B)(1) of this 76997
section, the board may permit the commission to submit an original 76998
or revised budget request for the ensuing fiscal year later than 76999
the last Monday in May, as otherwise required under section 77000
5901.11 of the Revised Code. 77001

(C) The board of county commissioners may remove, for cause, 77002
any member appointed under this section~~†~~. The board shall provide 77003
~~for~~ determine whether ~~such~~ the additional members may be 77004
reappointed upon the expiration of their terms~~†~~, and shall fill 77005
any vacancy in ~~a~~ an additional membership ~~appointed under this~~ 77006
~~section~~ for the unexpired term in the manner provided for the 77007
original appointment. 77008

Sec. 6101.09. Within thirty days after the conservancy 77009
district has been declared a corporation by the court, the clerk 77010
of such court shall transmit to the secretary of state, to the 77011
director of the department of natural resources, and to the county 77012
recorder in each of the counties having lands in the district, 77013
copies of the findings and the decree of the court incorporating 77014
the district. The same shall be filed and recorded in the office 77015
of the secretary of state in the same manner as articles of 77016
incorporation are required to be filed and recorded under the 77017
general law concerning corporations. Copies shall also be filed 77018
and become permanent records in the office of the recorder of each 77019
county in which a part of the district lies. Each recorder shall 77020
receive a base fee of one dollar for filing and preserving such 77021
copies and a housing trust fund fee of one dollar pursuant to 77022
section 317.36 of the Revised Code, and the secretary of state 77023
shall receive for filing and for recording the copies a fee of 77024
twenty-five dollars. 77025

Sec. 6103.02. (A) For the purpose of preserving and promoting 77026
the public health and welfare, a board of county commissioners may 77027
acquire, construct, maintain, and operate any public water supply 77028
facilities within its county for one or more sewer districts and 77029
may provide for their protection and prevent their pollution and 77030
unnecessary waste. The board may negotiate and enter into a 77031
contract with any public agency or any person for the management, 77032
maintenance, operation, and repair of the facilities on behalf of 77033
the county, upon the terms and conditions as may be agreed upon 77034
with the agency or person and as may be determined by the board to 77035
be in the interests of the county. By contract with any public 77036
agency or any person operating public water supply facilities 77037
within or without its county, the board also may provide a supply 77038
of water to a sewer district from the facilities of the public 77039

agency or person. 77040

(B) The county sanitary engineer or sanitary engineering 77041
department, in addition to other assigned duties, shall assist the 77042
board in the performance of its duties under this chapter and 77043
shall be charged with other duties and services in relation to the 77044
board's duties as the board prescribes. 77045

(C) The board may adopt, publish, administer, and enforce 77046
rules for the construction, maintenance, protection, and use of 77047
county-owned or county-operated public water supply facilities 77048
outside municipal corporations and of public water supply 77049
facilities within municipal corporations that are owned or 77050
operated by the county or that are supplied with water from water 77051
supply facilities owned or operated by the county, including, but 77052
not limited to, rules for the establishment and use of any 77053
connections, the termination in accordance with reasonable 77054
procedures of water service for nonpayment of county water rates 77055
and charges, and the establishment and use of security deposits to 77056
the extent considered necessary to ensure the payment of county 77057
water rates and charges. The rules shall not be inconsistent with 77058
the laws of the state or any applicable rules of the director of 77059
environmental protection. 77060

(D) No public water supply facilities shall be constructed in 77061
any county outside municipal corporations by any person, except 77062
for the purpose of supplying water to those municipal 77063
corporations, until the plans and specifications for the 77064
facilities have been approved by the board. Construction shall be 77065
done under the supervision of the county sanitary engineer. Any 77066
person constructing public water supply facilities shall pay to 77067
the county all expenses incurred by the board in connection with 77068
the construction. 77069

(E) The county sanitary engineer or the county sanitary 77070
engineer's authorized assistants or agents, when properly 77071

identified in writing or otherwise and after written notice is 77072
delivered to the owner at least five days in advance or mailed at 77073
least five days in advance by first class or certified mail to the 77074
owner's tax mailing address, may enter upon any public or private 77075
property for the purpose of making, and may make, surveys or 77076
inspections necessary for the design or evaluation of county 77077
public water supply facilities. This entry is not a trespass and 77078
is not to be considered an entry in connection with any 77079
appropriation of property proceedings under sections 163.01 to 77080
163.22 of the Revised Code that may be pending. No person or 77081
public agency shall forbid the county sanitary engineer or the 77082
county sanitary engineer's authorized assistants or agents to 77083
enter, or interfere with their entry, upon the property for the 77084
purpose of making the surveys or inspections. If actual damage is 77085
done to property by the making of the surveys or inspections, the 77086
board shall pay the reasonable value of the damage to the property 77087
owner, and the cost shall be included in the cost of the 77088
facilities and may be included in any special assessments levied 77089
and collected to pay that cost. 77090

(F) The board shall fix reasonable rates, including penalties 77091
for late payments, for water supplied to public agencies and 77092
persons when the source of supply or the facilities for its 77093
distribution are owned or operated by the county and may change 77094
the rates from time to time as it considers advisable. When the 77095
source of the water supply to be used by the county is owned by 77096
another public agency or person, the schedule of rates to be 77097
charged by the public agency or person shall be approved by the 77098
board at the time it enters into a contract for the use of water 77099
from the public agency or person. When the distribution facilities 77100
are owned by the county, the board also may fix reasonable charges 77101
to be collected for the privilege of connecting to the 77102
distribution facilities and may require that, prior to the 77103
connection, the charges be paid in full or, if determined by the 77104

board to be equitable in a resolution relating to the payment of 77105
the charges, may require their payment in installments, as 77106
considered adequate by the board, at the times, in the amounts, 77107
and with the security, carrying charges, and penalties as may be 77108
determined by the board in that resolution to be fair and 77109
appropriate. No public agency or person shall be permitted to 77110
connect to those facilities until the charges have been paid in 77111
full or provision for their payment in installments has been made. 77112
If the connection charges are to be paid in installments, the 77113
board shall certify, to the county auditor, information sufficient 77114
to identify each parcel of property served by a connection and, 77115
with respect to each parcel, the total of the charges to be paid 77116
in installments, the amount of each installment, and the total 77117
number of installments to be paid. The county auditor shall record 77118
and maintain the information so supplied in the waterworks record 77119
provided for in section 6103.16 of the Revised Code until the 77120
connection charges are paid in full. The board may include amounts 77121
attributable to connection charges being paid in installments in 77122
its billings of rates and other charges for water supplied. In 77123
addition, the board may consider payments made to a school 77124
district under section 6103.25 of the Revised Code when the board 77125
establishes rates and other charges for water supplied. 77126

(G) When any rates or charges are not paid when due, the 77127
board may do any or all of the following: 77128

(1) Certify the unpaid rates or charges, together with any 77129
penalties, to the county auditor. The county auditor shall place 77130
the certified amount upon the real property tax list and duplicate 77131
against the property served by the connection. The certified 77132
amount shall be a lien on the property from the date placed on the 77133
real property tax list and duplicate and shall be collected in the 77134
same manner as taxes, except that, notwithstanding section 323.15 77135
of the Revised Code, a county treasurer shall accept a payment in 77136

that amount when separately tendered as payment for the full 77137
amount of the unpaid rates or charges and associated penalties. 77138
The lien shall be released immediately upon payment in full of the 77139
certified amount. 77140

(2) Collect the unpaid rates or charges, together with any 77141
penalties, by actions at law in the name of the county from an 77142
owner, tenant, or other person or public agency that is liable for 77143
the payment of the rates or charges; 77144

(3) Terminate, in accordance with established rules, the 77145
water service to the particular property unless and until the 77146
unpaid rates or charges, together with any penalties, are paid in 77147
full; 77148

(4) Apply, to the extent required, any security deposit made 77149
in accordance with established rules to the payment of the unpaid 77150
rates and charges, together with any penalties, for water service 77151
to the particular property. 77152

All moneys collected as rates, charges, or penalties fixed or 77153
established in accordance with division (F) of this section for 77154
water supply purposes in or for any sewer district shall be paid 77155
to the county treasurer and kept in a separate and distinct water 77156
fund established by the board to the credit of the district. 77157

Each board that fixes water rates or charges may render 77158
estimated bills periodically, provided that at least quarterly it 77159
shall schedule an actual reading of each customer's meter so as to 77160
render a bill for the actual amount shown by the meter reading to 77161
be due, with credit for prior payments of any estimated bills 77162
submitted for any part of the billing period, except that 77163
estimated bills may be rendered if a customer's meter is not 77164
accessible for a timely reading or if the circumstances preclude a 77165
scheduled reading. Each board also shall establish procedures 77166
providing a fair and reasonable opportunity for the resolution of 77167

billing disputes. 77168

When property to which water service is provided is about to 77169
be sold, any party to the sale or an agent of a party may request 77170
the board to have the meter at that property read and to render, 77171
within ten days following the date on which the request is made, a 77172
final bill for all outstanding rates and charges for water 77173
service. The request shall be made at least fourteen days prior to 77174
the transfer of the title of the property. 77175

At any time prior to a certification under division (G)(1) of 77176
this section, the board shall accept any partial payment of unpaid 77177
water rates or charges in the amount of ten dollars or more. 77178

Except as otherwise provided in any proceedings authorizing 77179
or providing for the security for and payment of any public 77180
obligations, or in any indenture or trust or other agreement 77181
securing public obligations, moneys in the water fund shall be 77182
applied first to the payment of the cost of the management, 77183
maintenance, and operation of the water supply facilities of, or 77184
used or operated for, the sewer district, which cost may include 77185
the county's share of management, maintenance, and operation costs 77186
under cooperative contracts for the acquisition, construction, or 77187
use of water supply facilities and, in accordance with a cost 77188
allocation plan adopted under division (H) of this section, 77189
payment of all allowable direct and indirect costs of the 77190
district, the county sanitary engineer or sanitary engineering 77191
department, or a federal or state grant program, incurred for the 77192
purposes of this chapter, and shall be applied second to the 77193
payment of debt charges payable on any outstanding public 77194
obligations issued or incurred for the acquisition or construction 77195
of water supply facilities for or serving the district, or for the 77196
funding of a bond retirement or other fund established for the 77197
payment of or security for the obligations. Any surplus remaining 77198
may be applied to the acquisition or construction of those 77199

facilities or for the payment of contributions to be made, or 77200
costs incurred, for the acquisition or construction of those 77201
facilities under cooperative contracts. Moneys in the water fund 77202
shall not be expended other than for the use and benefit of the 77203
district. 77204

(H) A board of county commissioners may adopt a cost 77205
allocation plan that identifies, accumulates, and distributes 77206
allowable direct and indirect costs that may be paid from the 77207
water fund of the sewer district created pursuant to division (G) 77208
of this section, and that prescribes methods for allocating those 77209
costs. The plan shall authorize payment from the fund of only 77210
those costs incurred by the district, the county sanitary engineer 77211
or sanitary engineering department, or a federal or state grant 77212
program, and those costs incurred by the general and other funds 77213
of the county for a common or joint purpose, that are necessary 77214
and reasonable for the proper and efficient administration of the 77215
district under this chapter. The plan shall not authorize payment 77216
from the fund of any general government expense required to carry 77217
out the overall governmental responsibilities of a county. The 77218
plan shall conform to United States office of management and 77219
budget Circular A-87, "Cost Principles for State, Local, and 77220
Indian Tribal Governments," published May 17, 1995. 77221

(I) A board of county commissioners shall not construct a 77222
public water supply facility that is within the boundaries of a 77223
regional water and sewer district established under Chapter 6119. 77224
of the Revised Code and that is within one thousand feet of a 77225
water resource project that is owned or operated by the district 77226
if the project is financed in whole or in part by obligations 77227
issued under Chapter 133., 6119., or 6121. of the Revised Code or 77228
by obligations issued by the state unless the facility is for the 77229
sole purpose of increasing water pressure in water transmission 77230
lines owned or operated by the board and will not be used to sell 77231

or otherwise provide water to customers to which the district 77232
supplies or may supply water from an existing water resource 77233
project or unless the district gives consent to the construction 77234
by adopting a resolution. 77235

Sec. 6109.21. (A) Except as provided in divisions (D) and (E) 77236
of this section, on and after January 1, 1994, no person shall 77237
operate or maintain a public water system in this state without a 77238
license issued by the director of environmental protection. A 77239
person who operates or maintains a public water system on January 77240
1, 1994, shall obtain an initial license under this section in 77241
accordance with the following schedule: 77242

(1) If the public water system is a community water system, 77243
not later than January 31, 1994; 77244

(2) If the public water system is not a community water 77245
system and serves a nontransient population, not later than 77246
January 31, 1994; 77247

(3) If the public water system is not a community water 77248
system and serves a transient population, not later than January 77249
31, 1995. 77250

A person proposing to operate or maintain a new public water 77251
system after January 1, 1994, in addition to complying with 77252
section 6109.07 of the Revised Code and rules adopted under it, 77253
shall submit an application for an initial license under this 77254
section to the director prior to commencing operation of the 77255
system. 77256

A license or license renewal issued under this section shall 77257
be renewed annually. Such a license or license renewal shall 77258
expire on the thirtieth day of January in the year following its 77259
issuance. A license holder that proposes to continue operating the 77260
public water system for which the license or license renewal was 77261

issued shall apply for a license renewal at least thirty days 77262
prior to that expiration date. 77263

The director shall adopt, and may amend and rescind, rules in 77264
accordance with Chapter 119. of the Revised Code establishing 77265
procedures governing and information to be included on 77266
applications for licenses and license renewals under this section. 77267
Through June 30, ~~2004~~ 2006, each application shall be accompanied 77268
by the appropriate fee established under division (M) of section 77269
3745.11 of the Revised Code, provided that an applicant for an 77270
initial license who is proposing to operate or maintain a new 77271
public water system after January 1, 1994, shall submit a fee that 77272
equals a prorated amount of the appropriate fee established under 77273
that division for the remainder of the licensing year. 77274

(B) Not later than thirty days after receiving a completed 77275
application and the appropriate license fee for an initial license 77276
under division (A) of this section, the director shall issue the 77277
license for the public water system. Not later than thirty days 77278
after receiving a completed application and the appropriate 77279
license fee for a license renewal under division (A) of this 77280
section, the director shall do one of the following: 77281

(1) Issue the license renewal for the public water system; 77282

(2) Issue the license renewal subject to terms and conditions 77283
that the director determines are necessary to ensure compliance 77284
with this chapter and rules adopted under it; 77285

(3) Deny the license renewal if the director finds that the 77286
public water system was not operated in substantial compliance 77287
with this chapter and rules adopted under it. 77288

(C) The director may suspend or revoke a license or license 77289
renewal issued under this section if the director finds that the 77290
public water system was not operated in substantial compliance 77291
with this chapter and rules adopted under it. The director shall 77292

adopt, and may amend and rescind, rules in accordance with Chapter 77293
119. of the Revised Code governing such suspensions and 77294
revocations. 77295

(D)(1) As used in division (D) of this section, "church" 77296
means a fellowship of believers, congregation, society, 77297
corporation, convention, or association that is formed primarily 77298
or exclusively for religious purposes and that is not formed or 77299
operated for the private profit of any person. 77300

(2) This section does not apply to a church that operates or 77301
maintains a public water system solely to provide water for that 77302
church or for a campground that is owned by the church and 77303
operated primarily or exclusively for members of the church and 77304
their families. A church that, on or before March 5, 1996, has 77305
obtained a license under this section for such a public water 77306
system need not obtain a license renewal under this section. 77307

(E) This section does not apply to any public or nonpublic 77308
school that meets minimum standards of the state board of 77309
education that operates or maintains a public water system solely 77310
to provide water for that school. 77311

Sec. 6111.06. (A) All proceedings of the director of 77312
environmental protection, ~~or his~~ of the director's officers or 77313
agents, under sections 6111.01 to 6111.08 ~~and sections 6111.31 to~~ 77314
~~6111.38~~ of the Revised Code, including the adoption, issuance, 77315
modification, rescission, or revocation of rules and regulations, 77316
permits, orders, and notices, and the conduct of hearings, except 77317
standards of water quality adopted pursuant to section 6111.041 of 77318
the Revised Code, shall be subject to and governed by sections 77319
119.01 to 119.13, and Chapter 3745. of the Revised Code. 77320

(B) The director shall not refuse to issue a permit, nor 77321
modify or revoke a permit already issued, unless the applicant or 77322
permit holder has been afforded an opportunity for a hearing prior 77323

to the refusal to issue the permit or prior to the modification or 77324
revocation of the permit. 77325

(C) Whenever the director officially determines that an 77326
emergency exists requiring immediate action to protect the public 77327
health or welfare, ~~he~~ the director may, without notice or hearing, 77328
issue an order reciting the existence of the emergency and 77329
requiring that such action be taken as is necessary to meet the 77330
emergency. Notwithstanding division (A) of this section, such 77331
order shall be effective immediately. Any person to whom such 77332
order is directed shall comply therewith immediately, but on 77333
application to the director shall be afforded a hearing as soon as 77334
possible, and not later than twenty days after such application. 77335
On the basis of such hearing, the director shall continue such 77336
order in effect, revoke it, or modify it. No such emergency order 77337
shall remain in effect for more than sixty days after its 77338
issuance. 77339

Sec. 6115.09. Within thirty days after the sanitary district 77340
has been declared a corporation by the court, the clerk of such 77341
court shall transmit to the secretary of state, and to the county 77342
recorder in each of the counties having lands in said district, 77343
copies of the findings and the decree of the court incorporating 77344
said district. The same shall be filed and recorded in the office 77345
of the secretary of state in the same manner as articles of 77346
incorporation are required to be filed and recorded under the 77347
general law concerning corporations. Copies shall also be filed 77348
and become permanent records in the office of the recorder of each 77349
county in which a part of the district lies. Each recorder shall 77350
receive a base fee of one dollar for filing and preserving such 77351
copies and a housing trust fund fee of one dollar pursuant to 77352
section 317.36 of the Revised Code, and the secretary of state 77353
shall receive for filing and for recording said copies such fees 77354
as are provided by law for like services in similar cases. 77355

Sec. 6117.02. (A) The board of county commissioners shall fix 77356
reasonable rates, including penalties for late payments, for the 77357
use, or the availability for use, of the sanitary facilities of a 77358
sewer district to be paid by every person and public agency whose 77359
premises are served, or capable of being served, by a connection 77360
directly or indirectly to those facilities when those facilities 77361
are owned or operated by the county and may change the rates from 77362
time to time as it considers advisable. When the sanitary 77363
facilities to be used by the county are owned by another public 77364
agency or person, the schedule of rates to be charged by the 77365
public agency or person for the use of the facilities by the 77366
county, or the formula or other procedure for their determination, 77367
shall be approved by the board at the time it enters into a 77368
contract for that use. 77369

(B) The board also shall establish reasonable charges to be 77370
collected for the privilege of connecting to the sanitary 77371
facilities of the district, with the requirement that, prior to 77372
the connection, the charges shall be paid in full, or, if 77373
determined by the board to be equitable in a resolution relating 77374
to the payment of the charges, provision considered adequate by 77375
the board shall be made for their payment in installments at the 77376
times, in the amounts, and with the security, carrying charges, 77377
and penalties as may be found by the board in that resolution to 77378
be fair and appropriate. No public agency or person shall be 77379
permitted to connect to those facilities until the charges have 77380
been paid in full or provision for their payment in installments 77381
has been made. If the connection charges are to be paid in 77382
installments, the board shall certify to the county auditor 77383
information sufficient to identify each parcel of property served 77384
by a connection and, with respect to each parcel, the total of the 77385
charges to be paid in installments, the amount of each 77386
installment, and the total number of installments to be paid. The 77387

auditor shall record and maintain the information supplied in the 77388
sewer improvement record provided for in section 6117.33 of the 77389
Revised Code until the connection charges are paid in full. The 77390
board may include amounts attributable to connection charges being 77391
paid in installments in its billings of rates and charges for the 77392
use of sanitary facilities. 77393

(C) When any of the sanitary rates or charges are not paid 77394
when due, the board may do any or all of the following as it 77395
considers appropriate: 77396

(1) Certify the unpaid rates or charges, together with any 77397
penalties, to the county auditor, who shall place them upon the 77398
real property tax list and duplicate against the property served 77399
by the connection. The certified amount shall be a lien on the 77400
property from the date placed on the real property tax list and 77401
duplicate and shall be collected in the same manner as taxes, 77402
except that, notwithstanding section 323.15 of the Revised Code, a 77403
county treasurer shall accept a payment in that amount when 77404
separately tendered as payment for the full amount of the unpaid 77405
sanitary rates or charges and associated penalties. The lien shall 77406
be released immediately upon payment in full of the certified 77407
amount. 77408

(2) Collect the unpaid rates or charges, together with any 77409
penalties, by actions at law in the name of the county from an 77410
owner, tenant, or other person or public agency that is liable for 77411
the payment of the rates or charges; 77412

(3) Terminate, in accordance with established rules, the 77413
sanitary service to the particular property and, if so determined, 77414
any county water service to that property, unless and until the 77415
unpaid sanitary rates or charges, together with any penalties, are 77416
paid in full; 77417

(4) Apply, to the extent required, any security deposit made 77418

in accordance with established rules to the payment of sanitary 77419
rates and charges for service to the particular property. 77420

All moneys collected as sanitary rates, charges, or penalties 77421
fixed or established in accordance with divisions (A) and (B) of 77422
this section for any sewer district shall be paid to the county 77423
treasurer and kept in a separate and distinct sanitary fund 77424
established by the board to the credit of the district. Except as 77425
otherwise provided in any proceedings authorizing or providing for 77426
the security for and payment of any public obligations, or in any 77427
indenture or trust or other agreement securing public obligations, 77428
moneys in the sanitary fund shall be applied first to the payment 77429
of the cost of the management, maintenance, and operation of the 77430
sanitary facilities of, or used or operated for, the district, 77431
which cost may include the county's share of management, 77432
maintenance, and operation costs under cooperative contracts for 77433
the acquisition, construction, or use of sanitary facilities and, 77434
in accordance with a cost allocation plan adopted under division 77435
(E) of this section, payment of all allowable direct and indirect 77436
costs of the district, the county sanitary engineer or sanitary 77437
engineering department, or a federal or state grant program, 77438
incurred for sanitary purposes under this chapter, and shall be 77439
applied second to the payment of debt charges payable on any 77440
outstanding public obligations issued or incurred for the 77441
acquisition or construction of sanitary facilities for or serving 77442
the district, or for the funding of a bond retirement or other 77443
fund established for the payment of or security for the 77444
obligations. Any surplus remaining may be applied to the 77445
acquisition or construction of those facilities or for the payment 77446
of contributions to be made, or costs incurred, for the 77447
acquisition or construction of those facilities under cooperative 77448
contracts. Moneys in the sanitary fund shall not be expended other 77449
than for the use and benefit of the district. 77450

(D) The board may fix reasonable rates and charges, including 77451
connection charges and penalties for late payments, to be paid by 77452
any person or public agency owning or having possession or control 77453
of any properties that are connected with, capable of being served 77454
by, or otherwise served directly or indirectly by, drainage 77455
facilities owned or operated by or under the jurisdiction of the 77456
county, including, but not limited to, properties requiring, or 77457
lying within an area of the district requiring, in the judgment of 77458
the board, the collection, control, or abatement of waters 77459
originating or accumulating in, or flowing in, into, or through, 77460
the district, and may change those rates and charges from time to 77461
time as it considers advisable. The In addition, the board may fix 77462
the rates and charges in order to pay the costs of complying with 77463
the requirements of phase II of the storm water program of the 77464
national pollutant discharge elimination system established in 40 77465
C.F.R. part 122. 77466

The rates and charges shall be payable periodically as 77467
determined by the board, except that any connection charges shall 77468
be paid in full in one payment, or, if determined by the board to 77469
be equitable in a resolution relating to the payment of those 77470
charges, provision considered adequate by the board shall be made 77471
for their payment in installments at the times, in the amounts, 77472
and with the security, carrying charges, and penalties as may be 77473
found by the board in that resolution to be fair and appropriate. 77474
The board may include amounts attributable to connection charges 77475
being paid in installments in its billings of rates and charges 77476
for the services provided by the drainage facilities. In the case 77477
of rates and charges that are fixed in order to pay the costs of 77478
complying with the requirements of phase II of the storm water 77479
program of the national pollutant discharge elimination system 77480
established in 40 C.F.R. part 122, the rates and charges may be 77481
paid annually or semiannually with real property taxes, provided 77482

that the board certifies to the county auditor information that is 77483
sufficient for the auditor to identify each parcel of property for 77484
which a rate or charge is levied and the amount of the rate or 77485
charge. 77486

When any of the drainage rates or charges are not paid when 77487
due, the board may do any or all of the following as it considers 77488
appropriate: 77489

(1) Certify the unpaid rates or charges, together with any 77490
penalties, to the county auditor, who shall place them upon the 77491
real property tax list and duplicate against the property to which 77492
the rates or charges apply. The certified amount shall be a lien 77493
on the property from the date placed on the real property tax list 77494
and duplicate and shall be collected in the same manner as taxes, 77495
except that notwithstanding section 323.15 of the Revised Code, a 77496
county treasurer shall accept a payment in that amount when 77497
separately tendered as payment for the full amount of the unpaid 77498
drainage rates or charges and associated penalties. The lien shall 77499
be released immediately upon payment in full of the certified 77500
amount. 77501

(2) Collect the unpaid rates or charges, together with any 77502
penalties, by actions at law in the name of the county from an 77503
owner, tenant, or other person or public agency that is liable for 77504
the payment of the rates or charges; 77505

(3) Terminate, in accordance with established rules, the 77506
drainage service for the particular property until the unpaid 77507
rates or charges, together with any penalties, are paid in full; 77508

(4) Apply, to the extent required, any security deposit made 77509
in accordance with established rules to the payment of drainage 77510
rates and charges applicable to the particular property. 77511

All moneys collected as drainage rates, charges, or penalties 77512
in or for any sewer district shall be paid to the county treasurer 77513

and kept in a separate and distinct drainage fund established by 77514
the board to the credit of the district. Except as otherwise 77515
provided in any proceedings authorizing or providing for the 77516
security for and payment of any public obligations, or in any 77517
indenture or trust or other agreement securing public obligations, 77518
moneys in the drainage fund shall be applied first to the payment 77519
of the cost of the management, maintenance, and operation of the 77520
drainage facilities of, or used or operated for, the district, 77521
which cost may include the county's share of management, 77522
maintenance, and operation costs under cooperative contracts for 77523
the acquisition, construction, or use of drainage facilities and, 77524
in accordance with a cost allocation plan adopted under division 77525
(E) of this section, payment of all allowable direct and indirect 77526
costs of the district, the county sanitary engineer or sanitary 77527
engineering department, or a federal or state grant program, 77528
incurred for drainage purposes under this chapter, and shall be 77529
applied second to the payment of debt charges payable on any 77530
outstanding public obligations issued or incurred for the 77531
acquisition or construction of drainage facilities for or serving 77532
the district, or for the funding of a bond retirement or other 77533
fund established for the payment of or security for the 77534
obligations. Any surplus remaining may be applied to the 77535
acquisition or construction of those facilities or for the payment 77536
of contributions to be made, or costs incurred, for the 77537
acquisition or construction of those facilities under cooperative 77538
contracts. Moneys in the drainage fund shall not be expended other 77539
than for the use and benefit of the district. 77540

(E) A board of county commissioners may adopt a cost 77541
allocation plan that identifies, accumulates, and distributes 77542
allowable direct and indirect costs that may be paid from each of 77543
the funds of the district created pursuant to divisions (C) and 77544
(D) of this section, and that prescribes methods for allocating 77545
those costs. The plan shall authorize payment from each of those 77546

funds of only those costs incurred by the district, the county 77547
sanitary engineer or sanitary engineering department, or a federal 77548
or state grant program, and those costs incurred by the general 77549
and other funds of the county for a common or joint purpose, that 77550
are necessary and reasonable for the proper and efficient 77551
administration of the district under this chapter and properly 77552
attributable to the particular fund of the district. The plan 77553
shall not authorize payment from either of the funds of any 77554
general government expense required to carry out the overall 77555
governmental responsibilities of a county. The plan shall conform 77556
to United States office of management and budget Circular A-87, 77557
"Cost Principles for State, Local, and Indian Tribal Governments," 77558
published May 17, 1995. 77559

Sec. 6119.06. Upon the declaration of the court of common 77560
pleas organizing the regional water and sewer district pursuant to 77561
section 6119.04 of the Revised Code and upon the qualifying of its 77562
board of trustees and the election of a president and a secretary, 77563
said district shall exercise in its own name all the rights, 77564
powers, and duties vested in it by Chapter 6119. of the Revised 77565
Code, and, subject to such reservations, limitations and 77566
qualifications as are set forth in this Chapter, such district 77567
may: 77568

(A) Adopt bylaws for the regulation of its affairs, the 77569
conduct of its business, and notice of its actions; 77570

(B) Adopt an official seal; 77571

(C) Maintain a principal office and suboffices at such places 77572
within the district as it designates; 77573

(D) Sue and plead in its own name; be sued and impleaded in 77574
its own name with respect to its contracts or torts of its 77575
members, employees, or agents acting within the scope of their 77576
employment, or to enforce its obligations and covenants made under 77577

sections 6119.09, 6119.12, and 6119.14 of the Revised Code. Any 77578
such actions against the district shall be brought in the court of 77579
common pleas of the county in which the principal office of the 77580
district is located, or in the court of common pleas of the county 77581
in which the cause of action arose, and all summonses, exceptions, 77582
and notices of every kind shall be served on the district by 77583
leaving a copy thereof at the principal office with the person in 77584
charge thereof or with the secretary of the district. 77585

(E) Assume any liability or obligation of any person or 77586
political subdivision, including a right on the part of such 77587
district to indemnify and save harmless the other contracting 77588
party from any loss, cost, or liability by reason of the failure, 77589
refusal, neglect, or omission of such district to perform any 77590
agreement assumed by it or to act or discharge any such 77591
obligation; 77592

(F) Make loans and grants to political subdivisions for the 77593
acquisition or construction of water resource projects by such 77594
political subdivisions and adopt rules, regulations, and 77595
procedures for making such loans and grants; 77596

(G) Acquire, construct, reconstruct, enlarge, improve, 77597
furnish, equip, maintain, repair, operate, lease or rent to or 77598
from, or contract for operation by or for, a political subdivision 77599
or person, water resource projects within or without the district, 77600
except that no water resource project shall be constructed within 77601
one thousand feet of a water supply facility that is owned or 77602
operated by a municipal corporation or a board of county 77603
commissioners pursuant to Chapter 6103. of the Revised Code if the 77604
facility is financed in whole or in part by obligations issued 77605
under Chapter 133., 6103., or 6121. of the Revised Code or by 77606
obligations issued by the state unless the project is for the sole 77607
purpose of increasing water pressure in water transmission lines 77608
owned or operated by the district and will not be used to sell or 77609

otherwise provide water to customers to which the municipal 77610
corporation or county supplies or may supply water from an 77611
existing water supply facility or unless the municipal corporation 77612
or the county, as applicable, gives consent to the construction by 77613
adopting an ordinance or a resolution; 77614

(H) Make available the use or service of any water resource 77615
project to one or more persons, one or more political 77616
subdivisions, or any combination thereof; 77617

(I) Levy and collect taxes and special assessments; 77618

(J) Issue bonds and notes and refunding bonds and notes as 77619
provided in Chapter 6119. of the Revised Code; 77620

(K) Acquire by gift or purchase, hold, and dispose of real 77621
and personal property in the exercise of its powers and the 77622
performance of its duties under Chapter 6119. of the Revised Code; 77623

(L) Dispose of, by public or private sale, or lease any real 77624
or personal property determined by the board of trustees to be no 77625
longer necessary or needed for the operation or purposes of the 77626
district; 77627

(M) Acquire, in the name of the district, by purchase or 77628
otherwise, on such terms and in such manner as it considers 77629
proper, or by the exercise of the right of condemnation in the 77630
manner provided by section 6119.11 of the Revised Code, such 77631
public or private lands, including public parks, playgrounds, or 77632
reservations, or parts thereof or rights therein, rights-of-way, 77633
property, rights, easements, and interests as it considers 77634
necessary for carrying out Chapter 6119. of the Revised Code, but 77635
excluding the acquisition by the exercise of the right of 77636
condemnation of any waste water facility or water management 77637
facility owned by any person or political subdivision, and 77638
compensation shall be paid for public or private lands so taken; 77639

(N) Adopt rules and regulations to protect augmented flow by 77640

the district in waters of the state, to the extent augmented by a 77641
water resource project, from depletion so it will be available for 77642
beneficial use, to provide standards for the withdrawal from 77643
waters of the state of the augmented flow created by a water 77644
resource project which is not returned to the waters of the state 77645
so augmented, and to establish reasonable charges therefor, if 77646
considered necessary by the district; 77647

(O) Make and enter into all contracts and agreements and 77648
execute all instruments necessary or incidental to the performance 77649
of its duties and the execution of its powers under Chapter 6119. 77650
of the Revised Code; 77651

(P) Enter into contracts with any person or any political 77652
subdivision to render services to such contracting party for any 77653
service the district is authorized to provide; 77654

(Q) Make provision for, contract for, or sell any of its 77655
by-products or waste; 77656

(R) Exercise the power of eminent domain in the manner 77657
provided in Chapter 6119. of the Revised Code; 77658

(S) Remove or change the location of any fence, building, 77659
railroad, canal, or other structure or improvement located in or 77660
out of the district, and in case it is not feasible or economical 77661
to move any such building, structure, or improvement situated in 77662
or upon lands required, and if the cost is determined by the board 77663
to be less than that of purchase or condemnation, to acquire land 77664
and construct, acquire, or install therein or thereon buildings, 77665
structures, or improvements similar in purpose, to be exchanged 77666
for such buildings, structures, or improvements under contracts 77667
entered into between the owner thereof and the district; 77668

(T) Receive and accept, from any federal or state agency, 77669
grants for or in aid of the construction of any water resource 77670
project, and receive and accept aid or contributions from any 77671

source of money, property, labor, or other things of value, to be 77672
held, used, and applied only for the purposes for which such 77673
grants and contributions are made; 77674

(U) Purchase fire and extended coverage and liability 77675
insurance for any water resource project and for the principal 77676
office and suboffices of the district, insurance protecting the 77677
district and its officers and employees against liability for 77678
damage to property or injury to or death of persons arising from 77679
its operations, and any other insurance the district may agree to 77680
provide under any resolution authorizing its water resource 77681
revenue bonds or in any trust agreement securing the same; 77682

(V) Charge, alter, and collect rentals and other charges for 77683
the use of services of any water resource project as provided in 77684
section 6119.09 of the Revised Code. Such district may refuse the 77685
services of any of its projects if any of such rentals or other 77686
charges, including penalties for late payment, are not paid by the 77687
user thereof, and, if such rentals or other charges are not paid 77688
when due and upon certification of nonpayment to the county 77689
auditor, such rentals or other charges constitute a lien upon the 77690
property so served, shall be placed by ~~him~~ the auditor upon the 77691
real property tax list and duplicate, and shall be collected in 77692
the same manner as other taxes; 77693

(W) Provide coverage for its employees under Chapters 145., 77694
4123., and 4141. of the Revised Code; 77695

(X) Merge or combine with any other regional water and sewer 77696
district into a single district, which shall be one of the 77697
constituent districts, on terms so that the surviving district 77698
shall be possessed of all rights, capacity, privileges, powers, 77699
franchises, and authority of the constituent districts and shall 77700
be subject to all the liabilities, obligations, and duties of each 77701
of the constituent districts and all rights of creditors of such 77702
constituent districts shall be preserved unimpaired, limited in 77703

lien to the property affected by such liens immediately prior to 77704
the time of the merger and all debts, liabilities, and duties of 77705
the respective constituent districts shall thereafter attach to 77706
the surviving district and may be enforced against it, and such 77707
other terms as are agreed upon, provided two-thirds of the members 77708
of each of the boards consent to such merger or combination. Such 77709
merger or combination shall become legally effective unless, prior 77710
to the ninetieth day following the later of the consents, 77711
qualified electors residing in either district equal in number to 77712
a majority of the qualified electors voting at the last general 77713
election in such district file with the secretary of the board of 77714
trustees of their regional water and sewer district a petition of 77715
remonstrance against such merger or combination. The secretary 77716
shall cause the board of elections of the proper county or 77717
counties to check the sufficiency of the signatures on such 77718
petition. 77719

(Y) Exercise the powers of the district without obtaining the 77720
consent of any other political subdivision, provided that all 77721
public or private property damaged or destroyed in carrying out 77722
the powers of the district shall be restored or repaired and 77723
placed in its original condition as nearly as practicable or 77724
adequate compensation made therefor by the district; 77725

(Z) Require the owner of any premises located within the 77726
district to connect ~~his~~ the owner's premises to a water resource 77727
project determined to be accessible to such premises and found to 77728
require such connection so as to prevent or abate pollution or 77729
protect the health and property of persons in the district. Such 77730
connection shall be made in accordance with procedures established 77731
by the board of trustees of such district and pursuant to such 77732
orders as the board may find necessary to ensure and enforce 77733
compliance with such procedures~~+~~. 77734

(AA) Do all acts necessary or proper to carry out the powers 77735

granted in Chapter 6119. of the Revised Code. 77736

Sec. 6119.10. The board of trustees of a regional water and 77737
sewer district or any officer or employee designated by the board 77738
may make any contract for the purchase of supplies or material or 77739
for labor for any work, under the supervision of the board, the 77740
cost of which shall not exceed ~~fifteen~~ twenty-five thousand 77741
dollars. When an expenditure, other than for the acquisition of 77742
real estate and interests in real estate, the discharge of 77743
noncontractual claims, personal services, the joint use of 77744
facilities or the exercise of powers with other political 77745
subdivisions, or the product or services of public utilities, 77746
exceeds ~~fifteen~~ twenty-five thousand dollars, the expenditures 77747
shall be made only after a notice calling for bids has been 77748
published not less than two consecutive weeks in at least one 77749
newspaper having a general circulation within the district. If the 77750
bids are for a contract for the construction, demolition, 77751
alteration, repair, or reconstruction of an improvement, the board 77752
may let the contract to the lowest and best bidder who meets the 77753
requirements of section 153.54 of the Revised Code. If the bids 77754
are for a contract for any other work relating to the improvements 77755
for which a regional water and sewer district was established, the 77756
board of trustees of the regional water and sewer district may let 77757
the contract to the lowest or best bidder who gives a good and 77758
approved bond with ample security conditioned on the carrying out 77759
of the contract. The contract shall be in writing and shall be 77760
accompanied by or shall refer to plans and specifications for the 77761
work to be done, approved by the board. The plans and 77762
specifications shall at all times be made and considered part of 77763
the contract. The contract shall be approved by the board and 77764
signed by its president or other duly authorized officer and by 77765
the contractor. In case of a real and present emergency, the board 77766
of trustees of the district, by two-thirds vote of all members, 77767

may authorize the president or other duly authorized officer to 77768
enter into a contract for work to be done or for the purchase of 77769
supplies or materials without formal bidding or advertising. All 77770
contracts shall have attached the certificate required by section 77771
5705.41 of the Revised Code duly executed by the secretary of the 77772
board of trustees of the district. The district may make 77773
improvements by force account or direct labor, provided that, if 77774
the estimated cost of supplies or material for any such 77775
improvement exceeds ~~fifteen~~ twenty-five thousand dollars, bids 77776
shall be received as provided in this section. For the purposes of 77777
the competitive bidding requirements of this section, the board 77778
shall not sever a contract for supplies or materials and labor 77779
into separate contracts for labor, supplies, or materials if the 77780
contracts are in fact a part of a single contract required to be 77781
bid competitively under this section. 77782

Sec. 6301.05. The chief elected official of a ~~municipal~~ 77783
~~corporation that is the type of~~ local area ~~defined in division~~ 77784
~~(A)(1) of section 6301.01 of the Revised Code or is in the type of~~ 77785
~~local area defined in division (A)(3) of that section~~ shall enter 77786
into a written ~~partnership~~ grant agreement with the director of 77787
job and family services in accordance with section ~~5101.213~~ 77788
5101.20 of the Revised Code. 77789

~~The board of county commissioners of a county that is the~~ 77790
~~type of local area defined in division (A)(2) of section 6301.01~~ 77791
~~of the Revised Code or is in the type of local area defined in~~ 77792
~~division (A)(3) of that section~~ shall enter into a written 77793
~~partnership agreement with the director of job and family services~~ 77794
~~in accordance with section 5101.21 of the Revised Code.~~ 77795

A grant agreement entered into pursuant to this section shall 77796
include the responsibility of municipal corporations and the board 77797
of county commissioners to be accountable to the department of job 77798

and family services for the use of funds provided through the 77799
"Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C. 2801, 77800
as amended, including regulations issued by the United States 77801
department of labor pursuant to that act. 77802

Sec. 6301.07. (A) Every workforce policy board, with the 77803
agreement of the chief elected officials of the local area, and 77804
after holding public hearings that allow public comment and 77805
testimony, shall prepare a workforce development plan ~~and~~ 77806
~~incorporate that plan into and attach that plan to the partnership~~ 77807
~~agreement required under section 6301.05 of the Revised Code.~~ The 77808
plan shall accomplish all of the following: 77809

(1) Identify the workforce investment needs of businesses in 77810
the local area, identify projected employment opportunities, and 77811
identify the job skills necessary to obtain those opportunities; 77812

(2) Identify the local area's workforce development needs for 77813
youth, dislocated workers, adults, displaced homemakers, incumbent 77814
workers, and any other group of workers identified by the 77815
workforce policy board; 77816

(3) Determine the distribution of workforce development 77817
resources and funding to be distributed for each workforce 77818
development activity to meet the identified needs, utilizing the 77819
funds allocated pursuant to the "Workforce Investment Act of 77820
1998," 112 Stat. 936, 29 U.S.C.A. 2801, as amended; 77821

(4) Give priority to youth receiving independent living 77822
services pursuant to sections 2151.81 to 2151.84 of the Revised 77823
Code when determining distribution of workforce development 77824
resources and workforce development activity funding; 77825

(5) Review the minimum curriculum required by the state 77826
workforce policy board for certifying training providers and 77827
identify any additional curriculum requirements to include in 77828

contracts between the training providers and the chief elected officials of the local area;	77829 77830
(6) Establish performance standards for service providers that reflect local workforce development needs;	77831 77832
(7) Describe any other information the chief elected officials of the local area require.	77833 77834
(B) A workforce policy board may provide policy guidance and recommendations to the chief elected officials of a local area for any workforce development activities.	77835 77836 77837
(C) Nothing in this section prohibits the chief elected officials of a local area from assigning, through a partnership agreement, any duties in addition to the duties under this section to a workforce policy board, except that a workforce policy board cannot contract with itself for the direct provision of services in its local area. A workforce policy board may consult with the chief elected officials of its local area and make recommendations regarding the workforce development activities provided in its local area at any time.	77838 77839 77840 77841 77842 77843 77844 77845 77846
Section 2. 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, 121.08, 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, 173.54, 175.03, 175.21, 175.22, 183.02, 306.35, 306.99, 307.86, 307.87, 307.93, 307.98, 307.981, 307.987, 311.17, 317.32, 321.24, 323.01, 323.13, 325.31, 329.03, 329.04, 329.05, 329.051, 329.06, 340.021, 340.03, 341.05, 341.25, 504.03, 504.04, 505.376,	77847 77848 77849 77850 77851 77852 77853 77854 77855 77856 77857 77858 77859

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4141.044, 4141.045, 5101.213, 5101.251, 5108.05, 5111.017, 77965
5111.173, 5115.011, 5115.012, 5115.06, 5115.061, 5139.42, 5139.45, 77966
5709.211, 5709.23, 5709.231, 5709.24, 5709.30, 5709.31, 5709.32, 77967
5709.33, 5709.34, 5709.35, 5709.36, 5709.37, 5709.45, 5709.46, 77968
5709.47, 5709.48, 5709.49, 5709.50, 5709.51, 5709.52, 5727.39, 77969
5727.44, 5733.111, 5735.33, 5739.034, 5739.35, 5741.011, 5741.24, 77970
5743.46, 5747.131, 5747.60, 6111.31, 6113.311, 6111.32, 6111.34, 77971
6111.35, 6111.36, 6111.37, 6111.38, and 6111.39 of the Revised 77972
Code are hereby repealed. 77973

Section 3.01. That the version of section 921.22 of the 77974
Revised Code that is scheduled to take effect July 1, 2004, be 77975
amended to read as follows: 77976

Sec. 921.22. The pesticide program fund is hereby created in 77977
the state treasury. ~~All~~ The portion of the money in the fund that 77978
is collected under this chapter shall be used to carry out the 77979
purposes of this chapter. The portion of the money in the fund 77980
that is collected under section 927.53 of the Revised Code shall 77981
be used to carry out the purposes specified in that section, the 77982
portion of the money in the fund that is collected under section 77983
927.69 of the Revised Code shall be used to carry out the purposes 77984
specified in that section, and the portion of the money in the 77985
fund that is collected under section 927.701 of the Revised Code 77986
shall be used to carry out the purposes of that section. The fund 77987
shall consist of fees collected under sections 921.01 to 921.15, 77988
division (F) of section 927.53, and section 927.69 of the Revised 77989

Code, money collected under section 927.701 of the Revised Code, 77990
and all fines, penalties, costs, and damages, except court costs, 77991
that are collected by either the director of agriculture or the 77992
attorney general in consequence of any violation of this chapter. 77993

Section 3.02. That the existing version of section 921.22 of 77994
the Revised Code that is scheduled to take effect July 1, 2004, is 77995
hereby repealed. 77996

Section 3.03. Sections 3.01 and 3.02 of this act take effect 77997
July 1, 2004. 77998

Section 3.04. That the version of section 3332.04 of the 77999
Revised Code that is scheduled to take effect on July 1, 2003, be 78000
amended to read as follows: 78001

Sec. 3332.04. The state board of career colleges and schools 78002
may appoint an executive director and such other staff as may be 78003
required for the performance of the board's duties and provide 78004
necessary facilities. In selecting an executive director, the 78005
board shall appoint an individual with a background or experience 78006
in the regulation of commerce, business, or education. The board 78007
may also arrange for services and facilities to be provided by the 78008
state board of education and the Ohio board of regents. All 78009
receipts of the board shall be deposited in the ~~career colleges~~ 78010
~~and schools operating fund, which is hereby created in the state~~ 78011
~~treasury. Moneys in the fund shall be used solely for the~~ 78012
~~administration and enforcement of Chapter 3332. of the Revised~~ 78013
~~Code. All investment earnings on the fund shall be credited to the~~ 78014
to the credit of the occupational licensing and regulatory fund. 78015

Section 3.05. That the version of section 3332.04 of the 78016
Revised Code that is scheduled to take effect on July 1, 2003, is 78017

hereby repealed. 78018

Section 3.06. Sections 3.04 and 3.05 of this act take effect 78019
July 1, 2003. 78020

Section 3.06A. That the version of section 2305.234 of the 78021
Revised Code that is scheduled to take effect January 1, 2004, be 78022
amended to read as follows: 78023

Sec. 2305.234. (A) As used in this section: 78024

(1) "Chiropractic claim," "medical claim," and "optometric 78025
claim" have the same meanings as in section 2305.113 of the 78026
Revised Code. 78027

(2) "Dental claim" has the same meaning as in section 78028
2305.113 of the Revised Code, except that it does not include any 78029
claim arising out of a dental operation or any derivative claim 78030
for relief that arises out of a dental operation. 78031

(3) "Governmental health care program" has the same meaning 78032
as in section 4731.65 of the Revised Code. 78033

(4) "Health care professional" means any of the following who 78034
provide medical, dental, or other health-related diagnosis, care, 78035
or treatment: 78036

(a) Physicians authorized under Chapter 4731. of the Revised 78037
Code to practice medicine and surgery or osteopathic medicine and 78038
surgery; 78039

(b) Registered nurses, advanced practice nurses, and licensed 78040
practical nurses licensed under Chapter 4723. of the Revised Code; 78041

(c) Physician assistants authorized to practice under Chapter 78042
4730. of the Revised Code; 78043

(d) Dentists and dental hygienists licensed under Chapter 78044
4715. of the Revised Code; 78045

(e) Physical therapists licensed under Chapter 4755. of the Revised Code;	78046 78047
(f) Chiropractors licensed under Chapter 4734. of the Revised Code;	78048 78049
(g) Optometrists licensed under Chapter 4725. of the Revised Code;	78050 78051
(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;	78052 78053
(i) Dietitians licensed under Chapter 4759. of the Revised Code;	78054 78055
(j) Pharmacists licensed under Chapter 4729. of the Revised Code;	78056 78057
(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code.	78058 78059 78060 78061
(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.	78062 78063 78064 78065 78066 78067 78068
(6) "Indigent and uninsured person" means a person who meets all of the following requirements:	78069 78070
(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.	78071 78072 78073 78074 78075

(b) The person is not eligible to receive medical assistance 78076
under Chapter 5111., disability ~~assistance~~ medical assistance 78077
under Chapter 5115. of the Revised Code, or assistance under any 78078
other governmental health care program. 78079

(c) Either of the following applies: 78080

(i) The person is not a policyholder, certificate holder, 78081
insured, contract holder, subscriber, enrollee, member, 78082
beneficiary, or other covered individual under a health insurance 78083
or health care policy, contract, or plan. 78084

(ii) The person is a policyholder, certificate holder, 78085
insured, contract holder, subscriber, enrollee, member, 78086
beneficiary, or other covered individual under a health insurance 78087
or health care policy, contract, or plan, but the insurer, policy, 78088
contract, or plan denies coverage or is the subject of insolvency 78089
or bankruptcy proceedings in any jurisdiction. 78090

(7) "Operation" means any procedure that involves cutting or 78091
otherwise infiltrating human tissue by mechanical means, including 78092
surgery, laser surgery, ionizing radiation, therapeutic 78093
ultrasound, or the removal of intraocular foreign bodies. 78094
"Operation" does not include the administration of medication by 78095
injection, unless the injection is administered in conjunction 78096
with a procedure infiltrating human tissue by mechanical means 78097
other than the administration of medicine by injection. 78098

(8) "Nonprofit shelter or health care facility" means a 78099
charitable nonprofit corporation organized and operated pursuant 78100
to Chapter 1702. of the Revised Code, or any charitable 78101
organization not organized and not operated for profit, that 78102
provides shelter, health care services, or shelter and health care 78103
services to indigent and uninsured persons, except that "shelter 78104
or health care facility" does not include a hospital as defined in 78105
section 3727.01 of the Revised Code, a facility licensed under 78106

Chapter 3721. of the Revised Code, or a medical facility that is 78107
operated for profit. 78108

(9) "Tort action" means a civil action for damages for 78109
injury, death, or loss to person or property other than a civil 78110
action for damages for a breach of contract or another agreement 78111
between persons or government entities. 78112

(10) "Volunteer" means an individual who provides any 78113
medical, dental, or other health-care related diagnosis, care, or 78114
treatment without the expectation of receiving and without receipt 78115
of any compensation or other form of remuneration from an indigent 78116
and uninsured person, another person on behalf of an indigent and 78117
uninsured person, any shelter or health care facility, or any 78118
other person or government entity. 78119

(11) "Community control sanction" has the same meaning as in 78120
section 2929.01 of the Revised Code. 78121

(B)(1) Subject to divisions (E) and (F)(3) of this section, a 78122
health care professional who is a volunteer and complies with 78123
division (B)(2) of this section is not liable in damages to any 78124
person or government entity in a tort or other civil action, 78125
including an action on a medical, dental, chiropractic, 78126
optometric, or other health-related claim, for injury, death, or 78127
loss to person or property that allegedly arises from an action or 78128
omission of the volunteer in the provision at a nonprofit shelter 78129
or health care facility to an indigent and uninsured person of 78130
medical, dental, or other health-related diagnosis, care, or 78131
treatment, including the provision of samples of medicine and 78132
other medical products, unless the action or omission constitutes 78133
willful or wanton misconduct. 78134

(2) To qualify for the immunity described in division (B)(1) 78135
of this section, a health care professional shall do all of the 78136
following prior to providing diagnosis, care, or treatment: 78137

(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 78169
damages to any person or government entity in a tort or other 78170
civil action, including an action on a medical, dental, 78171
chiropractic, optometric, or other health-related claim, for 78172
injury, death, or loss to person or property that allegedly arises 78173
from an action or omission of the health care professional or 78174
worker in providing for the shelter or facility medical, dental, 78175
or other health-related diagnosis, care, or treatment to an 78176
indigent and uninsured person, unless the action or omission 78177
constitutes willful or wanton misconduct. 78178

(E)(1) Except as provided in division (E)(2) of this section, 78179
the immunities provided by divisions (B), (C), and (D) of this 78180
section are not available to an individual or to a nonprofit 78181
shelter or health care facility if, at the time of an alleged 78182
injury, death, or loss to person or property, the individuals 78183
involved are providing one of the following: 78184

(a) Any medical, dental, or other health-related diagnosis, 78185
care, or treatment pursuant to a community service work order 78186
entered by a court under division (B) of section 2951.02 of the 78187
Revised Code or imposed by a court as a community control 78188
sanction; 78189

(b) Performance of an operation; 78190

(c) Delivery of a baby. 78191

(2) Division (E)(1) of this section does not apply to an 78192
individual who provides, or a nonprofit shelter or health care 78193
facility at which the individual provides, diagnosis, care, or 78194
treatment that is necessary to preserve the life of a person in a 78195
medical emergency. 78196

(F)(1) This section does not create a new cause of action or 78197
substantive legal right against a health care professional, health 78198
care worker, or nonprofit shelter or health care facility. 78199

(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 78228
the contrary, no permit or license shall be issued or renewed by 78229
the director of environmental protection, ~~the hazardous waste~~ 78230
~~facility board,~~ or a board of health: 78231

(A) Unless the director, ~~the hazardous waste facility board,~~ 78232
or the board of health finds that the applicant, in any prior 78233
performance record in the transportation, transfer, treatment, 78234
storage, or disposal of solid wastes, infectious wastes, or 78235
hazardous waste, has exhibited sufficient reliability, expertise, 78236
and competency to operate the solid waste, infectious waste, or 78237
hazardous waste facility, given the potential for harm to human 78238
health and the environment that could result from the 78239
irresponsible operation of the facility, or, if no prior record 78240
exists, that the applicant is likely to exhibit that reliability, 78241
expertise, and competence; 78242

(B) If any individual or business concern required to be 78243
listed in the disclosure statement or shown to have a beneficial 78244
interest in the business of the applicant or the permittee, other 78245
than an equity interest or debt liability, by the investigation 78246
thereof, has been convicted of any of the following crimes under 78247
the laws of this state or equivalent laws of any other 78248
jurisdiction: 78249

- (1) Murder; 78250
- (2) Kidnapping; 78251
- (3) Gambling; 78252
- (4) Robbery; 78253
- (5) Bribery; 78254
- (6) Extortion; 78255
- (7) Criminal usury; 78256

(8) Arson;	78257
(9) Burglary;	78258
(10) Theft and related crimes;	78259
(11) Forgery and fraudulent practices;	78260
(12) Fraud in the offering, sale, or purchase of securities;	78261
(13) Alteration of motor vehicle identification numbers;	78262
(14) Unlawful manufacture, purchase, use, or transfer of firearms;	78263 78264
(15) Unlawful possession or use of destructive devices or explosives;	78265 78266
(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;	78267 78268 78269 78270 78271 78272 78273
(17) Engaging in a pattern of corrupt activity under section 2923.32 of the Revised Code;	78274 78275
(18) A violation of the criminal provisions of Chapter 1331. of the Revised Code;	78276 78277
(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;	78278 78279 78280 78281
(20) A violation of any provision of Chapter 2909. of the Revised Code;	78282 78283
(21) Any offense specified in Chapter 2921. of the Revised Code.	78284 78285

(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; 78316
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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; 78318
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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. 78324
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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; 78339
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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 78345
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prosecutions or pending charges in any jurisdiction for any of the 78347
offenses enumerated in division (B) of this section against any 78348
individual or business concern required to be listed in the 78349
disclosure statement or shown by the investigation to have a 78350
beneficial interest in the business of the applicant other than an 78351
equity interest or debt liability are of such magnitude that they 78352
prevent making the finding required under division (A) of this 78353
section, provided that at the request of the applicant or the 78354
individual or business concern charged, the director ~~or the~~ 78355
~~hazardous waste facility board~~ shall defer decision upon the 78356
application during the pendency of the charge. 78357

Section 3.06E. That the existing version of section 3734.44 78358
of the Revised Code that is scheduled to take effect on January 1, 78359
2004, is hereby repealed. 78360

Section 3.06F. Sections 3.06D and 3.06E of this act take 78361
effect January 1, 2004. 78362

Section 3.07. That the versions of sections 307.93, 2152.19, 78363
2929.38, 4506.14, 4506.15, 4506.16, 4506.20, 4511.33, 4511.62, 78364
4511.63, and 4511.75 of the Revised Code that are scheduled to 78365
take effect January 1, 2004, be amended to read as follows: 78366

Sec. 307.93. (A) The boards of county commissioners of two or 78367
more adjacent counties may contract for the joint establishment of 78368
a multicounty correctional center, and the board of county 78369
commissioners of a county or the boards of two or more counties 78370
may contract with any municipal corporation or municipal 78371
corporations located in that county or those counties for the 78372
joint establishment of a municipal-county or multicounty-municipal 78373
correctional center. The center shall augment county and, where 78374
applicable, municipal jail programs and facilities by providing 78375

custody and rehabilitative programs for those persons under the 78376
charge of the sheriff of any of the contracting counties or of the 78377
officer or officers of the contracting municipal corporation or 78378
municipal corporations having charge of persons incarcerated in 78379
the municipal jail, workhouse, or other correctional facility who, 78380
in the opinion of the sentencing court, need programs of custody 78381
and rehabilitation not available at the county or municipal jail 78382
and by providing custody and rehabilitative programs in accordance 78383
with division (C) of this section, if applicable. The contract may 78384
include, but need not be limited to, provisions regarding the 78385
acquisition, construction, maintenance, repair, termination of 78386
operations, and administration of the center. The contract shall 78387
prescribe the manner of funding of, and debt assumption for, the 78388
center and the standards and procedures to be followed in the 78389
operation of the center. Except as provided in division (H) of 78390
this section, the contracting counties and municipal corporations 78391
shall form a corrections commission to oversee the administration 78392
of the center. Members of the commission shall consist of the 78393
sheriff of each participating county, the president of the board 78394
of county commissioners of each participating county, the 78395
presiding judge of the court of common pleas of each participating 78396
county, or, if the court of common pleas of a participating county 78397
has only one judge, then that judge, the chief of police of each 78398
participating municipal corporation, the mayor or city manager of 78399
each participating municipal corporation, and the presiding judge 78400
or the sole judge of the municipal court of each participating 78401
municipal corporation. Any of the foregoing officers may appoint a 78402
designee to serve in the officer's place on the corrections 78403
commission. The standards and procedures shall be formulated and 78404
agreed to by the commission and may be amended at any time during 78405
the life of the contract by agreement of the parties to the 78406
contract upon the advice of the commission. The standards and 78407
procedures formulated by the commission shall include, but need 78408

not be limited to, designation of the person in charge of the 78409
center, the categories of employees to be employed at the center, 78410
the appointing authority of the center, and the standards of 78411
treatment and security to be maintained at the center. The person 78412
in charge of, and all persons employed to work at, the center 78413
shall have all the powers of police officers that are necessary 78414
for the proper performance of the duties relating to their 78415
positions at the center. 78416

(B) Each board of county commissioners that enters a contract 78417
under division (A) of this section may appoint a building 78418
commission pursuant to section 153.21 of the Revised Code. If any 78419
commissions are appointed, they shall function jointly in the 78420
construction of a multicounty or multicounty-municipal 78421
correctional center with all the powers and duties authorized by 78422
law. 78423

(C) Prior to the acceptance for custody and rehabilitation 78424
into a center established under this section of any persons who 78425
are designated by the department of rehabilitation and correction, 78426
who plead guilty to or are convicted of a felony of the fourth or 78427
fifth degree, and who satisfy the other requirements listed in 78428
section 5120.161 of the Revised Code, the corrections commission 78429
of a center established under this section shall enter into an 78430
agreement with the department of rehabilitation and correction 78431
under section 5120.161 of the Revised Code for the custody and 78432
rehabilitation in the center of persons who are designated by the 78433
department, who plead guilty to or are convicted of a felony of 78434
the fourth or fifth degree, and who satisfy the other requirements 78435
listed in that section, in exchange for a per diem fee per person. 78436
Persons incarcerated in the center pursuant to an agreement 78437
entered into under this division shall be subject to supervision 78438
and control in the manner described in section 5120.161 of the 78439
Revised Code. This division does not affect the authority of a 78440

court to directly sentence a person who is convicted of or pleads 78441
guilty to a felony to the center in accordance with section 78442
2929.16 of the Revised Code. 78443

(D) Pursuant to section 2929.37 of the Revised Code, each 78444
board of county commissioners and the legislative authority of 78445
each municipal corporation that enters into a contract under 78446
division (A) of this section may require a person who was 78447
convicted of an offense, who is under the charge of the sheriff of 78448
their county or of the officer or officers of the contracting 78449
municipal corporation or municipal corporations having charge of 78450
persons incarcerated in the municipal jail, workhouse, or other 78451
correctional facility, and who is confined in the multicounty, 78452
municipal-county, or multicounty-municipal correctional center as 78453
provided in that division, to reimburse the applicable county or 78454
municipal corporation for its expenses incurred by reason of the 78455
person's confinement in the center. 78456

(E) Notwithstanding any contrary provision in this section or 78457
section 2929.18, 2929.28, or 2929.37 of the Revised Code, the 78458
corrections commission of a center may establish a policy that 78459
complies with section 2929.38 of the Revised Code and that 78460
requires any person who is not indigent and who is confined in the 78461
multicounty, municipal-county, or multicounty-municipal 78462
correctional center to pay a reception fee, a fee for medical 78463
treatment or service requested by and provided to that person, or 78464
the fee for a random drug test assessed under division (E) of 78465
section 341.26 of the Revised Code. 78466

(F)(1) The corrections commission of a center established 78467
under this section may establish a commissary for the center. The 78468
commissary may be established either in-house or by another 78469
arrangement. If a commissary is established, all persons 78470
incarcerated in the center shall receive commissary privileges. A 78471
person's purchases from the commissary shall be deducted from the 78472

person's account record in the center's business office. The 78473
commissary shall provide for the distribution to indigent persons 78474
incarcerated in the center of necessary hygiene articles and 78475
writing materials. 78476

(2) If a commissary is established, the corrections 78477
commission of a center established under this section shall 78478
establish a commissary fund for the center. The management of 78479
funds in the commissary fund shall be strictly controlled in 78480
accordance with procedures adopted by the auditor of state. 78481
Commissary fund revenue over and above operating costs and reserve 78482
shall be considered profits. All profits from the commissary fund 78483
shall be used to purchase supplies and equipment for the benefit 78484
of persons incarcerated in the center and to pay salary and 78485
benefits for employees of the center, or for any other persons, 78486
who work in or are employed for the sole purpose of providing 78487
service to the commissary. The corrections commission shall adopt 78488
rules and regulations for the operation of any commissary fund it 78489
establishes. 78490

(G) In lieu of forming a corrections commission to administer 78491
a multicounty correctional center or a municipal-county or 78492
multicounty-municipal correctional center, the boards of county 78493
commissioners and the legislative authorities of the municipal 78494
corporations contracting to establish the center may also agree to 78495
contract for the private operation and management of the center as 78496
provided in section 9.06 of the Revised Code, but only if the 78497
center houses only misdemeanor inmates. In order to enter into a 78498
contract under section 9.06 of the Revised Code, all the boards 78499
and legislative authorities establishing the center shall approve 78500
and be parties to the contract. 78501

(H) If a person who is convicted of or pleads guilty to an 78502
offense is sentenced to a term in a multicounty correctional 78503
center or a municipal-county or multicounty-municipal correctional 78504

center or is incarcerated in the center in the manner described in 78505
division (C) of this section, or if a person who is arrested for 78506
an offense, and who has been denied bail or has had bail set and 78507
has not been released on bail is confined in a multicounty 78508
correctional center or a municipal-county or multicounty-municipal 78509
correctional center pending trial, at the time of reception and at 78510
other times the officer, officers, or other person in charge of 78511
the operation of the center determines to be appropriate, the 78512
officer, officers, or other person in charge of the operation of 78513
the center may cause the convicted or accused offender to be 78514
examined and tested for tuberculosis, HIV infection, hepatitis, 78515
including but not limited to hepatitis A, B, and C, and other 78516
contagious diseases. The officer, officers, or other person in 78517
charge of the operation of the center may cause a convicted or 78518
accused offender in the center who refuses to be tested or treated 78519
for tuberculosis, HIV infection, hepatitis, including but not 78520
limited to hepatitis A, B, and C, or another contagious disease to 78521
be tested and treated involuntarily. 78522

(I) As used in this section, "multicounty-municipal" means 78523
more than one county and a municipal corporation, or more than one 78524
municipal corporation and a county, or more than one municipal 78525
corporation and more than one county. 78526

Sec. 2152.19. (A) If a child is adjudicated a delinquent 78527
child, the court may make any of the following orders of 78528
disposition, in addition to any other disposition authorized or 78529
required by this chapter: 78530

(1) Any order that is authorized by section 2151.353 of the 78531
Revised Code for the care and protection of an abused, neglected, 78532
or dependent child; 78533

(2) Commit the child to the temporary custody of any school, 78534
camp, institution, or other facility operated for the care of 78535

delinquent children by the county, by a district organized under 78536
section 2152.41 or 2151.65 of the Revised Code, or by a private 78537
agency or organization, within or without the state, that is 78538
authorized and qualified to provide the care, treatment, or 78539
placement required, including, but not limited to, a school, camp, 78540
or facility operated under section 2151.65 of the Revised Code; 78541

(3) Place the child in a detention facility or district 78542
detention facility operated under section 2152.41 of the Revised 78543
Code, for up to ninety days; 78544

(4) Place the child on community control under any sanctions, 78545
services, and conditions that the court prescribes. As a condition 78546
of community control in every case and in addition to any other 78547
condition that it imposes upon the child, the court shall require 78548
the child to abide by the law during the period of community 78549
control. As referred to in this division, community control 78550
includes, but is not limited to, the following sanctions and 78551
conditions: 78552

(a) A period of basic probation supervision in which the 78553
child is required to maintain contact with a person appointed to 78554
supervise the child in accordance with sanctions imposed by the 78555
court; 78556

(b) A period of intensive probation supervision in which the 78557
child is required to maintain frequent contact with a person 78558
appointed by the court to supervise the child while the child is 78559
seeking or maintaining employment and participating in training, 78560
education, and treatment programs as the order of disposition; 78561

(c) A period of day reporting in which the child is required 78562
each day to report to and leave a center or another approved 78563
reporting location at specified times in order to participate in 78564
work, education or training, treatment, and other approved 78565
programs at the center or outside the center; 78566

(d) A period of community service of up to five hundred hours 78567
for an act that would be a felony or a misdemeanor of the first 78568
degree if committed by an adult, up to two hundred hours for an 78569
act that would be a misdemeanor of the second, third, or fourth 78570
degree if committed by an adult, or up to thirty hours for an act 78571
that would be a minor misdemeanor if committed by an adult; 78572

(e) A requirement that the child obtain a high school 78573
diploma, a certificate of high school equivalence, vocational 78574
training, or employment; 78575

(f) A period of drug and alcohol use monitoring; 78576

(g) A requirement of alcohol or drug assessment or 78577
counseling, or a period in an alcohol or drug treatment program 78578
with a level of security for the child as determined necessary by 78579
the court; 78580

(h) A period in which the court orders the child to observe a 78581
curfew that may involve daytime or evening hours; 78582

(i) A requirement that the child serve monitored time; 78583

(j) A period of house arrest with or without electronic 78584
monitoring; 78585

(k) A period of electronic monitoring without house arrest or 78586
electronically monitored house arrest that does not exceed the 78587
maximum sentence of imprisonment that could be imposed upon an 78588
adult who commits the same act. 78589

A period of electronically monitored house arrest imposed 78590
under this division shall not extend beyond the child's 78591
twenty-first birthday. If a court imposes a period of 78592
electronically monitored house arrest upon a child under this 78593
division, it shall require the child: to wear, otherwise have 78594
attached to the child's person, or otherwise be subject to 78595
monitoring by a certified electronic monitoring device or to 78596

participate in the operation of and monitoring by a certified 78597
electronic monitoring system; to remain in the child's home or 78598
other specified premises for the entire period of electronically 78599
monitored house arrest except when the court permits the child to 78600
leave those premises to go to school or to other specified 78601
premises; to be monitored by a central system that can determine 78602
the child's location at designated times; to report periodically 78603
to a person designated by the court; and to enter into a written 78604
contract with the court agreeing to comply with all requirements 78605
imposed by the court, agreeing to pay any fee imposed by the court 78606
for the costs of the electronically monitored house arrest, and 78607
agreeing to waive the right to receive credit for any time served 78608
on electronically monitored house arrest toward the period of any 78609
other dispositional order imposed upon the child if the child 78610
violates any of the requirements of the dispositional order of 78611
electronically monitored house arrest. The court also may impose 78612
other reasonable requirements upon the child. 78613

Unless ordered by the court, a child shall not receive credit 78614
for any time served on electronically monitored house arrest 78615
toward any other dispositional order imposed upon the child for 78616
the act for which was imposed the dispositional order of 78617
electronically monitored house arrest. 78618

(1) A suspension of the driver's license, probationary 78619
driver's license, or temporary instruction permit issued to the 78620
child or a suspension of the registration of all motor vehicles 78621
registered in the name of the child. A child whose license or 78622
permit is so suspended is ineligible for issuance of a license or 78623
permit during the period of suspension. At the end of the period 78624
of suspension, the child shall not be reissued a license or permit 78625
until the child has paid any applicable reinstatement fee and 78626
complied with all requirements governing license reinstatement. 78627

(5) Commit the child to the custody of the court; 78628

(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;

(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:

(i) Require the child to participate in a truancy prevention
mediation program;

(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.

(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:

(i) Require the parent, guardian, or other person having care
of the child to participate in a truancy prevention mediation
program;

(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.

(8) Make any further disposition that the court finds proper, 78660
except that the child shall not be placed in any of the following: 78661

(a) A state correctional institution, a county, multicounty, 78662
or municipal jail or workhouse, or another place in which an adult 78663
convicted of a crime, under arrest, or charged with a crime is 78664
held; 78665

(b) A community corrections facility, if the child would be 78666
covered by the definition of public safety beds for purposes of 78667
sections 5139.41 to ~~5139.45~~ 5139.43 of the Revised Code if the 78668
court exercised its authority to commit the child to the legal 78669
custody of the department of youth services for 78670
institutionalization or institutionalization in a secure facility 78671
pursuant to this chapter. 78672

(B) If a child is adjudicated a delinquent child, in addition 78673
to any order of disposition made under division (A) of this 78674
section, the court, in the following situations, shall suspend the 78675
child's temporary instruction permit, restricted license, 78676
probationary driver's license, or nonresident operating privilege, 78677
or suspend the child's ability to obtain such a permit: 78678

(1) The child is adjudicated a delinquent child for violating 78679
section 2923.122 of the Revised Code, with the suspension and 78680
denial being in accordance with division (E)(1)(a), (c), (d), or 78681
(e) of section 2923.122 of the Revised Code. 78682

(2) The child is adjudicated a delinquent child for 78683
committing an act that if committed by an adult would be a drug 78684
abuse offense or for violating division (B) of section 2917.11 of 78685
the Revised Code, with the suspension continuing until the child 78686
attends and satisfactorily completes a drug abuse or alcohol abuse 78687
education, intervention, or treatment program specified by the 78688
court. During the time the child is attending the program, the 78689
court shall retain any temporary instruction permit, probationary 78690

driver's license, or driver's license issued to the child, and the 78691
court shall return the permit or license when the child 78692
satisfactorily completes the program. 78693

(C) The court may establish a victim-offender mediation 78694
program in which victims and their offenders meet to discuss the 78695
offense and suggest possible restitution. If the court obtains the 78696
assent of the victim of the delinquent act committed by the child, 78697
the court may require the child to participate in the program. 78698

(D)(1) If a child is adjudicated a delinquent child for 78699
committing an act that would be a felony if committed by an adult 78700
and if the child caused, attempted to cause, threatened to cause, 78701
or created a risk of physical harm to the victim of the act, the 78702
court, prior to issuing an order of disposition under this 78703
section, shall order the preparation of a victim impact statement 78704
by the probation department of the county in which the victim of 78705
the act resides, by the court's own probation department, or by a 78706
victim assistance program that is operated by the state, a county, 78707
a municipal corporation, or another governmental entity. The court 78708
shall consider the victim impact statement in determining the 78709
order of disposition to issue for the child. 78710

(2) Each victim impact statement shall identify the victim of 78711
the act for which the child was adjudicated a delinquent child, 78712
itemize any economic loss suffered by the victim as a result of 78713
the act, identify any physical injury suffered by the victim as a 78714
result of the act and the seriousness and permanence of the 78715
injury, identify any change in the victim's personal welfare or 78716
familial relationships as a result of the act and any 78717
psychological impact experienced by the victim or the victim's 78718
family as a result of the act, and contain any other information 78719
related to the impact of the act upon the victim that the court 78720
requires. 78721

(3) A victim impact statement shall be kept confidential and 78722

is not a public record. However, the court may furnish copies of 78723
the statement to the department of youth services if the 78724
delinquent child is committed to the department or to both the 78725
adjudicated delinquent child or the adjudicated delinquent child's 78726
counsel and the prosecuting attorney. The copy of a victim impact 78727
statement furnished by the court to the department pursuant to 78728
this section shall be kept confidential and is not a public 78729
record. If an officer is preparing pursuant to section 2947.06 or 78730
2951.03 of the Revised Code or Criminal Rule 32.2 a presentence 78731
investigation report pertaining to a person, the court shall make 78732
available to the officer, for use in preparing the report, a copy 78733
of any victim impact statement regarding that person. The copies 78734
of a victim impact statement that are made available to the 78735
adjudicated delinquent child or the adjudicated delinquent child's 78736
counsel and the prosecuting attorney pursuant to this division 78737
shall be returned to the court by the person to whom they were 78738
made available immediately following the imposition of an order of 78739
disposition for the child under this chapter. 78740

The copy of a victim impact statement that is made available 78741
pursuant to this division to an officer preparing a criminal 78742
presentence investigation report shall be returned to the court by 78743
the officer immediately following its use in preparing the report. 78744

(4) The department of youth services shall work with local 78745
probation departments and victim assistance programs to develop a 78746
standard victim impact statement. 78747

(E) If a child is adjudicated a delinquent child for being a 78748
chronic truant or an habitual truant who previously has been 78749
adjudicated an unruly child for being an habitual truant and the 78750
court determines that the parent, guardian, or other person having 78751
care of the child has failed to cause the child's attendance at 78752
school in violation of section 3321.38 of the Revised Code, in 78753
addition to any order of disposition it makes under this section, 78754

the court shall warn the parent, guardian, or other person having 78755
care of the child that any subsequent adjudication of the child as 78756
an unruly or delinquent child for being an habitual or chronic 78757
truant may result in a criminal charge against the parent, 78758
guardian, or other person having care of the child for a violation 78759
of division (C) of section 2919.21 or section 2919.24 of the 78760
Revised Code. 78761

(F)(1) During the period of a delinquent child's community 78762
control granted under this section, authorized probation officers 78763
who are engaged within the scope of their supervisory duties or 78764
responsibilities may search, with or without a warrant, the person 78765
of the delinquent child, the place of residence of the delinquent 78766
child, and a motor vehicle, another item of tangible or intangible 78767
personal property, or other real property in which the delinquent 78768
child has a right, title, or interest or for which the delinquent 78769
child has the express or implied permission of a person with a 78770
right, title, or interest to use, occupy, or possess if the 78771
probation officers have reasonable grounds to believe that the 78772
delinquent child is not abiding by the law or otherwise is not 78773
complying with the conditions of the delinquent child's community 78774
control. The court that places a delinquent child on community 78775
control under this section shall provide the delinquent child with 78776
a written notice that informs the delinquent child that authorized 78777
probation officers who are engaged within the scope of their 78778
supervisory duties or responsibilities may conduct those types of 78779
searches during the period of community control if they have 78780
reasonable grounds to believe that the delinquent child is not 78781
abiding by the law or otherwise is not complying with the 78782
conditions of the delinquent child's community control. The court 78783
also shall provide the written notice described in division (E)(2) 78784
of this section to each parent, guardian, or custodian of the 78785
delinquent child who is described in that division. 78786

(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 78818
facility at the time of the prisoner's initial entry into the 78819
facility under the confinement in question, to pay a reasonable 78820
fee for any medical or dental treatment or service requested by 78821
and provided to that prisoner, and to pay the fee for a random 78822
drug test assessed under division (E) of section 341.26, and 78823
division (E) of section 753.33 of the Revised Code. The fee for 78824
the medical treatment or service shall not exceed the actual cost 78825
of the treatment or service provided. No prisoner confined in the 78826
local detention facility shall be denied any necessary medical 78827
care because of inability to pay the fees. 78828

(B) Upon assessment of a one-time reception fee as described 78829
in division (A) of this section, the provision of the requested 78830
medical treatment or service, or the assessment of a fee for a 78831
random drug test, payment of the required fee may be automatically 78832
deducted from the prisoner's inmate account in the business office 78833
of the local detention facility in which the prisoner is confined. 78834
If there is no money in the account, a deduction may be made at a 78835
later date during the prisoner's confinement if the money becomes 78836
available in the account. If, after release, the prisoner has an 78837
unpaid balance of those fees, the sheriff, legislative authority 78838
of the municipal corporation, corrections commission, judicial 78839
corrections board, or other entity that operates the local 78840
detention facility described in division (A) of section 2929.37 of 78841
the Revised Code may bill the prisoner for the payment of the 78842
unpaid fees. Fees received for medical or dental treatment or 78843
services shall be paid to the commissary fund, if one exists for 78844
the facility, or if no commissary fund exists, to the general fund 78845
of the treasury of the political subdivision that incurred the 78846
expenses, in the same proportion as those expenses were borne by 78847
the political subdivision. Fees received for medical treatment or 78848
services that are placed in the commissary fund under this 78849
division shall be used for the same purposes as profits from the 78850

commissary fund, except that they shall not be used to pay any 78851
salary or benefits of any person who works in or is employed for 78852
the sole purpose of providing service to the commissary. 78853

(C) Any fee paid by a person under this section shall be 78854
deducted from any medical or dental costs that the person is 78855
ordered to reimburse under a financial sanction imposed pursuant 78856
to section 2929.28 of the Revised Code or to repay under a policy 78857
adopted under section 2929.37 of the Revised Code. 78858

(D) As used in this section, "inmate account" has the same 78859
meaning as in section 2969.21 of the Revised Code. 78860

Sec. 4506.14. (A) Commercial driver's licenses shall expire 78861
as follows: 78862

(1) Except as provided in division (A)(3) of this section, 78863
each such license issued to replace an operator's or chauffeur's 78864
license shall expire on the original expiration date of the 78865
operator's or chauffeur's license and, upon renewal, shall expire 78866
on the licensee's birthday in the fourth year after the date of 78867
issuance. 78868

(2) Except as provided in division (A)(3) of this section, 78869
each such license issued as an original license to a person whose 78870
residence is in this state shall expire on the licensee's birthday 78871
in the fourth year after the date of issuance, and each such 78872
license issued to a person whose temporary residence is in this 78873
state shall expire in accordance with rules adopted by the 78874
registrar of motor vehicles. A license issued to a person with a 78875
temporary residence in this state is nonrenewable, but may be 78876
replaced with a new license within ninety days prior to its 78877
expiration upon the applicant's compliance with all applicable 78878
requirements. 78879

(3) Each such license issued to replace the operator's or 78880

chauffeur's license of a person who is less than twenty-one years of age, and each such license issued as an original license to a person who is less than twenty-one years of age, shall expire on the licensee's twenty-first birthday.

(B) No commercial driver's license shall be issued for a period longer than four years and ninety days. Except as provided in section 4507.12 of the Revised Code, the registrar may waive the examination of any person applying for the renewal of a commercial driver's license issued under this chapter, provided that the applicant presents either an unexpired commercial driver's license or a commercial driver's license that has expired not more than six months prior to the date of application.

(C) Subject to the requirements of this chapter and except as provided in division (A)(2) of this section in regard to a person whose temporary residence is in this state, every commercial driver's license shall be renewable ninety days before its expiration upon payment of the fees required by section 4506.08 of the Revised Code. Each person applying for renewal of a commercial driver's license shall complete the application form prescribed by section 4506.07 of the Revised Code and shall provide all certifications required. If the person wishes to retain an endorsement authorizing the person to transport hazardous materials, the person shall take and successfully complete the written test for the endorsement and shall submit to any background check required by federal law.

(D) Each person licensed as a driver under this chapter shall notify the registrar of any change in the person's address within ten days following that change. The notification shall be in writing on a form provided by the registrar and shall include the full name, date of birth, license number, county of residence, social security number, and new address of the person.

(E) Whoever violates division (D) of this section is guilty

of a minor misdemeanor.	78913
Sec. 4506.15. (A) No person shall do any of the following:	78914
(1) Drive a commercial motor vehicle while having a measurable or detectable amount of alcohol or of a controlled substance in the person's blood, breath, or urine;	78915 78916 78917
(2) Drive a commercial motor vehicle while having an alcohol concentration of four-hundredths of one per cent or more;	78918 78919
(3) Drive a commercial motor vehicle while under the influence of a controlled substance;	78920 78921
(4) Knowingly leave the scene of an accident involving a commercial motor vehicle driven by the person;	78922 78923
(5) Use a commercial motor vehicle in the commission of a felony;	78924 78925
(6) Refuse to submit to a test under section 4506.17 of the Revised Code;	78926 78927
(7) Violate an out-of-service order issued under this chapter;	78928 78929
(8) Violate any prohibition described in divisions (A)(2) to (7) of this section while transporting hazardous materials;	78930 78931
<u>(9) Use a commercial motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance as defined in section 3719.01 of the Revised Code;</u>	78932 78933 78934 78935
<u>(10) Drive a commercial motor vehicle in violation of any provision of sections 4511.61 to 4511.63 of the Revised Code or any federal or local law or ordinance pertaining to railroad-highway grade crossings.</u>	78936 78937 78938 78939
(B) Whoever violates this section is guilty of a misdemeanor of the first degree.	78940 78941

Sec. 4506.16. (A) Whoever violates division (A)(1) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, immediately shall be placed out-of-service for twenty-four hours, in addition to any disqualification required by this section and any other penalty imposed by the Revised Code.

(B) The registrar of motor vehicles shall disqualify any person from operating a commercial motor vehicle as follows:

~~(1) Subject to division (B)(4) of this section, upon~~ Upon a first conviction for a violation of any provision of divisions (A)(2) to (7) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, one year, ~~in addition to any other penalty imposed by the Revised Code;~~

~~(2) Upon a first conviction for a violation of division (A)(8) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, three years, in addition to any other penalty imposed by the Revised Code;~~

~~(3) Upon and upon a second conviction for a violation of any provision of divisions (A)(2) to (7) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, or any combination of such violations arising from two or more separate incidents, the person shall be disqualified for life or for any other period of time as determined by the United States secretary of transportation and designated by the director of public safety by rule, in addition to any other penalty imposed by the Revised Code;~~

~~(4)(2) Upon a first conviction for a violation of division (A)(8) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, three years;~~

(3) Upon conviction of a violation of division (A)~~(5)~~(9) of

section 4506.15 of the Revised Code or a similar law of another 78972
state or a foreign jurisdiction ~~in connection with the~~ 78973
~~manufacture, distribution, or dispensing of a controlled substance~~ 78974
~~or the possession with intent to manufacture, distribute, or~~ 78975
~~dispense a controlled substance,~~ the person shall be disqualified 78976
for life, ~~in addition to any other penalty imposed by the Revised~~ 78977
Code; 78978

(4) Upon a first conviction for a violation of division 78979
(A)(10) of section 4506.15 of the Revised Code or a similar law of 78980
another state or a foreign jurisdiction, occurring in a three-year 78981
period, the person shall be disqualified for not less than sixty 78982
days, upon a second conviction occurring in the three-year period, 78983
the person shall be disqualified for not less than one hundred 78984
twenty days, and upon a subsequent conviction occurring within a 78985
three-year period, the person shall be disqualified for not less 78986
than one year; 78987

(5) Upon conviction of two serious traffic violations 78988
involving the operation of a commercial motor vehicle by the 78989
person and arising from separate incidents occurring in a 78990
three-year period, the person shall be disqualified for sixty 78991
days, ~~in addition to any other penalty imposed by the Revised~~ 78992
Code; 78993

(6) Upon conviction of three serious traffic violations 78994
involving the operation of a commercial motor vehicle by the 78995
person and arising from separate incidents occurring in a 78996
three-year period, the person shall be disqualified for one 78997
hundred twenty days, ~~in addition to any other penalty imposed by~~ 78998
~~the Revised Code.~~ 78999

(C) For the purposes of this section, conviction of a 79000
violation for which disqualification is required may be evidenced 79001
by any of the following: 79002

(1) A judgment entry of a court of competent jurisdiction in this or any other state; 79003
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(2) An administrative order of a state agency of this or any other state having statutory jurisdiction over commercial drivers; 79005
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(3) A computer record obtained from or through the commercial driver's license information system; 79007
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(4) A computer record obtained from or through a state agency of this or any other state having statutory jurisdiction over commercial drivers or the records of commercial drivers. 79009
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(D) Any record described in division (C) of this section shall be deemed to be self-authenticating when it is received by the bureau of motor vehicles. 79012
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(E) When disqualifying a driver, the registrar shall cause the records of the bureau to be updated to reflect that action within ten days after it occurs. 79015
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(F) The registrar immediately shall notify a driver who is finally convicted of any offense described in section 4506.15 of the Revised Code or division (B)(3), (4), (5), or (6) of this section and thereby is subject to disqualification, of the offense or offenses involved, of the length of time for which disqualification is to be imposed, and that the driver may request a hearing within thirty days of the mailing of the notice to show cause why the driver should not be disqualified from operating a commercial motor vehicle. If a request for such a hearing is not made within thirty days of the mailing of the notice, the order of disqualification is final. The registrar may designate hearing examiners who, after affording all parties reasonable notice, shall conduct a hearing to determine whether the disqualification order is supported by reliable evidence. The registrar shall adopt rules to implement this division. 79018
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(G) Any person who is disqualified from operating a commercial motor vehicle under this section may apply to the registrar for a driver's license to operate a motor vehicle other than a commercial motor vehicle, provided the person's commercial driver's license is not otherwise suspended. A person whose commercial driver's license is suspended shall not apply to the registrar for or receive a driver's license under Chapter 4507. of the Revised Code during the period of suspension.

(H) The disqualifications imposed under this section are in addition to any other penalty imposed by the Revised Code.

Sec. 4506.20. (A) Each employer shall require every applicant for employment as a driver of a commercial motor vehicle to provide the information specified in section 4506.20 of the Revised Code.

(B) No employer shall knowingly permit or authorize any driver employed by the employer to drive a commercial motor vehicle during any period in which any of the following apply:

(1) The driver's commercial driver's license is suspended, revoked, or canceled by any state or a foreign jurisdiction;

(2) The driver has lost the privilege to drive, or currently is disqualified from driving, a commercial motor vehicle in any state or foreign jurisdiction;

(3) The driver is subject to an out-of-service order in any state or foreign jurisdiction;

(4) The driver has more than one driver's license.

(C) No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle in violation of section 4506.15 of the Revised Code.

(D)(1) Whoever violates division (A) or (B) of this section

is guilty of a misdemeanor of the first degree. 79062

(2) Whoever violates division (C) of this section may be 79063
assessed a fine not to exceed ten thousand dollars. 79064

Sec. 4511.33. (A) Whenever any roadway has been divided into 79065
two or more clearly marked lanes for traffic, or wherever within 79066
municipal corporations traffic is lawfully moving in two or more 79067
substantially continuous lines in the same direction, the 79068
following rules apply: 79069

(1) A vehicle or trackless trolley shall be driven, as nearly 79070
as is practicable, entirely within a single lane or line of 79071
traffic and shall not be moved from such lane or line until the 79072
driver has first ascertained that such movement can be made with 79073
safety. 79074

(2) Upon a roadway which is divided into three lanes and 79075
provides for two-way movement of traffic, a vehicle or trackless 79076
trolley shall not be driven in the center lane except when 79077
overtaking and passing another vehicle or trackless trolley where 79078
the roadway is clearly visible and such center lane is clear of 79079
traffic within a safe distance, or when preparing for a left turn, 79080
or where such center lane is at the time allocated exclusively to 79081
traffic moving in the direction the vehicle or trackless trolley 79082
is proceeding and is posted with signs to give notice of such 79083
allocation. 79084

(3) Official signs may be erected directing specified traffic 79085
to use a designated lane or designating those lanes to be used by 79086
traffic moving in a particular direction regardless of the center 79087
of the roadway, or restricting the use of a particular lane to 79088
only buses during certain hours or during all hours, and drivers 79089
of vehicles and trackless trolleys shall obey the directions of 79090
such signs. 79091

(4) Official traffic control devices may be installed 79092
prohibiting the changing of lanes on sections of roadway and 79093
drivers of vehicles shall obey the directions of every such 79094
device. 79095

(B) Except as otherwise provided in this division, whoever 79096
violates this section is guilty of a minor misdemeanor. If, within 79097
one year of the offense, the offender previously has been 79098
convicted of or pleaded guilty to one predicate motor vehicle or 79099
traffic offense, whoever violates this section is guilty of a 79100
misdemeanor of the fourth degree. If, within one year of the 79101
offense, the offender previously has been convicted of two or more 79102
predicate motor vehicle or traffic offenses, whoever violates this 79103
section is guilty of a misdemeanor of the third degree. 79104

Sec. 4511.62. (A)(1) Whenever any person driving a vehicle or 79105
trackless trolley approaches a railroad grade crossing, the person 79106
shall stop within fifty feet, but not less than fifteen feet from 79107
the nearest rail of the railroad if any of the following 79108
circumstances exist at the crossing: 79109

(a) A clearly visible electric or mechanical signal device 79110
gives warning of the immediate approach of a train. 79111

(b) A crossing gate is lowered. 79112

(c) A flagperson gives or continues to give a signal of the 79113
approach or passage of a train. 79114

(d) There is insufficient space on the other side of the 79115
railroad grade crossing to accommodate the vehicle or trackless 79116
trolley the person is operating without obstructing the passage of 79117
other vehicles, trackless trolleys, pedestrians, or railroad 79118
trains, notwithstanding any traffic control signal indication to 79119
proceed. 79120

(e) An approaching train is emitting an audible signal or is 79121

plainly visible and is in hazardous proximity to the crossing. 79122

(f) There is insufficient undercarriage clearance to safely negotiate the crossing. 79123
79124

(2) A person who is driving a vehicle or trackless trolley 79125
and who approaches a railroad grade crossing shall not proceed as 79126
long as any of the circumstances described in divisions (A)(1)(a) 79127
to ~~(e)~~(f) of this section exist at the crossing. 79128

(B) No person shall drive any vehicle through, around, or 79129
under any crossing gate or barrier at a railroad crossing while 79130
the gate or barrier is closed or is being opened or closed unless 79131
the person is signaled by a law enforcement officer or flagperson 79132
that it is permissible to do so. 79133

(C) Whoever violates this section is guilty of a misdemeanor 79134
of the fourth degree. 79135

Sec. 4511.63. (A) The operator ~~of any motor vehicle or~~ 79136
~~trackless trolley, carrying passengers, for hire, of any school~~ 79137
~~bus, any vehicle described in division (C) of this section, or of~~ 79138
~~any vehicle carrying explosives or flammable liquids as~~ 79139
transporting a cargo or as such part of a cargo as material or 79140
materials required to constitute a hazard be placarded under 49 79141
C.F.R. Parts 100-185, before crossing at grade any track of a 79142
railroad, shall stop the vehicle ~~or trackless trolley~~ and, while 79143
so stopped, shall listen through an open door or open window and 79144
look in both directions along the track for any approaching train, 79145
and for signals indicating the approach of a train, and shall 79146
proceed only upon exercising due care after stopping, looking, and 79147
listening as required by this section. Upon proceeding, the 79148
operator of such a vehicle shall cross only in a gear that will 79149
ensure there will be no necessity for changing gears while 79150
traversing the crossing and shall not shift gears while crossing 79151
the tracks. 79152

(B) This section does not apply at any ~~of the following~~: 79153

~~(1) Street~~ street railway grade crossings within a municipal 79154
corporation, or to abandoned tracks, spur tracks, side tracks, and 79155
industrial tracks when the public utilities commission has 79156
authorized and approved the crossing of the tracks without making 79157
the stop required by this section: 79158

~~(2) Through June 30, 1995, a street railway grade crossing 79159
where out of service signs are posted in accordance with section 79160
4955.37 of the Revised Code. 79161~~

(C) This section applies to any vehicle used for the 79162
transportation of pupils to and from a school or school-related 79163
function if the vehicle is owned or operated by, or operated under 79164
contract with, a public or nonpublic school. 79165

(D) For purposes of this section, "bus" means any vehicle 79166
originally designed by its manufacturer to transport sixteen or 79167
more passengers, including the driver, or carries sixteen or more 79168
passengers, including the driver. 79169

(E) Except as otherwise provided in this division, whoever 79170
violates this section is guilty of a minor misdemeanor. If the 79171
offender previously has been convicted of or pleaded guilty to one 79172
or more violations of this section or section 4511.76, 4511.761, 79173
4511.762, 4511.764, 4511.77, or 4511.79 of the Revised Code or a 79174
municipal ordinance that is substantially similar to any of those 79175
sections, whoever violates this section is guilty of a misdemeanor 79176
of the fourth degree. 79177

Sec. 4511.75. (A) The driver of a vehicle, streetcar, or 79178
trackless trolley upon meeting or overtaking from either direction 79179
any school bus stopped for the purpose of receiving or discharging 79180
any school child, person attending programs offered by community 79181
boards of mental health and county boards of mental retardation 79182

and developmental disabilities, or child attending a program 79183
offered by a head start agency, shall stop at least ten feet from 79184
the front or rear of the school bus and shall not proceed until 79185
such school bus resumes motion, or until signaled by the school 79186
bus driver to proceed. 79187

It is no defense to a charge under this division that the 79188
school bus involved failed to display or be equipped with an 79189
automatically extended stop warning sign as required by division 79190
(B) of this section. 79191

(B) Every school bus shall be equipped with amber and red 79192
visual signals meeting the requirements of section 4511.771 of the 79193
Revised Code, and an automatically extended stop warning sign of a 79194
type approved by the state board of education, which shall be 79195
actuated by the driver of the bus whenever but only whenever the 79196
bus is stopped or stopping on the roadway for the purpose of 79197
receiving or discharging school children, persons attending 79198
programs offered by community boards of mental health and county 79199
boards of mental retardation and developmental disabilities, or 79200
children attending programs offered by head start agencies. A 79201
school bus driver shall not actuate the visual signals or the stop 79202
warning sign in designated school bus loading areas where the bus 79203
is entirely off the roadway or at school buildings when children 79204
or persons attending programs offered by community boards of 79205
mental health and county boards of mental retardation and 79206
developmental disabilities are loading or unloading at curbside or 79207
at buildings when children attending programs offered by head 79208
start agencies are loading or unloading at curbside. The visual 79209
signals and stop warning sign shall be synchronized or otherwise 79210
operated as required by rule of the board. 79211

(C) Where a highway has been divided into four or more 79212
traffic lanes, a driver of a vehicle, streetcar, or trackless 79213
trolley need not stop for a school bus approaching from the 79214

opposite direction which has stopped for the purpose of receiving 79215
or discharging any school child, persons attending programs 79216
offered by community boards of mental health and county boards of 79217
mental retardation and developmental disabilities, or children 79218
attending programs offered by head start agencies. The driver of 79219
any vehicle, streetcar, or trackless trolley overtaking the school 79220
bus shall comply with division (A) of this section. 79221

(D) School buses operating on divided highways or on highways 79222
with four or more traffic lanes shall receive and discharge all 79223
school children, persons attending programs offered by community 79224
boards of mental health and county boards of mental retardation 79225
and developmental disabilities, and children attending programs 79226
offered by head start agencies on their residence side of the 79227
highway. 79228

(E) No school bus driver shall start the driver's bus until 79229
after any child, person attending programs offered by community 79230
boards of mental health and county boards of mental retardation 79231
and developmental disabilities, or child attending a program 79232
offered by a head start agency who may have alighted therefrom has 79233
reached a place of safety on the child's or person's residence 79234
side of the road. 79235

(F)(1) Whoever violates division (A) of this section may be 79236
fined an amount not to exceed five hundred dollars. A person who 79237
is issued a citation for a violation of division (A) of this 79238
section is not permitted to enter a written plea of guilty and 79239
waive the person's right to contest the citation in a trial but 79240
instead must appear in person in the proper court to answer the 79241
charge. 79242

(2) In addition to and independent of any other penalty 79243
provided by law, the court or mayor may impose upon an offender 79244
who violates this section a class seven suspension of the 79245
offender's driver's license, commercial driver's license, 79246

temporary instruction permit, probationary license, or nonresident 79247
operating privilege from the range specified in division (A)(7) of 79248
section 4510.02 of the Revised Code. When a license is suspended 79249
under this section, the court or mayor shall cause the offender to 79250
deliver the license to the court, and the court or clerk of the 79251
court immediately shall forward the license to the registrar of 79252
motor vehicles, together with notice of the court's action. 79253

(G) As used in this section: 79254

(1) "Head start agency" has the same meaning as in ~~division~~ 79255
~~(A)(1)~~ of section 3301.31 of the Revised Code. 79256

(2) "School bus," as used in relation to children who attend 79257
a program offered by a head start agency, means a bus that is 79258
owned and operated by a head start agency, is equipped with an 79259
automatically extended stop warning sign of a type approved by the 79260
state board of education, is painted the color and displays the 79261
markings described in section 4511.77 of the Revised Code, and is 79262
equipped with amber and red visual signals meeting the 79263
requirements of section 4511.771 of the Revised Code, irrespective 79264
of whether or not the bus has fifteen or more children aboard at 79265
any time. "School bus" does not include a van owned and operated 79266
by a head start agency, irrespective of its color, lights, or 79267
markings. 79268

Section 3.08. That the existing versions of sections 307.93, 79269
2152.19, 2929.38, 4506.14, 4506.15, 4506.16, 4506.20, 4511.33, 79270
4511.62, 4511.63, and 4511.75 of the Revised Code that are 79271
scheduled to take effect January 1, 2004, are hereby repealed. 79272

Section 3.09. Sections 3.07 and 3.08 of this act take effect 79273
January 1, 2004, except section 4511.75 of the Revised Code, as 79274
amended in those sections of this act, takes effect July 1, 2004. 79275
The amendment of section 4511.75 of the Revised Code by those 79276

sections of this act is not intended to supersede the amendment of 79277
the version of section 4511.75 of the Revised Code that is 79278
scheduled to take effect January 1, 2004. 79279

Section 3.09A. That the version of section 5739.033 of the 79280
Revised Code as it results from Am. Sub. S.B. 143 of the 124th 79281
General Assembly, as amended by H.B. 675 of the 124th General 79282
Assembly, be amended to read as follows: 79283

Sec. 5739.033. The amount of tax due pursuant to sections 79284
5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code is 79285
the sum of the taxes imposed pursuant to those sections at the 79286
~~situs~~ sourcing location of the sale as determined under this 79287
section or, if applicable, under division (C) of section 5739.031 79288
or section 5739.034 of the Revised Code. This section applies only 79289
to a vendor's or seller's obligation to collect and remit sales 79290
taxes under section 5739.02, 5739.021, 5739.023, or 5739.026 of 79291
the Revised Code or use taxes under section 5741.02, 5741.021, 79292
5741.022, or 5741.023 of the Revised Code. This section does not 79293
affect the obligation of a consumer to remit use taxes on the 79294
storage, use, or other consumption of tangible personal property 79295
or on the benefit realized of any service provided, to the 79296
jurisdiction of that storage, use, or consumption, or benefit 79297
realized. 79298

(A) Except for sales, other than leases, of titled motor 79299
vehicles, titled watercraft, or titled outboard motors as provided 79300
in section 5741.05 of the Revised Code, or as otherwise provided 79301
in this section and section 5739.034 of the Revised Code, ~~the~~ 79302
~~situs~~ of all sales is the vendor's place of business. shall be 79303
sourced as follows: 79304

(1) If the consumer or ~~the consumer's~~ a donee designated by 79305
the consumer receives tangible personal property or a service at a 79306

~~vendor's~~ place of business ~~of the vendor~~, ~~the situs of the sale is~~ shall be sourced to that place of business.

(2) When the tangible personal property or service is not received at a vendor's place of business, ~~the situs of the sale is~~ shall be sourced to the location known to the vendor where the consumer or a the donee designated by the consumer receives the tangible personal property or service, including the location 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 79338
shipping company on behalf of a consumer. 79339

(B)(1) Notwithstanding divisions (A)(1) to (5) of this 79340
section, a ~~manufacturer or other~~ consumer that is not a holder of 79341
a direct payment permit granted under section 5739.031 of the 79342
Revised Code, that purchases ~~tangible personal property~~ computer 79343
software delivered electronically or a service for use in 79344
business, and that knows at the time of purchase that ~~the property~~ 79345
such software or service will be concurrently available for use in 79346
more than one taxing jurisdiction shall deliver to the vendor in 79347
conjunction with its purchase a multiple points of use exemption 79348
form prescribed by the tax commissioner disclosing this fact. On 79349
receipt of the multiple points of use exemption form, the vendor 79350
is relieved of its obligation to collect, pay, or remit the tax 79351
due, and the consumer must ~~collect, pay, or remit~~ the tax directly 79352
to the state. 79353

(2) A consumer that delivers such form to a vendor may use 79354
any reasonable, consistent, and uniform method of apportioning the 79355
tax due on the ~~tangible personal property~~ computer software 79356
delivered electronically or service for use in business that is 79357
supported by the consumer's business records as they existed at 79358
the time of the sale. 79359

(3) The multiple points of use exemption form shall remain in 79360
effect for all future sales by the vendor to the consumer until it 79361
is revoked in writing by the consumer, except as to the consumer's 79362
specific apportionment of a subsequent sale under division (B)(2) 79363
of this section and the facts existing at the time of the sale. 79364

(C) A person who holds a direct payment permit issued under 79365
section 5739.031 of the Revised Code is not required to deliver a 79366
multiple points of use exemption form to a vendor. But such permit 79367
holder shall comply with division (B)(2) of this section in 79368
apportioning the tax due on ~~tangible personal property~~ computer 79369

software delivered electronically or a service used in business 79370
that will be concurrently available for use in more than one 79371
taxing jurisdiction. 79372

~~(D) Except as provided in division (F) of this section:~~ 79373

~~(1) If the vendor provides a service specified in division 79374
(B)(3)(f) or (i) of section 5739.01 of the Revised Code, the situs 79375
of the sale is the location of the telephone number or account as 79376
reflected in the records of the vendor. 79377~~

~~(2) In the case of a telecommunications service, if the 79378
telephone number or account is located outside this state, the 79379
situs of the sale is the location in this state from which the 79380
service originated (1) Notwithstanding divisions (A)(1) to (5) of 79381
this section, the purchaser of direct mail that is not a holder of 79382
a direct payment permit shall provide to the vendor in conjunction 79383
with the purchase either a direct mail form prescribed by the tax 79384
commissioner, or information to show the jurisdictions to which 79385
the direct mail is delivered to recipients. 79386~~

(2) Upon receipt of a direct mail form, the vendor is 79387
relieved of all obligations to collect, pay, or remit the 79388
applicable tax and the purchaser is obligated to pay that tax on a 79389
direct pay basis. A direct mail form shall remain in effect for 79390
all future sales of direct mail by the vendor to the purchaser 79391
until it is revoked in writing. 79392

(3) Upon receipt of information from the purchaser showing 79393
the jurisdictions to which the direct mail is delivered to 79394
recipients, the vendor shall collect the tax according to the 79395
delivery information provided by the purchaser. In the absence of 79396
bad faith, the vendor is relieved of any further obligation to 79397
collect tax on any transaction where the vendor has collected tax 79398
pursuant to the delivery information provided by the purchaser. 79399

(4) If the purchaser of direct mail does not have a direct 79400

payment permit and does not provide the vendor with either a 79401
direct mail form or delivery information as required by division 79402
(D)(1) of this section, the vendor shall collect the tax according 79403
to division (A)(5) of this section. Nothing in division (D)(4) of 79404
this section shall limit a purchaser's obligation to pay sales or 79405
use tax to any state to which the direct mail is delivered. 79406

(5) If a purchaser of direct mail provides the vendor with 79407
documentation of direct payment authority, the purchaser shall not 79408
be required to provide a direct mail form or delivery information 79409
to the vendor. 79410

(E) If the vendor provides lodging to transient guests as 79411
specified in division (B)(2) of section 5739.01 of the Revised 79412
Code, ~~the situs of the sale is~~ shall be sourced to the location 79413
where the lodging is located. 79414

~~(F) Except as otherwise provided in this division, if the~~ 79415
~~vendor sells a prepaid authorization number or a prepaid telephone~~ 79416
~~calling card, the situs of the sale is the vendor's place of~~ 79417
~~business and shall be taxed at the time of sale. If the vendor~~ 79418
~~sells a prepaid authorization number or prepaid telephone calling~~ 79419
~~card through a telephone call, electronic commerce, or any other~~ 79420
~~form of remote commerce, the situs of the sale is the consumer's~~ 79421
~~shipping address, or, if there is no item shipped, at the~~ 79422
~~consumer's billing address~~ (1) As used in this division and 79423
division (G) of this section, "transportation equipment" means any 79424
of the following: 79425

(a) Locomotives and railcars that are utilized for the 79426
carriage of persons or property in interstate commerce. 79427

(b) Trucks and truck-tractors with a gross vehicle weight 79428
rating of greater than ten thousand pounds, trailers, 79429
semi-trailers, or passenger buses that are registered through the 79430
international registration plan and are operated under authority 79431

of a carrier authorized and certificated by the United States 79432
department of transportation or another federal authority to 79433
engage in the carriage of persons or property in interstate 79434
commerce. 79435

(c) Aircraft that are operated by air carriers authorized and 79436
certificated by the United States department of transportation or 79437
another federal authority to engage in the carriage of persons or 79438
property in interstate or foreign commerce. 79439

(d) Containers designed for use on and component parts 79440
attached to or secured on the items set forth in division 79441
(F)(1)(a), (b), or (c) of this section. 79442

(2) A sale, lease, or rental of transportation equipment 79443
shall be sourced pursuant to division (A) of this section. 79444

(G)(1) A lease or rental of tangible personal property that 79445
does not require recurring periodic payments shall be sourced 79446
pursuant to division (A) of this section. 79447

(2) A lease or rental of tangible personal property that 79448
requires recurring periodic payments shall be sourced as follows: 79449

(a) In the case of a motor vehicle, other than a motor 79450
vehicle that is transportation equipment, such lease or rental 79451
shall be sourced to the primary property location as follows: 79452

(i) For a lease or rental taxed pursuant to division (A)(2) 79453
of section 5739.02 of the Revised Code, the primary property 79454
location is the address of the lessee or renter used for titling 79455
the motor vehicle pursuant to section 4505.06 of the Revised Code 79456
at the time the lease or rental is consummated. 79457

(ii) For a lease or rental taxed pursuant to division (A)(3) 79458
of section 5739.02 of the Revised Code, the primary property 79459
location for each lease or rental installment is the primary 79460
property location for the period covered by the installment. 79461

(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: 79462
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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 rental is consummated. 79465
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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. 79469
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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: 79473
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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. 79477
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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. 79481
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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: 79488
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(i) For a lease or rental that is taxed pursuant to division 79491

(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. 79492
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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 primary property location for the period covered by the installment. 79495
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(3) As used in division (G) of this section, "primary property location" means an address for tangible personal property provided by the lessee or renter that is available to the lessor or owner from its records maintained in the ordinary course of business, when use of that address does not constitute bad faith. 79501
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Section 3.09B. That the existing version of section 5739.033 of the Revised Code as it results from Am. Sub. S.B. 143 of the 124th General Assembly, as amended by H.B. 675 of the 124th General Assembly, is hereby repealed. 79506
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Section 3.09C. The amendments in Sections 3.09A and 3.09B of this act provide for or are essential to the implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, those Sections are not subject to the referendum and go into effect January 1, 2004. 79510
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Section 3.10. Section 4723.063 of the Revised Code is hereby repealed, effective December 31, 2013. 79515
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Section 3.11. That the version of section 5101.28 of the Revised Code that is scheduled to take effect January 1, 2004, be amended to read as follows: 79517
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~~Sec. 5101.28. (A) The department of job and family services shall enter into written agreements with law enforcement agencies to exchange, obtain, or share (1) On request of the department of job and family services or a county agency, a law enforcement agency shall provide information regarding public assistance recipients to enable the department, or county agencies, and law enforcement agencies agency to determine, for eligibility purposes, whether a recipient or a member of a recipient's assistance group is either of the following:~~

~~(1) A a fugitive felon;~~

~~(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.~~

~~(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.~~

~~(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.~~

~~(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 79550
the recipient's name, identifying information may include the 79551
recipient's current or last known address, social security number, 79552
other identifying number, age, gender, physical characteristics, 79553
any information specified in an agreement entered into under 79554
division (A) of this section, or any information considered 79555
appropriate by the department or agency. 79556

(D)(1) The department and its officers and employees are not 79557
liable in damages in a civil action for any injury, death, or loss 79558
to person or property that allegedly arises from the release of 79559
information in accordance with divisions (A), (B), and (C) of this 79560
section. This section does not affect any immunity or defense that 79561
the department and its officers and employees may be entitled to 79562
under another section of the Revised Code or the common law of 79563
this state, including section 9.86 of the Revised Code. 79564

(2) The county agencies and their employees are not liable in 79565
damages in a civil action for any injury, death, or loss to person 79566
or property that allegedly arises from the release of information 79567
in accordance with divisions (A), (B), and (C) of this section. 79568
"Employee" has the same meaning as in division (B) of section 79569
2744.01 of the Revised Code. This section does not affect any 79570
immunity or defense that the county agencies and their employees 79571
may be entitled to under another section of the Revised Code or 79572
the common law of this state, including section 2744.02 and 79573
division (A)(6) of section 2744.03 of the Revised Code. 79574

(E) To the extent permitted by federal law, the department 79575
and county agencies shall provide access to information to the 79576
auditor of state acting pursuant to Chapter 117. or sections 79577
5101.181 and 5101.182 of the Revised Code and to any other 79578
government entity authorized by ~~ex~~ federal law to conduct an audit 79579
of or similar activity involving a public assistance program. 79580

(F) The auditor of state shall prepare an annual report on 79581

the outcome of the agreements required under division (A) of this 79582
section. The report shall include the number of fugitive felons, 79583
probation and parole violators, and violators of community control 79584
sanctions and post-release control sanctions apprehended during 79585
the immediately preceding year as a result of the exchange of 79586
information pursuant to that division. The auditor of state shall 79587
file the report with the governor, the president and minority 79588
leader of the senate, and the speaker and minority leader of the 79589
house of representatives. The state department, county agencies, 79590
and law enforcement agencies shall cooperate with the auditor of 79591
state's office in gathering the information required under this 79592
division. 79593

(G) To the extent permitted by federal law, the department of 79594
job and family services, county departments of job and family 79595
services, and employees of the departments may report to a public 79596
children services agency or other appropriate agency information 79597
on known or suspected physical or mental injury, sexual abuse or 79598
exploitation, or negligent treatment or maltreatment, of a child 79599
receiving public assistance, if circumstances indicate that the 79600
child's health or welfare is threatened. 79601

(H) As used in this section: 79602

(1) "Community control sanction" has the same meaning as in 79603
section 2929.01 of the Revised Code. 79604

(2) "Post-release control sanction" has the same meaning as 79605
in section 2967.01 of the Revised Code. 79606

Section 3.12. That the existing version of section 5101.28 of 79607
the Revised Code that is scheduled to take effect January 1, 2004, 79608
is hereby repealed. 79609

Section 3.13. Sections 3.11 and 3.12 of this act shall take 79610
effect January 1, 2004. 79611

Section 3.14. That the version of section 5743.45 of the Revised Code that is scheduled to take effect January 1, 2004, be amended to read as follows:

Sec. 5743.45. (A) As used in this section, "felony" has the same meaning as in section 109.511 of the Revised Code.

(B) For purposes of enforcing this chapter and Chapters 5728., 5735., 5739., 5741., and 5747. of the Revised Code and subject to division (C) of this section, the tax commissioner, by journal entry, may delegate any investigation powers of the commissioner to an employee of the department of taxation who has been certified by the Ohio peace officer training commission and who is engaged in the enforcement of those chapters. A separate journal entry shall be entered for each employee to whom that power is delegated. Each journal entry shall be a matter of public record and shall be maintained in an administrative portion of the journal as provided for in division (L) of section 5703.05 of the Revised Code. When that journal entry is completed, the employee to whom it pertains, while engaged within the scope of the employee's duties in enforcing the provisions of this chapter or Chapter 5728., 5735., 5739., 5741., or 5747. of the Revised Code, has the power of a police officer to carry concealed weapons, make arrests, and obtain warrants for violations of any provision in those chapters. The commissioner, at any time, may suspend or revoke the commissioner's delegation by journal entry. No employee of the department shall divulge any information acquired as a result of an investigation pursuant to this chapter or Chapter 5728., 5735., 5739., 5741., or 5747. of the Revised Code, except as may be required by the commissioner or a court.

(C)(1) The tax commissioner shall not delegate any investigation powers to an employee of the department of taxation

pursuant to division (B) of this section on a permanent basis, on 79642
a temporary basis, for a probationary term, or on other than a 79643
permanent basis if the employee previously has been convicted of 79644
or has pleaded guilty to a felony. 79645

(2)(a) The tax commissioner shall revoke the delegation of 79646
investigation powers to an employee to whom the delegation was 79647
made pursuant to division (B) of this section if that employee 79648
does either of the following: 79649

(i) Pleads guilty to a felony; 79650

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 79651
plea agreement as provided in division (D) of section 2929.43 of 79652
the Revised Code in which the employee agrees to surrender the 79653
certificate awarded to that employee under section 109.77 of the 79654
Revised Code. 79655

(b) The tax commissioner shall suspend the delegation of 79656
investigation powers to an employee to whom the delegation was 79657
made pursuant to division (B) of this section if that employee is 79658
convicted, after trial, of a felony. If the employee files an 79659
appeal from that conviction and the conviction is upheld by the 79660
highest court to which the appeal is taken or if the employee does 79661
not file a timely appeal, the commissioner shall revoke the 79662
delegation of investigation powers to that employee. If the 79663
employee files an appeal that results in that employee's acquittal 79664
of the felony or conviction of a misdemeanor, or in the dismissal 79665
of the felony charge against that employee, the commissioner shall 79666
reinstate the delegation of investigation powers to that employee. 79667
The suspension, revocation, and reinstatement of the delegation of 79668
investigation powers to an employee under division (C)(2) of this 79669
section shall be made by journal entry pursuant to division (B) of 79670
this section. An employee to whom the delegation of investigation 79671
powers is reinstated under division (C)(2)(b) of this section 79672
shall not receive any back pay for the exercise of those 79673

investigation powers unless that employee's conviction of the 79674
felony was reversed on appeal, or the felony charge was dismissed, 79675
because the court found insufficient evidence to convict the 79676
employee of the felony. 79677

(3) Division (C) of this section does not apply regarding an 79678
offense that was committed prior to January 1, 1997. 79679

(4) The suspension or revocation of the delegation of 79680
investigation powers to an employee under division (C)(2) of this 79681
section shall be in accordance with Chapter 119. of the Revised 79682
Code. 79683

Section 3.15. That the existing version of section 5743.45 of 79684
the Revised Code that is scheduled to take effect January 1, 2004, 79685
is hereby repealed. 79686

Section 3.16. Sections 3.14 and 3.15 of this act take effect 79687
January 1, 2004. 79688

Section 3.17. Section 5111.161 of the Revised Code is hereby 79689
repealed, effective October 1, 2005. 79690

Section 4. Except as otherwise provided, all appropriation 79691
items (AI) in this act are appropriated out of any moneys in the 79692
state treasury to the credit of the designated fund that are not 79693
otherwise appropriated. For all appropriations made in this act, 79694
the amounts in the first column are for fiscal year 2004 and the 79695
amounts in the second column are for fiscal year 2005. 79696

FND AI	AI TITLE	APPROPRIATIONS	
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Section 5. ACC ACCOUNTANCY BOARD OF OHIO 79698

General Services Fund Group 79699

4J8 889-601 CPA Education	\$	209,510	\$	209,510	79700
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Assistance				
4K9 889-609	Operating Expenses	\$	1,010,583	\$ 1,055,578 79701
TOTAL GSF General Services Fund				79702
Group		\$	1,220,093	\$ 1,265,088 79703
TOTAL ALL BUDGET FUND GROUPS				\$ 1,265,088 79704

Section 6. PAY ACCRUED LEAVE LIABILITY 79706

Accrued Leave Liability Fund Group 79707				
806 995-666	Accrued Leave Fund	\$	70,783,792	\$ 78,296,200 79708
807 995-667	Disability Fund	\$	47,269,465	\$ 50,098,308 79709
TOTAL ALF Accrued Leave Liability				79710
Fund Group		\$	118,053,257	\$ 128,394,508 79711
Agency Fund Group 79712				
808 995-668	State Employee Health	\$	312,724,593	\$ 371,450,611 79713
Benefit Fund				
809 995-669	Dependent Care	\$	3,691,169	\$ 4,060,286 79714
Spending Account				
810 995-670	Life Insurance	\$	1,925,110	\$ 1,992,489 79715
Investment Fund				
811 995-671	Parental Leave Benefit	\$	4,350,302	\$ 4,785,332 79716
Fund				
TOTAL AGY Agency Fund Group				\$ 382,288,718 79717
TOTAL ALL BUDGET FUND GROUPS				\$ 510,683,226 79718

ACCRUED LEAVE LIABILITY FUND 79719

The foregoing appropriation item 995-666, Accrued Leave Fund, 79720
 shall be used to make payments from the Accrued Leave Liability 79721
 Fund (Fund 806), pursuant to section 125.211 of the Revised Code. 79722
 If it is determined by the Director of Budget and Management that 79723
 additional amounts are necessary, the amounts are appropriated. 79724

STATE EMPLOYEE DISABILITY LEAVE BENEFIT FUND 79725

The foregoing appropriation item 995-667, Disability Fund, 79726

shall be used to make payments from the State Employee Disability 79727
Leave Benefit Fund (Fund 807), pursuant to section 124.83 of the 79728
Revised Code. If it is determined by the Director of Budget and 79729
Management that additional amounts are necessary, the amounts are 79730
appropriated. 79731

STATE EMPLOYEE HEALTH BENEFIT FUND 79732

The foregoing appropriation item 995-668, State Employee 79733
Health Benefit Fund, shall be used to make payments from the State 79734
Employee Health Benefit Fund (Fund 808), pursuant to section 79735
124.87 of the Revised Code. If it is determined by the Director of 79736
Budget and Management that additional amounts are necessary, the 79737
amounts are appropriated. 79738

DEPENDENT CARE SPENDING ACCOUNT 79739

The foregoing appropriation item 995-669, Dependent Care 79740
Spending Account, shall be used to make payments from the 79741
Dependent Care Spending Account (Fund 809) to employees eligible 79742
for dependent care expenses. If it is determined by the Director 79743
of Budget and Management that additional amounts are necessary, 79744
the amounts are appropriated. 79745

LIFE INSURANCE INVESTMENT FUND 79746

The foregoing appropriation item 995-670, Life Insurance 79747
Investment Fund, shall be used to make payments from the Life 79748
Insurance Investment Fund (Fund 810) for the costs and expenses of 79749
the state's life insurance benefit program pursuant to section 79750
125.212 of the Revised Code. If it is determined by the Director 79751
of Budget and Management that additional amounts are necessary, 79752
the amounts are appropriated. 79753

PARENTAL LEAVE BENEFIT FUND 79754

The foregoing appropriation item 995-671, Parental Leave 79755
Benefit Fund, shall be used to make payments from the Parental 79756

Leave Benefit Fund (Fund 811) to employees eligible for parental 79757
leave benefits pursuant to section 124.137 of the Revised Code. If 79758
it is determined by the Director of Budget and Management that 79759
additional amounts are necessary, the amounts are appropriated. 79760

Section 7. ADJ ADJUTANT GENERAL 79761

General Revenue Fund 79762

GRF 745-401	Ohio Military Reserve	\$	14,889	\$	15,188	79763
GRF 745-404	Air National Guard	\$	1,915,177	\$	1,939,762	79764
GRF 745-409	Central Administration	\$	3,976,734	\$	3,899,590	79765
GRF 745-499	Army National Guard	\$	3,987,516	\$	4,086,222	79766
GRF 745-502	Ohio National Guard	\$	100,953	\$	102,973	79767

Unit Fund

TOTAL GRF General Revenue Fund \$ 9,995,269 \$ 10,043,735 79768

General Services Fund Group 79769

534 745-612	Armory Improvements	\$	534,304	\$	534,304	79770
536 745-620	Camp Perry/Buckeye Inn	\$	1,094,970	\$	1,094,970	79771

Operations

537 745-604	ONG Maintenance	\$	219,826	\$	219,826	79772
TOTAL GSF	General Services Fund	\$	1,849,100	\$	1,849,100	79773

Group

Federal Special Revenue Fund Group 79774

3E8 745-628	Air National Guard	\$	11,901,459	\$	12,174,760	79775
	Operations and					
	Maintenance Agreement					

3R8 745-603	Counter Drug	\$	25,000	\$	25,000	79776
	Operations					

3S0 745-602	Higher Ground Training	\$	10,937	\$	10,937	79777
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341 745-615	Air National Guard	\$	2,181,960	\$	2,312,877	79778
	Base Security					

342 745-616	Army National Guard	\$	8,109,221	\$	8,686,892	79779
	Service Agreement					

TOTAL FED Federal Special Revenue	\$	22,228,577	\$	23,210,466	79780
Fund Group					
State Special Revenue Fund Group					79781
528 745-605 Marksmanship	\$	66,078	\$	66,078	79782
Activities					
TOTAL SSR State Special Revenue	\$	66,078	\$	66,078	79783
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	34,139,024	\$	35,169,379	79784
Section 8. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES					79786
General Revenue Fund					79787
GRF 100-402 Unemployment	\$	155,831	\$	155,189	79788
Compensation					
GRF 100-405 Agency Audit Expenses	\$	350,000	\$	350,000	79789
GRF 100-406 County & University	\$	591,007	\$	568,634	79790
Human Resources					
Services					
GRF 100-409 Departmental	\$	790,278	\$	788,444	79791
Information Services					
GRF 100-410 Veterans' Records	\$	19,729	\$	47,123	79792
Conversion					
GRF 100-416 Strategic Technology	\$	1,689,155	\$	1,584,140	79793
Development Programs					
GRF 100-417 MARCS	\$	1,696,760	\$	900,000	79794
GRF 100-418 Digital Government	\$	3,446,645	\$	3,643,649	79795
GRF 100-419 Network Security	\$	3,293,501	\$	2,170,766	79796
GRF 100-421 OAKS Project	\$	450,000	\$	450,000	79797
Implementation					
GRF 100-433 State of Ohio Computer	\$	4,936,073	\$	4,991,719	79798
Center					
GRF 100-439 Equal Opportunity	\$	661,531	\$	661,531	79799
Certification Programs					

GRF 100-447	OBA - Building Rent Payments	\$ 105,675,000	\$ 117,027,700	79800
GRF 100-448	OBA - Building Operating Payments	\$ 25,445,550	\$ 26,003,250	79801
GRF 100-449	DAS - Building Operating Payments	\$ 4,264,675	\$ 4,460,417	79802
GRF 100-451	Minority Affairs	\$ 50,000	\$ 50,000	79803
GRF 100-734	Major Maintenance - State Bldgs	\$ 45,000	\$ 45,000	79804
GRF 102-321	Construction Compliance	\$ 1,250,000	\$ 1,250,000	79805
GRF 130-321	State Agency Support Services	\$ 2,400,000	\$ 2,400,000	79806
TOTAL GRF	General Revenue Fund	\$ 157,210,735	\$ 167,547,562	79807
	General Services Fund Group			79808
112 100-616	Director's Office	\$ 5,503,547	\$ 5,503,547	79809
115 100-632	Central Service Agency	\$ 431,176	\$ 448,574	79810
117 100-644	General Services Division - Operating	\$ 7,622,861	\$ 8,653,304	79811
122 100-637	Fleet Management	\$ 1,669,589	\$ 1,652,849	79812
125 100-622	Human Resources Division - Operating	\$ 21,489,800	\$ 21,764,800	79813
127 100-627	Vehicle Liability Insurance	\$ 3,363,894	\$ 3,344,644	79814
128 100-620	Collective Bargaining	\$ 3,410,952	\$ 3,410,952	79815
130 100-606	Risk Management Reserve	\$ 217,904	\$ 223,904	79816
131 100-639	State Architect's Office	\$ 6,510,117	\$ 6,473,867	79817
132 100-631	DAS Building Management	\$ 10,921,019	\$ 10,721,430	79818
188 100-649	Equal Opportunity Division - Operating	\$ 1,082,353	\$ 1,103,697	79819

201	100-653	General Services	\$	1,533,000	\$	1,553,000	79820
		Resale Merchandise					
210	100-612	State Printing	\$	6,160,200	\$	6,674,421	79821
4P3	100-603	Departmental MIS	\$	6,077,535	\$	6,233,638	79822
		Services					
427	100-602	Investment Recovery	\$	4,023,473	\$	3,953,216	79823
5C2	100-605	MARCS Administration	\$	6,632,527	\$	9,268,178	79824
5C3	100-608	Skilled Trades	\$	1,840,327	\$	1,905,655	79825
5D7	100-621	Workforce Development	\$	12,000,000	\$	12,000,000	79826
5L7	100-610	Professional	\$	2,700,000	\$	2,700,000	79827
		Development					
5V6	100-619	Employee Educational	\$	809,071	\$	811,129	79828
		Development					
TOTAL GSF General Services Fund							79829
Group			\$	103,999,345	\$	108,400,805	79830
Intragovernmental Service Fund Group							79831
133	100-607	Information Technology	\$	100,987,526	\$	102,272,838	79832
		Fund					
4N6	100-617	Major IT Purchases	\$	15,452,006	\$	10,617,166	79833
TOTAL ISF Intragovernmental							79834
Service Fund Group			\$	116,439,532	\$	112,890,004	79835
Agency Fund Group							79836
113	100-628	Unemployment	\$	4,200,000	\$	4,200,000	79837
		Compensation Pass					
		Through					
124	100-629	Payroll Deductions	\$	1,971,000,000	\$	2,050,000,000	79838
TOTAL AGY Agency Fund Group							79839
Holding Account Redistribution Fund Group							79840
R08	100-646	General Services	\$	20,000	\$	20,000	79841
		Refunds					
TOTAL 090 Holding Account							79842
Redistribution Fund Group			\$	20,000	\$	20,000	79843

not later than five months after the start of a fiscal year the 79875
actual expenses incurred by the Ohio Building Authority in 79876
operating the facilities and any balances remaining from payments 79877
and rentals received in the prior fiscal year. The Department of 79878
Administrative Services shall reduce subsequent payments by the 79879
amount of the balance reported to it by the Ohio Building 79880
Authority. 79881

Section 8.03. DAS - BUILDING OPERATING PAYMENTS 79882

The foregoing appropriation item 100-449, DAS - Building 79883
Operating Payments, shall be used to pay the rent expenses of 79884
veterans organizations pursuant to section 123.024 of the Revised 79885
Code in fiscal years 2004 and 2005. 79886

The foregoing appropriation item, 100-449, DAS - Building 79887
Operating Payments, may be used to provide funding for the cost of 79888
property appraisals or building studies that the Department of 79889
Administrative Services may be required to obtain for property 79890
that is being sold by the state or property under consideration to 79891
be renovated or purchased by the state. 79892

Notwithstanding section 125.28 of the Revised Code, the 79893
remaining portion of the appropriation may be used to pay the 79894
operating expenses of state facilities maintained by the 79895
Department of Administrative Services that are not billed to 79896
building tenants. These expenses may include, but are not limited 79897
to, the costs for vacant space and space undergoing renovation, 79898
and the rent expenses of tenants that are relocated due to 79899
building renovations. These payments shall be processed by the 79900
Department of Administrative Services through intrastate transfer 79901
vouchers and placed in the Building Management Fund (Fund 132). 79902

Section 8.04. CENTRAL SERVICE AGENCY FUND 79903

The Director of Budget and Management may transfer up to 79904

\$423,200 in fiscal year 2004 and up to \$427,700 in fiscal year 79905
2005 from the Occupational Licensing and Regulatory Fund (Fund 79906
4K9) to the Central Service Agency Fund (Fund 115). The Director 79907
of Budget and Management may transfer up to \$40,700 in fiscal year 79908
2004 and up to \$41,200 in fiscal year 2005 from the State Medical 79909
Board Operating Fund (Fund 5C6) to the Central Service Agency Fund 79910
(Fund 115). The appropriation item 100-632, Central Service 79911
Agency, shall be used to purchase the necessary equipment, 79912
products, and services to maintain a local area network for the 79913
professional licensing boards, and to support their licensing 79914
applications in fiscal years 2004 and 2005. The amount of the cash 79915
transfer is appropriated to appropriation item 100-632, Central 79916
Service Agency. 79917

Section 8.05. COLLECTIVE BARGAINING ARBITRATION EXPENSES 79918

With approval of the Director of Budget and Management, the 79919
Department of Administrative Services may seek reimbursement from 79920
state agencies for the actual costs and expenses the department 79921
incurs in the collective bargaining arbitration process. The 79922
reimbursements shall be processed through intrastate transfer 79923
vouchers and placed in the Collective Bargaining Fund (Fund 128). 79924

Section 8.06. EQUAL OPPORTUNITY PROGRAM 79925

The Department of Administrative Services, with the approval 79926
of the Director of Budget and Management, shall establish charges 79927
for recovering the costs of administering the activities supported 79928
by the State EEO Fund (Fund 188). These charges shall be deposited 79929
to the credit of the State EEO Fund (Fund 188) upon payment made 79930
by state agencies, state-supported or state-assisted institutions 79931
of higher education, and tax-supported agencies, municipal 79932
corporations, and other political subdivisions of the state, for 79933
services rendered. 79934

Section 8.07. MERCHANDISE FOR RESALE 79935

The foregoing appropriation item 100-653, General Services 79936
Resale Merchandise, shall be used to account for merchandise for 79937
resale, which is administered by the General Services Division. 79938
Deposits to the fund may comprise the cost of merchandise for 79939
resale and shipping fees. 79940

Section 8.08. DEPARTMENTAL MIS 79941

The foregoing appropriation item 100-603, Departmental MIS 79942
Services, may be used to pay operating expenses of management 79943
information systems activities in the Department of Administrative 79944
Services. The Department of Administrative Services shall 79945
establish charges for recovering the costs of management 79946
information systems activities. These charges shall be deposited 79947
to the credit of the Departmental MIS Services Fund (Fund 4P3). 79948

Notwithstanding any other language to the contrary, the 79949
Director of Budget and Management may transfer up to \$1,000,000 of 79950
fiscal year 2004 appropriations and up to \$1,000,000 of fiscal 79951
year 2005 appropriations from appropriation item 100-603, 79952
Departmental MIS Services, to any Department of Administrative 79953
Services non-General Revenue Fund appropriation item. The 79954
appropriations transferred shall be used to make payments for 79955
management information systems services. 79956

Section 8.09. INVESTMENT RECOVERY FUND 79957

Notwithstanding division (B) of section 125.14 of the Revised 79958
Code, cash balances in the Investment Recovery Fund (Fund 427) may 79959
be used to support the operating expenses of the Federal Surplus 79960
Operating Program created in sections 125.84 to 125.90 of the 79961
Revised Code. 79962

Notwithstanding division (B) of section 125.14 of the Revised 79963

Code, cash balances in the Investment Recovery Fund may be used to 79964
support the operating expenses of the State Property Inventory and 79965
Fixed Assets Management System Program. 79966

Of the foregoing appropriation item 100-602, Investment 79967
Recovery, up to \$1,958,155 in fiscal year 2004 and up to 79968
\$2,049,162 in fiscal year 2005 shall be used to pay the operating 79969
expenses of the State Surplus Property Program, the Surplus 79970
Federal Property Program, and the State Property Inventory and 79971
Fixed Assets Management System Program pursuant to Chapter 125. of 79972
the Revised Code and this section. If additional appropriations 79973
are necessary for the operations of these programs, the Director 79974
of Administrative Services shall seek increased appropriations 79975
from the Controlling Board under section 131.35 of the Revised 79976
Code. 79977

Of the foregoing appropriation item 100-602, Investment 79978
Recovery, \$2,221,029 in fiscal year 2004 and \$2,130,022 in fiscal 79979
year 2005 shall be used to transfer proceeds from the sale of 79980
surplus property from the Investment Recovery Fund to non-General 79981
Revenue Funds pursuant to division (A)(2) of section 125.14 of the 79982
Revised Code. If it is determined by the Director of 79983
Administrative Services that additional appropriations are 79984
necessary for the transfer of such sale proceeds, the Director of 79985
Administrative Services may request the Director of Budget and 79986
Management to increase the amounts. Such amounts are hereby 79987
appropriated. 79988

Notwithstanding division (B) of section 125.14 of the Revised 79989
Code, the Director of Budget and Management, at the request of the 79990
Director of Administrative Services, shall transfer up to 79991
\$2,811,197 of the amounts held for transfer to the General Revenue 79992
Fund from the Investment Recovery Fund to the General Services 79993
Fund (Fund 117) during the biennium beginning July 1, 2003, and 79994
ending June 30, 2005. The cash transferred to the General Services 79995

Fund shall be used to pay the operating expenses of the 79996
Competitive Sealed Proposal Program, to provide operating cash for 79997
the General Services Fund, and to provide operating cash for the 79998
newly created rate pools for Real Estate Leasing and Interior 79999
Design Services. 80000

Section 8.10. MULTI-AGENCY RADIO COMMUNICATIONS SYSTEM 80001

Notwithstanding division (B)(3) of section 4505.09 of the 80002
Revised Code, the Director of Budget and Management, at the 80003
request of the Director of Administrative Services, may transfer 80004
up to \$4,887,390 in fiscal year 2004 and \$1,000,000 in fiscal year 80005
2005 from the Automated Title Processing System (Fund 849) to the 80006
Multi-Agency Radio Communications Systems Administration Fund 80007
(Fund 5C2). The cash transferred to the Multi-Agency Radio 80008
Communications Systems Administration Fund shall be used for the 80009
development of the MARCS system. 80010

Effective with the implementation of the Multi-Agency Radio 80011
Communications System, the Director of Administrative Services 80012
shall collect user fees from participants in the system. The 80013
Director of Administrative Services, with the advice of the 80014
Multi-Agency Radio Communications System Steering Committee and 80015
the Director of Budget and Management, shall determine the amount 80016
of the fees and the manner by which the fees shall be collected. 80017
Such user charges shall comply with the applicable cost principles 80018
issued by the federal Office of Management and Budget. All moneys 80019
from user charges and fees shall be deposited in the state 80020
treasury to the credit of the Multi-Agency Radio Communications 80021
System Administration Fund (Fund 5C2). All interest income derived 80022
from the investment of the fund shall accrue to the fund. 80023

Section 8.11. WORKFORCE DEVELOPMENT FUND 80024

There is hereby established in the state treasury the 80025

Workforce Development Fund (Fund 5D7). The foregoing appropriation 80026
item 100-621, Workforce Development, shall be used to make 80027
payments from the fund. The fund shall be under the supervision of 80028
the Department of Administrative Services, which may adopt rules 80029
with regard to administration of the fund. The fund shall be used 80030
to pay the costs of the Workforce Development Program, if any, as 80031
previously established by Article 37 of the contract between the 80032
State of Ohio and OCSEA/AFSCME, Local 11, effective March 1, 2000, 80033
and as modified by any successor labor contract between the State 80034
of Ohio and OCSEA/AFSCME. The program shall be administered in 80035
accordance with the contract. Revenues shall accrue to the fund as 80036
specified in the contract. The fund may be used to pay direct and 80037
indirect costs of the program that are attributable to staff, 80038
consultants, and service providers. All income derived from the 80039
investment of the fund shall accrue to the fund. 80040

If it is determined by the Director of Administrative 80041
Services that additional appropriation amounts are necessary, the 80042
Director of Administrative Services may request that the Director 80043
of Budget and Management increase such amounts. Such amounts are 80044
hereby appropriated. 80045

Section 8.12. PROFESSIONAL DEVELOPMENT FUND 80046

The foregoing appropriation item 100-610, Professional 80047
Development, shall be used to make payments from the Professional 80048
Development Fund (Fund 5L7) pursuant to section 124.182 of the 80049
Revised Code. 80050

Section 8.13. EMPLOYEE EDUCATIONAL DEVELOPMENT 80051

There is hereby established in the state treasury the 80052
Employee Educational Development Fund (Fund 5V6). The foregoing 80053
appropriation item 100-619, Employee Educational Development, 80054
shall be used to make payments from the fund. The fund shall be 80055

used to pay the costs of the administration of educational 80056
programs per existing collective bargaining agreements with 80057
District 1199, the Health Care and Social Service Union; State 80058
Council of Professional Educators; Ohio Education Association; 80059
National Education Association; the Fraternal Order of Police Ohio 80060
Labor Council, Unit 2; and the Ohio State Troopers Association, 80061
Units 1 and 15. The fund shall be under the supervision of the 80062
Department of Administrative Services, which may adopt rules with 80063
regard to administration of the fund. The fund shall be 80064
administered in accordance with the applicable sections of the 80065
collective bargaining agreements between the State and the 80066
aforementioned unions. The Department of Administrative Services, 80067
with the approval of the Director of Budget and Management, shall 80068
establish charges for recovering the costs of administering the 80069
educational programs. Receipts for these charges shall be 80070
deposited into the Employee Educational Development Fund. All 80071
income derived from the investment of the funds shall accrue to 80072
the fund. 80073

If it is determined by the Director of Administrative 80074
Services that additional appropriation amounts are necessary, the 80075
Director of Administrative Services may request that the Director 80076
of Budget and Management increase such amounts. Such amounts are 80077
hereby appropriated with the approval of the Director of Budget 80078
and Management. 80079

Upon the request of the Director of Administrative Services, 80080
the Director of Budget and Management shall transfer any cash 80081
balances attributable to educational programs per existing 80082
collective bargaining agreements with District 1199, the Health 80083
Care and Social Service Union; State Council of Professional 80084
Educators; Ohio Education Association; National Education 80085
Association; the Fraternal Order of Police Ohio Labor Council, 80086
Unit 2; and the Ohio State Troopers Association, Units 1 and 15 80087

from the Human Resources Services Fund (Fund 125) to the Employee 80088
Educational Development Fund (Fund 5V6). 80089

Section 8.14. MAJOR IT PURCHASES 80090

The Director of Administrative Services shall compute the 80091
amount of revenue attributable to the amortization of all 80092
equipment purchases and capitalized systems from appropriation 80093
item 100-607, Information Technology Fund; appropriation item 80094
100-617, Major IT Purchases; and appropriation item CAP-837, Major 80095
IT Purchases, which is recovered by the Department of 80096
Administrative Services as part of the rates charged by the 80097
Information Technology Fund (Fund 133) created in section 125.15 80098
of the Revised Code. The Director of Budget and Management may 80099
transfer cash in an amount not to exceed the amount of 80100
amortization computed from the Information Technology Fund (Fund 80101
133) to the Major IT Purchases Fund (Fund 4N6). 80102

Section 8.15. INFORMATION TECHNOLOGY ASSESSMENT 80103

The Director of Administrative Services, with the approval of 80104
the Director of Budget and Management, may establish an 80105
information technology assessment for the purpose of recovering 80106
the cost of selected infrastructure and statewide programs. Such 80107
assessment shall comply with applicable cost principles issued by 80108
the federal Office of Management and Budget. The information 80109
technology assessment shall be charged to all organized bodies, 80110
offices, or agencies established by the laws of the state for the 80111
exercise of any function of state government except for the 80112
General Assembly, any legislative agency, the Supreme Court, the 80113
other courts of record in Ohio, or any judicial agency, the 80114
Adjutant General, the Bureau of Workers' Compensation, and 80115
institutions administered by a board of trustees. Any state-entity 80116
exempted by this section may utilize the infrastructure or 80117

statewide program by participating in the information technology 80118
assessment. All charges for the information technology assessment 80119
shall be deposited to the credit of the Information Technology 80120
Fund (Fund 133) created in section 125.15 of the Revised Code. 80121

Section 8.16. UNEMPLOYMENT COMPENSATION FUND 80122

The foregoing appropriation item 100-628, Unemployment 80123
Compensation Pass Through, shall be used to make payments from the 80124
Unemployment Compensation Fund (Fund 113), pursuant to section 80125
4141.241 of the Revised Code. If it is determined that additional 80126
amounts are necessary, such amounts are hereby appropriated. 80127

Section 8.17. PAYROLL WITHHOLDING FUND 80128

The foregoing appropriation item 100-629, Payroll Deductions, 80129
shall be used to make payments from the Payroll Withholding Fund 80130
(Fund 124). If it is determined by the Director of Budget and 80131
Management that additional appropriation amounts are necessary, 80132
such amounts are hereby appropriated. 80133

Section 8.18. GENERAL SERVICES REFUNDS 80134

The foregoing appropriation item 100-646, General Services 80135
Refunds, shall be used to hold bid guarantee and building plans 80136
and specifications deposits until they are refunded. The Director 80137
of Administrative Services may request that the Director of Budget 80138
and Management transfer cash received for the costs of providing 80139
the building plans and specifications to contractors from the 80140
General Services Refunds Fund to the State Architect's Office Fund 80141
(Fund 131). Prior to the transfer of cash, the Director of 80142
Administrative Services shall certify that such amounts are in 80143
excess of amounts required for refunding deposits and are directly 80144
related to costs of producing building plans and specifications. 80145
If it is determined that additional appropriations are necessary, 80146

such amounts are hereby appropriated. 80147

Section 8.19. MULTI-AGENCY RADIO COMMUNICATION SYSTEM DEBT 80148
SERVICE PAYMENTS 80149

The Director of Administrative Services, in consultation with 80150
the Multi-Agency Radio Communication System (MARCS) Steering 80151
Committee and the Director of Budget and Management, shall 80152
determine the share of debt service payments attributable to 80153
spending for MARCS components that are not specific to any one 80154
agency and that shall be charged to agencies supported by the 80155
motor fuel tax. Such share of debt service payments shall be 80156
calculated for MARCS capital disbursements made beginning July 1, 80157
1997. Within thirty days of any payment made from appropriation 80158
item 100-447, OBA - Building Rent Payments, the Director of 80159
Administrative Services shall certify to the Director of Budget 80160
and Management the amount of this share. The Director of Budget 80161
and Management shall transfer such amounts to the General Revenue 80162
Fund from the State Highway Safety Fund (Fund 036) established in 80163
section 4501.06 of the Revised Code. 80164

The Director of Administrative Services shall consider 80165
renting or leasing existing tower sites at reasonable or current 80166
market rates, so long as these existing sites are equipped with 80167
the technical capabilities to support the MARCS project. 80168

Section 8.20. DIRECTOR'S DECLARATION OF PUBLIC EXIGENCY 80169

Whenever the Director of Administrative Services declares a 80170
"public exigency," as provided in division (C) of section 123.15 80171
of the Revised Code, the Director shall also notify the members of 80172
the Controlling Board. 80173

Section 8.21. GENERAL SERVICE CHARGES 80174

The Department of Administrative Services, with the approval 80175

of the Director of Budget and Management, shall establish charges 80176
for recovering the costs of administering the programs in the 80177
General Services Fund (Fund 117) and the State Printing Fund (Fund 80178
210). 80179

Section 8.22. Notwithstanding section 123.10 of the Revised 80180
Code, the Director of Administrative Services shall collect no 80181
commissions or fees in connection with the rental of property 80182
during the period beginning July 1, 2003, and ending June 30, 80183
2005. 80184

Section 9. AAM COMMISSION ON AFRICAN AMERICAN MALES 80185

General Revenue Fund 80186

GRF 036-100 Personal Services	\$	212,492	\$	218,610	80187
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GRF 036-200 Maintenance	\$	50,180	\$	50,180	80188
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GRF 036-300 Equipment	\$	4,000	\$	4,000	80189
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GRF 036-501 CAAM Awards and	\$	8,143	\$	765	80190
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Scholarships

GRF 036-502 Community Projects	\$	25,185	\$	26,445	80191
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TOTAL GRF General Revenue Fund	\$	300,000	\$	300,000	80192
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State Special Revenue Fund Group 80193

4H3 036-601 Commission on African	\$	10,000	\$	10,000	80194
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American Males -

Gifts/Grants

TOTAL SSR State Special Revenue	\$	10,000	\$	10,000	80195
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Fund Group

TOTAL ALL BUDGET FUND GROUPS	\$	310,000	\$	310,000	80196
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COMMISSION ON AFRICAN AMERICAN MALES PROGRESS REVIEW 80197

Annually, not later than the thirty-first day of December, 80198

the Commission on African American Males shall internally prepare 80199

and submit to the chairperson and ranking minority member of the 80200

Human Services Subcommittee of the Finance and Appropriations 80201

Committee of the House of Representatives a report that 80202
demonstrates the progress that has been made toward meeting the 80203
Commission's mission statement. 80204

From the foregoing appropriations, the Commission on African 80205
American Males shall provide in each fiscal year \$50,000 to the 80206
Cincinnati State Community College to purchase books and equipment 80207
in order to furnish the Cincinnati State William F. Bowen Room 80208
that will honor Ohio's African-American legislators. 80209

Section 10. JCR JOINT COMMITTEE ON AGENCY RULE REVIEW 80210

General Revenue Fund 80211

GRF 029-321 Operating Expenses	\$	363,769	\$	379,769	80212
TOTAL GRF General Revenue Fund	\$	363,769	\$	379,769	80213
TOTAL ALL BUDGET FUND GROUPS	\$	363,769	\$	379,769	80214

OPERATING 80215

The Chief Administrative Officer of the House of 80216
Representatives and the Clerk of the Senate shall determine, by 80217
mutual agreement, which of them shall act as fiscal agent for the 80218
Joint Committee on Agency Rule Review. 80219

Section 11. AGE DEPARTMENT OF AGING 80220

General Revenue Fund 80221

GRF 490-321 Operating Expenses	\$	2,308,867	\$	2,308,867	80222
GRF 490-403 PASSPORT	\$	81,008,877	\$	103,746,032	80223
GRF 490-405 Golden Buckeye Card	\$	297,628	\$	297,628	80224
GRF 490-406 Senior Olympics	\$	16,636	\$	16,636	80225
GRF 490-407 Lon-Term Care Consumer	\$	285,000	\$	285,000	80226
Guide					
GRF 490-409 Ohio Community Service	\$	228,048	\$	228,048	80227
Council Operations					
GRF 490-410 Long-Term Care	\$	729,685	\$	729,685	80228
Ombudsman					

GRF 490-411	Senior Community Services	\$ 11,271,431	\$ 11,271,431	80229
GRF 490-412	Residential State Supplement	\$ 9,960,356	\$ 10,210,356	80230
GRF 490-414	Alzheimers Respite	\$ 4,346,689	\$ 4,346,689	80231
GRF 490-416	Transportation for Elderly	\$ 138,369	\$ 138,369	80232
GRF 490-419	Prescription Drug Discount Program	\$ 169,986	\$ 169,986	80233
GRF 490-506	Senior Volunteers	\$ 375,471	\$ 375,471	80234
TOTAL GRF	General Revenue Fund	\$ 111,137,043	\$ 134,124,198	80235
General Services Fund Group				80236
480 490-606	Senior Citizens Services Special Events	\$ 372,677	\$ 372,677	80237
5T4 490-615	Aging Network Support	\$ 252,830	\$ 252,830	80238
TOTAL GSF	General Services Fund Group	\$ 625,507	\$ 625,507	80239 80240
Federal Special Revenue Fund Group				80241
3C4 490-607	PASSPORT	\$ 142,926,054	\$ 151,954,474	80242
3M3 490-611	Federal Aging Nutrition	\$ 25,541,095	\$ 26,818,149	80243
3M4 490-612	Federal Supportive Services	\$ 26,305,294	\$ 27,094,453	80244
3R7 490-617	Ohio Community Service Council Programs	\$ 8,951,150	\$ 8,905,150	80245
322 490-618	Older Americans Support Services	\$ 12,904,949	\$ 13,298,626	80246
TOTAL FED	Federal Special Revenue Fund Group	\$ 216,628,542	\$ 228,070,852	80247 80248
State Special Revenue Fund Group				80249
4C4 490-609	Regional Long-Term	\$ 829,321	\$ 829,321	80250

		Care Ombudsman Program					
4J4	490-610	PASSPORT/Residential	\$	33,268,052	\$	33,263,984	80251
		State Supplement					
4U9	490-602	PASSPORT Fund	\$	5,500,000	\$	5,500,000	80252
5K9	490-613	Nursing Home Consumer	\$	400,000	\$	400,000	80253
		Guide					
5W1	490-616	Resident Services	\$	250,000	\$	250,000	80254
		Coordinator Program					
624	490-604	OCSC Community Support	\$	2,500	\$	2,500	80255
TOTAL	SSR	State Special Revenue					80256
Fund Group			\$	40,249,873	\$	40,245,805	80257
TOTAL ALL BUDGET FUND GROUPS			\$	368,640,965	\$	403,066,362	80258

Section 11.01. PRE-ADMISSION REVIEW FOR NURSING FACILITY 80260
ADMISSION 80261

Pursuant to sections 5101.751 and 5101.754 of the Revised 80262
Code and an interagency agreement, the Department of Job and 80263
Family Services shall designate the Department of Aging to perform 80264
assessments under sections 5101.75 and 5111.204 of the Revised 80265
Code. Of the foregoing appropriation item 490-403, PASSPORT, the 80266
Department of Aging may use not more than \$2,511,309 in fiscal 80267
year 2004 and \$2,574,092 in fiscal year 2005 to perform the 80268
assessments for persons not eligible for Medicaid in accordance 80269
with the department's interagency agreement with the Department of 80270
Job and Family Services and to assist individuals in planning for 80271
their long-term health care needs. 80272

Section 11.02. PASSPORT 80273

Appropriation item 490-403, PASSPORT, and the amounts set 80274
aside for the PASSPORT Waiver Program in appropriation item 80275
490-610, PASSPORT/Residential State Supplement, may be used to 80276
assess clients regardless of Medicaid eligibility. 80277

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

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

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

SENIOR COMMUNITY SERVICES

Of the foregoing appropriation item 490-411, Senior Community Services, \$300,000 shall be allocated to the Visiting Nurses Association of Cleveland.

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

impaired persons 60 years of age and over. The department shall 80309
promote cost sharing by service recipients for those services 80310
funded with block grant funds, including, where possible, 80311
sliding-fee scale payment systems based on the income of service 80312
recipients. 80313

ALZHEIMERS RESPITE 80314

The foregoing appropriation item 490-414, Alzheimers Respite, 80315
shall be used to fund only Alzheimer's disease services under 80316
section 173.04 of the Revised Code. 80317

TRANSPORTATION FOR ELDERLY 80318

The foregoing appropriation item 490-416, Transportation for 80319
Elderly, shall be used for noncapital expenses related to 80320
transportation services for the elderly that provide access to 80321
such things as healthcare services, congregate meals, 80322
socialization programs, and grocery shopping. The funds pass 80323
through and shall be administered by the Area Agencies on Aging. 80324
The appropriation shall be allocated to the following agencies: 80325

(A) Up to \$34,912 in fiscal year 2004 and up to \$34,039 in 80326
fiscal year 2005 to the Jewish Vocational Services/Cincinnati; 80327

(B) Up to \$34,912 in fiscal year 2004 and up to \$34,039 in 80328
fiscal year 2005 to the Jewish Community Center of Cleveland; 80329

(C) Up to \$34,912 in fiscal year 2004 and up to \$34,039 in 80330
fiscal year 2005 to the Wexner Heritage Village/Columbus; 80331

(D) Up to \$15,469 in fiscal year 2004 and up to \$15,082 in 80332
fiscal year 2005 to the Jewish Family Services of Dayton; 80333

(E) Up to \$7,805 in fiscal year 2004 and up to \$7,610 in 80334
fiscal year 2005 to the Jewish Community Center of Akron; 80335

(F) Up to \$3,832 in fiscal year 2004 and up to \$3,736 in 80336
fiscal year 2005 to the Jewish Community Center/Youngstown; 80337

(G) Up to \$2,270 in fiscal year 2004 and up to \$2,214 in 80338

fiscal year 2005 to the Jewish Community Center/Canton; 80339

(H) Up to \$7,805 in fiscal year 2004 and up to \$7,610 in 80340
fiscal year 2005 to the Jewish Community Center/Sylvania. 80341

Agencies receiving funding from appropriation item 490-416, 80342
Transportation for Elderly, shall coordinate services with other 80343
local service agencies. 80344

RESIDENTIAL STATE SUPPLEMENT 80345

Under the Residential State Supplement Program, the amount 80346
used to determine whether a resident is eligible for payment and 80347
for determining the amount per month the eligible resident will 80348
receive shall be as follows: 80349

(A) \$900 for a residential care facility, as defined in 80350
section 3721.01 of the Revised Code; 80351

(B) \$900 for an adult group home, as defined in Chapter 3722. 80352
of the Revised Code; 80353

(C) \$800 for an adult foster home, as defined in Chapter 173. 80354
of the Revised Code; 80355

(D) \$800 for an adult family home, as defined in Chapter 80356
3722. of the Revised Code; 80357

(E) \$800 for an adult community alternative home, as defined 80358
in Chapter 3724. of the Revised Code; 80359

(F) \$800 for an adult residential facility, as defined in 80360
Chapter 5119. of the Revised Code; 80361

(G) \$600 for adult community mental health housing services, 80362
as defined in division (B)(5) of section 173.35 of the Revised 80363
Code. 80364

The Departments of Aging and Job and Family Services shall 80365
reflect these amounts in any applicable rules the departments 80366
adopt under section 173.35 of the Revised Code. 80367

TRANSFER OF RESIDENTIAL STATE SUPPLEMENT APPROPRIATIONS	80368
The Department of Aging may transfer cash by intrastate transfer vouchers from the foregoing appropriation items 490-412, Residential State Supplement, and 490-610, PASSPORT/Residential State Supplement, to the Department of Job and Family Services' Fund 4J5, Home and Community-Based Services for the Aged Fund. The funds shall be used to make benefit payments to Residential State Supplement recipients.	80369 80370 80371 80372 80373 80374 80375
LONG-TERM CARE OMBUDSMAN	80376
The foregoing appropriation item 490-410, Long-Term Care Ombudsman, shall be used for a program to fund ombudsman program activities in nursing homes, adult care facilities, boarding homes, and home and community care services.	80377 80378 80379 80380
PRESCRIPTION DRUG DISCOUNT PROGRAM	80381
The foregoing appropriation item 490-419, Prescription Drug Discount Program, shall be used to administer a prescription drug discount program.	80382 80383 80384
REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAMS	80385
The foregoing appropriation item 490-609, Regional Long-Term Care Ombudsman Programs, shall be used solely to pay the costs of operating the regional long-term care ombudsman programs.	80386 80387 80388
PASSPORT/RESIDENTIAL STATE SUPPLEMENT	80389
Of the foregoing appropriation item 490-610, PASSPORT/Residential State Supplement, up to \$2,835,000 each fiscal year may be used to fund the Residential State Supplement Program. The remaining available funds shall be used to fund the PASSPORT program.	80390 80391 80392 80393 80394
TRANSFER OF APPROPRIATIONS - FEDERAL AGING NUTRITION, FEDERAL SUPPORTIVE SERVICES, AND OLDER AMERICANS SUPPORT SERVICES	80395 80396

Upon written request of the Director of Aging, the Director 80397
of Budget and Management may transfer appropriation authority 80398
among appropriation items 490-611, Federal Aging Nutrition, 80399
490-612, Federal Supportive Services, and 490-618, Older Americans 80400
Support Services, in amounts not to exceed 30 per cent of the 80401
appropriation from which the transfer is made. The Department of 80402
Aging shall report such transfers to the Controlling Board at the 80403
next regularly scheduled meeting of the board. 80404

OHIO COMMUNITY SERVICE COUNCIL 80405

The foregoing appropriation items 490-409, Ohio Community 80406
Service Council Operations, and 490-617, Ohio Community Service 80407
Council Programs, shall be used in accordance with section 121.40 80408
of the Revised Code. 80409

Section 12. AGR DEPARTMENT OF AGRICULTURE 80410

General Revenue Fund 80411

GRF 700-321	Operating Expenses	\$	2,737,665	\$	2,771,628	80412
GRF 700-401	Animal Disease Control	\$	4,121,815	\$	4,121,815	80413
GRF 700-402	Amusement Ride Safety	\$	278,767	\$	275,943	80414
GRF 700-403	Dairy Division	\$	1,494,597	\$	1,494,153	80415
GRF 700-404	Ohio Proud	\$	197,727	\$	197,229	80416
GRF 700-405	Animal Damage Control	\$	94,954	\$	94,954	80417
GRF 700-406	Consumer Analytical	\$	819,281	\$	872,241	80418
	Lab					
GRF 700-407	Food Safety	\$	999,042	\$	999,042	80419
GRF 700-409	Farmland Preservation	\$	256,993	\$	256,993	80420
GRF 700-410	Plant Industry	\$	1,109,867	\$	1,107,677	80421
GRF 700-411	International Trade	\$	621,049	\$	517,524	80422
	and Market Development					
GRF 700-412	Weights and Measures	\$	914,137	\$	909,120	80423
GRF 700-413	Gypsy Moth Prevention	\$	546,118	\$	576,299	80424
GRF 700-414	Concentrated Animal	\$	16,521	\$	16,086	80425

		Feeding Facilities					
		Advisory Committee					
GRF	700-415	Poultry Inspection	\$	270,645	\$	267,743	80426
GRF	700-418	Livestock Regulation	\$	1,306,911	\$	1,306,911	80427
		Program					
GRF	700-424	Livestock Testing and	\$	123,347	\$	123,347	80428
		Inspections					
GRF	700-499	Meat Inspection	\$	4,651,611	\$	4,696,889	80429
		Program - State Share					
GRF	700-501	County Agricultural	\$	381,091	\$	381,091	80430
		Societies					
TOTAL GRF		General Revenue Fund	\$	20,942,138	\$	20,986,685	80431
		Federal Special Revenue Fund Group					80432
3J4	700-607	Indirect Cost	\$	938,785	\$	949,877	80433
3R2	700-614	Federal Plant Industry	\$	1,400,000	\$	1,425,000	80434
326	700-618	Meat Inspection	\$	4,876,904	\$	4,951,291	80435
		Service - Federal					
		Share					
336	700-617	Ohio Farm Loan	\$	181,774	\$	181,774	80436
		Revolving Fund					
382	700-601	Cooperative Contracts	\$	2,400,000	\$	2,500,000	80437
TOTAL FED		Federal Special Revenue					80438
Fund Group			\$	9,797,463	\$	10,007,942	80439
		State Special Revenue Fund Group					80440
4C9	700-605	Feed, Fertilizer, and	\$	986,765	\$	1,008,541	80441
		Lime Inspection					
4D2	700-609	Auction Education	\$	30,476	\$	30,476	80442
4E4	700-606	Utility Radiological	\$	73,059	\$	73,059	80443
		Safety					
4P7	700-610	Food Safety Inspection	\$	575,797	\$	582,711	80444
4R0	700-636	Ohio Proud Marketing	\$	40,300	\$	38,300	80445
4R2	700-637	Dairy Inspection Fund	\$	1,157,603	\$	1,184,183	80446

4T6	700-611	Poultry and Meat Inspection	\$	46,162	\$	47,294	80447
4T7	700-613	International Trade and Market Development Rotary	\$	41,238	\$	42,000	80448
4V5	700-615	Animal Industry Lab Fees	\$	711,944	\$	711,944	80449
494	700-612	Agricultural Commodity Marketing Program	\$	170,077	\$	170,220	80450
496	700-626	Ohio Grape Industries	\$	1,071,099	\$	1,071,099	80451
497	700-627	Commodity Handlers Regulatory Program	\$	664,118	\$	664,118	80452
498	700-628	Commodity Indemnity Fund	\$	250,000	\$	250,000	80453
5B8	700-629	Auctioneers	\$	291,672	\$	365,390	80454
5H2	700-608	Metrology Lab	\$	105,879	\$	108,849	80455
5L8	700-604	Livestock Management Program	\$	250,000	\$	250,000	80456
578	700-620	Ride Inspection Fees	\$	497,000	\$	497,000	80457
579	700-630	Scale Certification	\$	168,785	\$	171,677	80458
652	700-634	Laboratory Services	\$	1,043,444	\$	1,074,447	80459
669	700-635	Pesticide Program	\$	2,243,232	\$	2,243,232	80460
TOTAL SSR State Special Revenue							80461
Fund Group			\$	10,418,650	\$	10,584,540	80462
Clean Ohio Fund Group							80463
057	700-632	Clean Ohio Agricultural Easement	\$	149,000	\$	149,000	80464
TOTAL CLR Clean Ohio Fund Group			\$	149,000	\$	149,000	80465
Holding Account Redistribution Fund Group							80466
XXX	700-XXX	Farm Service Electronic Filing	\$	60,000	\$	60,000	80467
TOTAL 090 Holding Account			\$	60,000	\$	60,000	80468

FARM SERVICE ELECTRONIC FILING				80498
As soon as possible on or after July 1, 2003, the Director of				80499
Budget and Management shall make a one-time cash transfer of				80500
\$60,000 from Fund 382, Cooperative Contracts, to Fund XXX, Farm				80501
Service Electronic Filing Fund, in fiscal year 2004. The Farm				80502
Service Electronic Filing Fund shall be administered by the				80503
Department of Agriculture.				80504
Section 13. AIR AIR QUALITY DEVELOPMENT AUTHORITY				80505
Agency Fund Group				80506
4Z9 898-602 Small Business	\$	233,482	\$ 233,482	80507
Ombudsman				
5A0 898-603 Small Business	\$	197,463	\$ 197,463	80508
Assistance				
570 898-601 Operating Expenses	\$	243,383	\$ 243,383	80509
TOTAL AGY Agency Fund Group	\$	674,328	\$ 674,328	80510
TOTAL ALL BUDGET FUND GROUPS	\$	674,328	\$ 674,328	80511
Section 14. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION				80513
SERVICES				80514
General Revenue Fund				80515
GRF 038-321 Operating Expenses	\$	1,200,293	\$ 1,200,293	80516
GRF 038-401 Treatment Services	\$	36,762,306	\$ 36,762,306	80517
GRF 038-404 Prevention Services	\$	1,055,033	\$ 1,055,033	80518
TOTAL GRF General Revenue Fund	\$	39,017,632	\$ 39,017,632	80519
General Services Fund				80520
5T9 038-616 Problem Gambling	\$	60,000	\$ 60,000	80521
Services				
TOTAL GSF General Services Fund	\$	60,000	\$ 60,000	80522
Group				
Federal Special Revenue Fund Group				80523

3G3	038-603	Drug Free Schools	\$	3,500,000	\$	3,500,000	80524
3G4	038-614	Substance Abuse Block Grant	\$	67,335,499	\$	68,079,223	80525
3H8	038-609	Demonstration Grants	\$	7,093,075	\$	7,093,075	80526
3J8	038-610	Medicaid	\$	30,000,000	\$	30,000,000	80527
3N8	038-611	Administrative Reimbursement	\$	500,000	\$	500,000	80528
TOTAL FED Federal Special Revenue							80529
Fund Group			\$	108,428,574	\$	109,172,298	80530
State Special Revenue Fund Group							80531
475	038-621	Statewide Treatment and Prevention	\$	15,191,182	\$	15,191,182	80532
5P1	038-615	Credentialing	\$	225,000	\$	0	80533
689	038-604	Education and Conferences	\$	280,000	\$	280,000	80534
TOTAL SSR State Special Revenue							80535
Fund Group			\$	15,696,182	\$	15,471,182	80536
TOTAL ALL BUDGET FUND GROUPS			\$	163,202,388	\$	163,721,112	80537
TREATMENT SERVICES							80538
Of the foregoing appropriation item 038-401, Treatment							80539
Services, not more than \$8,190,000 shall be used by the Department							80540
of Alcohol and Drug Addiction Services for program grants for							80541
priority populations in each year of the biennium.							80542
AM. SUB. H.B. 484 OF THE 122nd GENERAL ASSEMBLY							80543
Of the foregoing appropriation item 038-401, Treatment							80544
Services, \$4 million in each fiscal year shall be allocated for							80545
services to families, adults, and adolescents pursuant to the							80546
requirements of Am. Sub. H.B. 484 of the 122nd General Assembly.							80547
TALBERT HOUSE							80548
Of the foregoing appropriation item 038-401, Treatment							80549
Services, \$200,000 in each fiscal year shall be allocated to							80550

establish a Talbert House Facility in Butler County. These funds 80551
are in addition to any other funds for which the Talbert House 80552
facility and Butler County are eligible to receive from the 80553
Department of Alcohol and Drug Addiction Services. 80554

SERVICES FOR TANF-ELIGIBLE INDIVIDUALS 80555

Of the foregoing appropriation item 038-401, Treatment 80556
Services, \$5 million each year shall be used to fund TANF-eligible 80557
expenditures for substance abuse prevention and treatment services 80558
to children, or their families, whose income is at or below 200 80559
per cent of the official income poverty guideline. The Director of 80560
Alcohol and Drug Addiction Services and the Director of Job and 80561
Family Services shall develop operating and reporting guidelines 80562
for these programs. 80563

THERAPEUTIC COMMUNITIES 80564

Of the foregoing appropriation item 038-401, Treatment 80565
Services, \$750,000 shall be used in each fiscal year for expansion 80566
of the Therapeutic Communities Program in the Department of 80567
Rehabilitation and Correction. 80568

PARENT AWARENESS TASK FORCE 80569

The Parent Awareness Task Force shall study ways to engage 80570
more parents in activities, coalitions, and educational programs 80571
in Ohio relating to alcohol and other drug abuse prevention. Of 80572
the foregoing appropriation item 038-404, Prevention Services, 80573
\$30,000 in each fiscal year may be used to support the functions 80574
of the Parent Awareness Task Force. 80575

COMMUNITY CAPITAL ASSISTANCE FUNDS 80576

Any proceeds from the repayment of ODADAS community capital 80577
assistance funds from St. Anthony's Villa shall be deposited into 80578
Fund 475, appropriation item 038-621, Statewide Treatment and 80579
Prevention, and such amounts are hereby appropriated for 80580

distribution to other community capital assistance projects in 80581
 Lucas County. 80582

Section 15. AMB AMBULANCE LICENSING BOARD 80583

General Services Fund Group 80584
 4N1 915-601 Operating Expenses \$ 272,340 \$ 284,054 80585
 TOTAL GSF General Services 80586
 Fund Group \$ 272,340 \$ 284,054 80587
 TOTAL ALL BUDGET FUND GROUPS \$ 272,340 \$ 284,054 80588

Section 16. ARC STATE BOARD OF EXAMINERS OF ARCHITECTS 80590

General Services Fund Group 80591
 4K9 891-609 Operating Expenses \$ 480,574 \$ 479,574 80592
 TOTAL GSF General Services Fund 80593
 Group \$ 480,574 \$ 479,574 80594
 TOTAL ALL BUDGET FUND GROUPS \$ 480,574 \$ 479,574 80595

Section 17. ART OHIO ARTS COUNCIL 80597

General Revenue Fund 80598
 GRF 370-100 Personal Services \$ 1,896,848 \$ 1,892,879 80599
 GRF 370-200 Maintenance \$ 547,404 \$ 532,998 80600
 GRF 370-300 Equipment \$ 227,788 \$ 27,056 80601
 GRF 370-502 Program Subsidies \$ 9,896,320 \$ 9,648,912 80602
 TOTAL GRF General Revenue Fund \$ 12,568,360 \$ 12,101,845 80603
 General Services Fund Group 80604
 4B7 370-603 Per Cent for Art \$ 86,366 \$ 86,366 80605
 Acquisitions
 460 370-602 Operations \$ 429,325 \$ 429,325 80606
 TOTAL GSF General Services Fund \$ 515,691 \$ 515,691 80607
 Group
 Federal Special Revenue Fund Group 80608
 314 370-601 Federal Programs \$ 1,657,300 \$ 1,657,300 80609

TOTAL FED Federal Special Revenue	\$	1,657,300	\$	1,657,300	80610
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	14,741,351	\$	14,274,836	80611
EQUIPMENT					80612
Of the foregoing appropriation item 370-300, Equipment,					80613
\$200,000 in fiscal year 2004 shall be used for computer upgrades.					80614
PROGRAM SUBSIDIES					80615
A museum is not eligible to receive funds from appropriation					80616
item 370-502, Program Subsidies, if \$8,000,000 or more in capital					80617
appropriations were appropriated by the state for the museum					80618
between January 1, 1986, and December 31, 2002.					80619
PER CENT FOR ART ACQUISITIONS					80620
The unencumbered balance remaining from prior projects of					80621
appropriation item 370-603, Per Cent for Art Acquisitions, shall					80622
be used by the Ohio Arts Council to pay for start-up costs in					80623
connection with the selection of artists of new Per Cent for Art					80624
projects.					80625
Section 18. AFC OHIO ARTS AND SPORTS FACILITIES COMMISSION					80626
General Revenue Fund					80627
GRF 371-321 Operating Expenses	\$	97,451	\$	97,451	80628
GRF 371-401 Lease Rental Payments	\$	36,283,800	\$	37,617,700	80629
TOTAL GRF General Revenue Fund	\$	36,381,251	\$	37,715,151	80630
State Special Revenue Fund Group					80631
4T8 371-601 Riffe Theatre	\$	23,194	\$	23,194	80632
Equipment Maintenance					
4T8 371-603 Project Administration	\$	1,035,377	\$	1,074,339	80633
TOTAL SSR State Special Revenue	\$	1,058,571	\$	1,097,533	80634
Group					
TOTAL ALL BUDGET FUND GROUPS	\$	37,439,822	\$	38,812,684	80635

OHIO BUILDING AUTHORITY LEASE PAYMENTS 80636

The foregoing appropriation item 371-401, Lease Rental 80637
Payments, shall be used by the Arts and Sports Facilities 80638
Commission for payments to the Ohio Building Authority for the 80639
period from July 1, 2003, to June 30, 2005, pursuant to the 80640
primary leases and agreements for those buildings made under 80641
Chapter 152. of the Revised Code, but limited to the aggregate 80642
amount of \$73,901,500. This appropriation is the source of funds 80643
pledged for bond service charges on related obligations issued 80644
pursuant to Chapter 152. of the Revised Code. 80645

OPERATING EXPENSES 80646

The foregoing appropriation item 371-603, Project 80647
Administration, shall be used by the Ohio Arts and Sports 80648
Facilities Commission to carry out its responsibilities pursuant 80649
to this section and Chapter 3383. of the Revised Code. 80650

Within ten days after the effective date of this section, or 80651
as soon as possible thereafter, the Director of Budget and 80652
Management shall determine the amount of cash from interest 80653
earnings to be transferred from the Arts Facilities Building Fund 80654
(Fund 030) and the Sports Facilities Building Fund (Fund 024) to 80655
the Arts and Sports Facilities Commission Administration Fund 80656
(Fund 4T8). The total amount transferred in fiscal year 2004 and 80657
fiscal year 2005 may not exceed the total biennial appropriation 80658
of \$2,109,716 in appropriation item 371-603, Project 80659
Administration. 80660

By July 10, 2004, or as soon as possible thereafter, the 80661
Director of Budget and Management shall determine the amount of 80662
cash from interest earnings to be transferred from the Arts 80663
Facilities Building Fund (Fund 030) and the Sports Facilities 80664
Building Fund (Fund 024) to the Arts and Sports Commission 80665
Administration Fund (Fund 4T8). The total amount transferred in 80666

fiscal year 2004 and in fiscal year 2005 may not exceed the total 80667
 biennial appropriation of \$2,109,716 in appropriation item 80668
 371-603, Project Administration. 80669

Section 19. ATH ATHLETIC COMMISSION 80670

General Services Fund Group 80671

4K9 175-609 Athletic Commission - \$ 188,250 \$ 200,205 80672

Operating

TOTAL GSF General Services Fund \$ 188,250 \$ 200,205 80673

Group

TOTAL ALL BUDGET FUND GROUPS \$ 188,250 \$ 200,205 80674

TRANSFER OF CASH BALANCE FROM FUND 5R1 80675

On July 1, 2003, or as soon thereafter as possible, the 80676
 Director of Budget and Management shall transfer the cash balance 80677
 in the Athlete Agents Registration Fund (Fund 5R1) that was 80678
 created in former section 4771.22 of the Revised Code to the 80679
 Occupational Licensing and Regulatory Fund (Fund 4K9). The 80680
 director shall cancel any existing encumbrances against 80681
 appropriation item 175-602, Athlete Agents Registration (Fund 80682
 5R1), and reestablish them against appropriation item 175-609, 80683
 Athletic Commission - Operating (Fund 4K9). The amounts of the 80684
 reestablished encumbrances are hereby appropriated. 80685

Section 20. AGO ATTORNEY GENERAL 80686

General Revenue Fund 80687

GRF 055-321 Operating Expenses \$ 53,885,937 \$ 53,885,937 80688

GRF 055-405 Law-Related Education \$ 193,402 \$ 194,183 80689

GRF 055-406 Community Police Match \$ 2,258,843 \$ 2,258,843 80690

and Law Enforcement

Assistance

GRF 055-411 County Sheriffs \$ 731,879 \$ 736,929 80691

GRF 055-415 County Prosecutors \$ 717,182 \$ 723,490 80692

TOTAL GRF General Revenue Fund	\$	57,787,243	\$	57,799,382	80693
General Services Fund Group					80694
106 055-612 General Reimbursement	\$	18,870,196	\$	18,870,196	80695
107 055-624 Employment Services	\$	984,396	\$	984,396	80696
195 055-660 Workers' Compensation	\$	7,769,628	\$	7,769,628	80697
Section					
4Y7 055-608 Title Defect	\$	570,623	\$	570,623	80698
Rescission					
4Z2 055-609 BCI Asset Forfeiture	\$	332,109	\$	332,109	80699
and Cost Reimbursement					
418 055-615 Charitable Foundations	\$	1,899,066	\$	1,899,066	80700
420 055-603 Attorney General	\$	446,449	\$	446,449	80701
Antitrust					
421 055-617 Police Officers'	\$	1,193,213	\$	1,193,213	80702
Training Academy Fee					
5A9 055-618 Telemarketing Fraud	\$	52,378	\$	52,378	80703
Enforcement					
590 055-633 Peace Officer Private	\$	98,370	\$	98,370	80704
Security Fund					
629 055-636 Corrupt Activity	\$	108,230	\$	108,230	80705
Investigation and					
Prosecution					
631 055-637 Consumer Protection	\$	1,373,832	\$	1,373,832	80706
Enforcement					
TOTAL GSF General Services Fund					80707
Group	\$	33,698,490	\$	33,698,490	80708
Federal Special Revenue Fund Group					80709
3E5 055-638 Anti-Drug Abuse	\$	1,923,400	\$	1,981,102	80710
3R6 055-613 Attorney General	\$	3,730,191	\$	3,842,097	80711
Federal Funds					
306 055-620 Medicaid Fraud Control	\$	2,882,970	\$	2,969,459	80712
381 055-611 Civil Rights Legal	\$	390,815	\$	390,815	80713

Service				
383	055-634	Crime Victims	\$ 17,561,250	\$ 18,439,313 80714
Assistance				
TOTAL FED Federal Special Revenue				80715
Fund Group			\$ 26,488,626	\$ 27,622,786 80716
State Special Revenue Fund Group				80717
4L6	055-606	DARE	\$ 3,927,962	\$ 3,927,962 80718
402	055-616	Victims of Crime	\$ 27,933,893	\$ 27,933,893 80719
417	055-621	Domestic Violence	\$ 14,492	\$ 14,492 80720
Shelter				
419	055-623	Claims Section	\$ 13,649,954	\$ 13,649,954 80721
659	055-641	Solid and Hazardous	\$ 621,159	\$ 621,159 80722
Waste Background				
Investigations				
TOTAL SSR State Special Revenue				80723
Fund Group			\$ 46,147,460	\$ 46,147,460 80724
Holding Account Redistribution Fund Group				80725
R03	055-629	Bingo License Refunds	\$ 5,200	\$ 5,200 80726
R04	055-631	General Holding	\$ 275,000	\$ 275,000 80727
Account				
R05	055-632	Antitrust Settlements	\$ 10,400	\$ 10,400 80728
R18	055-630	Consumer Frauds	\$ 750,000	\$ 750,000 80729
R42	055-601	Organized Crime	\$ 200,000	\$ 200,000 80730
Commission Account				
TOTAL 090 Holding Account				80731
Redistribution Fund Group			\$ 1,240,600	\$ 1,240,600 80732
TOTAL ALL BUDGET FUND GROUPS				\$ 165,362,419 \$ 166,508,718 80733
LAW-RELATED EDUCATION				80734
The foregoing appropriation item 055-405, Law-Related				80735
Education, shall be distributed directly to the Ohio Center for				80736
Law-Related Education for the purposes of providing continuing				80737
citizenship education activities to primary and secondary students				80738

and accessing additional public and private money for new programs. 80739
80740

WORKERS' COMPENSATION SECTION 80741

The Workers' Compensation Section Fund (Fund 195) shall 80742
receive payments from the Bureau of Workers' Compensation and the 80743
Ohio Industrial Commission at the beginning of each quarter of 80744
each fiscal year to fund legal services to be provided to the 80745
Bureau of Workers' Compensation and the Ohio Industrial Commission 80746
during the ensuing quarter. Such advance payment shall be subject 80747
to adjustment. 80748

In addition, the Bureau of Workers' Compensation shall 80749
transfer payments at the beginning of each quarter for the support 80750
of the Workers' Compensation Fraud Unit. 80751

All amounts shall be mutually agreed upon by the Attorney 80752
General, the Bureau of Workers' Compensation, and the Ohio 80753
Industrial Commission. 80754

CORRUPT ACTIVITY INVESTIGATION AND PROSECUTION 80755

The foregoing appropriation item 055-636, Corrupt Activity 80756
Investigation and Prosecution, shall be used as provided by 80757
division (D)(2) of section 2923.35 of the Revised Code to dispose 80758
of the proceeds, fines, and penalties credited to the Corrupt 80759
Activity Investigation and Prosecution Fund, which is created in 80760
division (D)(1)(b) of section 2923.35 of the Revised Code. If it 80761
is determined that additional amounts are necessary, the amounts 80762
are hereby appropriated. 80763

COMMUNITY POLICE MATCH AND LAW ENFORCEMENT ASSISTANCE 80764

In fiscal years 2004 and 2005, the Attorney General's Office 80765
may request the Director of Budget and Management to transfer 80766
appropriation authority from appropriation item 055-321, Operating 80767
Expenses, to appropriation item 055-406, Community Police Match 80768

and Law Enforcement Assistance. The Director of Budget and 80769
Management shall then transfer appropriation authority from 80770
appropriation item 055-321, Operating Expenses, to appropriation 80771
item 055-406, Community Police Match and Law Enforcement 80772
Assistance. Moneys transferred to appropriation item 055-406, 80773
Community Police Match and Law Enforcement Assistance, shall be 80774
used to pay operating expenses and to provide grants to local law 80775
enforcement agencies and communities for the purpose of supporting 80776
law enforcement-related activities. 80777

Section 21. AUD AUDITOR OF STATE 80778

General Revenue Fund 80779

GRF 070-321 Operating Expenses \$ 30,813,217 \$ 30,813,217 80780

GRF 070-403 Fiscal Watch/Emergency \$ 750,000 \$ 950,000 80781
Technical Assistance

GRF 070-405 Electronic Data \$ 823,193 \$ 823,193 80782
Processing - Auditing
and Administration

GRF 070-406 Uniform Accounting \$ 1,774,394 \$ 1,774,394 80783
Network/Technology
Improvements Fund

TOTAL GRF General Revenue Fund \$ 34,160,804 \$ 34,360,804 80784

General Services Fund Group 80785

109 070-601 Public Audit Expense - \$ 10,592,547 \$ 11,651,800 80786
Intra-State

422 070-601 Public Audit Expense - \$ 37,617,072 \$ 39,497,925 80787
Local Government

584 070-603 Training Program \$ 124,999 \$ 131,250 80788

675 070-605 Uniform Accounting \$ 3,015,760 \$ 3,317,336 80789
Network

TOTAL GSF General Services Fund 80790

Group \$ 51,350,378 \$ 54,598,311 80791

Holding Account Redistribution Fund Group				80792
R06 070-604 Continuous Receipts	\$	50,000	\$ 60,000	80793
TOTAL 090 Holding Account				80794
Redistribution Fund Group	\$	50,000	\$ 60,000	80795
TOTAL ALL BUDGET FUND GROUPS	\$	85,561,182	\$ 89,019,115	80796

FISCAL WATCH/EMERGENCY TECHNICAL ASSISTANCE 80797

The foregoing appropriation item 070-403, Fiscal 80798
Watch/Emergency Technical Assistance, shall be used for all 80799
expenses incurred by the Office of the Auditor of State in its 80800
role relating to fiscal watch or fiscal emergency activities under 80801
Chapters 118. and 3316. of the Revised Code. Expenses include, but 80802
are not limited to, the following: duties related to the 80803
determination or termination of fiscal watch or fiscal emergency 80804
of municipal corporations, counties, or townships as outlined in 80805
Chapter 118. of the Revised Code and of school districts as 80806
outlined in Chapter 3316. of the Revised Code; development of 80807
preliminary accounting reports; performance of annual forecasts; 80808
provision of performance audits; and supervisory, accounting, or 80809
auditing services for the mentioned public entities and school 80810
districts. The unencumbered balance of appropriation item 070-403, 80811
Fiscal Watch/Emergency Technical Assistance, at the end of fiscal 80812
year 2004 is transferred to fiscal year 2005 for use under the 80813
same appropriation item. 80814

ELECTRONIC DATA PROCESSING 80815

The unencumbered balance of appropriation item 070-405, 80816
Electronic Data Processing - Auditing and Administration, at the 80817
end of fiscal year 2004 is transferred to fiscal year 2005 for use 80818
under the same appropriation item. 80819

UNIFORM ACCOUNTING NETWORK/TECHNOLOGY IMPROVEMENTS FUND 80820

The foregoing appropriation item 070-406, Uniform Accounting 80821
Network/Technology Improvements Fund, shall be used to pay the 80822

costs of developing and implementing the Uniform Accounting 80823
 Network and technology improvements for the Office of the Auditor 80824
 of State. The unencumbered balance of the appropriation at the end 80825
 of fiscal year 2004 is transferred to fiscal year 2005 to pay the 80826
 costs of developing and implementing the Uniform Accounting 80827
 Network and technology improvements for the Office of the Auditor 80828
 of State. 80829

Section 22. BRB BOARD OF BARBER EXAMINERS 80830

General Services Fund Group 80831
 4K9 877-609 Operating Expenses \$ 535,853 \$ 555,037 80832
 TOTAL GSF General Services Fund 80833
 Group \$ 535,853 \$ 555,037 80834
 TOTAL ALL BUDGET FUND GROUPS \$ 535,853 \$ 555,037 80835

Section 23. OBM OFFICE OF BUDGET AND MANAGEMENT 80837

General Revenue Fund 80838
 GRF 042-321 Budget Development and \$ 3,092,469 \$ 2,405,243 80839
 Implementation
 GRF 042-409 Commission Closures \$ 95,000 \$ 0 80840
 GRF 042-410 National Association \$ 27,089 \$ 27,902 80841
 Dues
 GRF 042-412 Audit of Auditor of \$ 62,110 \$ 55,760 80842
 State
 TOTAL GRF General Revenue Fund \$ 3,276,668 \$ 2,488,905 80843
 General Services Fund Group 80844
 105 042-603 State Accounting \$ 9,131,651 \$ 9,375,862 80845
 TOTAL GSF General Services Fund \$ 9,131,651 \$ 9,375,862 80846
 Group
 State Special Revenue Fund Group 80847
 5N4 042-602 OAKS Project \$ 2,062,875 \$ 2,069,125 80848
 Implementation

TOTAL SSR State Special Revenue	\$	2,062,875	\$	2,069,125	80849
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	14,471,194	\$	13,933,892	80850
AUDIT COSTS					80851
Of the foregoing appropriation item 042-603, State					80852
Accounting, not more than \$400,000 in fiscal year 2004 and					80853
\$415,000 in fiscal year 2005 shall be used to pay for centralized					80854
audit costs associated with either Single Audit Schedules or					80855
financial statements prepared in conformance with generally					80856
accepted accounting principles for the state.					80857
Section 24. CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD					80858
General Revenue Fund					80859
GRF 874-100 Personal Services	\$	2,031,400	\$	2,051,400	80860
GRF 874-320 Maintenance and	\$	1,022,262	\$	982,929	80861
Equipment					
TOTAL GRF General Revenue Fund	\$	3,053,662	\$	3,034,329	80862
General Services Fund Group					80863
4G5 874-603 Capitol Square	\$	15,000	\$	15,000	80864
Maintenance Expenses					
4S7 874-602 Statehouse Gift	\$	770,484	\$	770,484	80865
Shop/Events					
TOTAL GSF General Services					80866
Fund Group	\$	785,484	\$	785,484	80867
Underground Parking Garage					80868
208 874-601 Underground Parking	\$	2,996,801	\$	2,959,721	80869
Garage Operating					
TOTAL UPG Underground Parking					80870
Garage	\$	2,996,801	\$	2,959,721	80871
TOTAL ALL BUDGET FUND GROUPS	\$	6,835,947	\$	6,779,534	80872

Section 25. SCR STATE BOARD OF CAREER COLLEGES AND SCHOOLS 80874

General Services Fund Group				80875
4K9 233-601 Operating Expenses	\$	404,025	\$ 431,525	80876
TOTAL GSF General Services Fund	\$	404,025	\$ 431,525	80877
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	404,025	\$ 431,525	80878

Section 26. CDP CHEMICAL DEPENDENCY PROFESSIONALS BOARD 80880

General Services Fund Group				80881
4K9 930-609 Operating Expenses	\$	225,000	\$ 450,000	80882
TOTAL GSF General Services Fund	\$	225,000	\$ 450,000	80883
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	225,000	\$ 450,000	80884

Notwithstanding any other law to the contrary, upon 80885
certification by the Director of Administrative Services, the 80886
Director of Budget and Management may transfer cash in an amount 80887
not to exceed the fiscal year 2004 appropriation from Fund 5P1 80888
(Credentialing Fund) to Fund 4K9 (Occupational Licensing). The 80889
amount transferred is hereby appropriated. The cash shall be used 80890
to pay expenses related to establishing the Chemical Dependency 80891
Professionals Board, including, but not limited to, travel 80892
reimbursement of board members. 80893

Upon completion of the transition of the Department of 80894
Alcohol and Drug Addiction's certificates and credentials issuance 80895
program to the Chemical Dependency Professionals Board, the 80896
Director of Alcohol and Drug Addiction Services shall certify to 80897
the Director of Budget and Management the remaining cash in Fund 80898
5P1 (Credentialing Fund). The Director of Budget and Management 80899
shall transfer the certified balance from Fund 5P1 to Fund 4K9 80900
(Occupational Licensing). This transition shall be completed in 80901
accordance with Section 5 of Am. Sub. H.B. 496 of the 124th 80902
General Assembly. 80903

Section 27. CHR STATE CHIROPRACTIC BOARD				80904
General Services Fund Group				80905
4K9 878-609 Operating Expenses	\$	591,724	\$ 591,724	80906
TOTAL GSF General Services Fund				80907
Group	\$	591,724	\$ 591,724	80908
TOTAL ALL BUDGET FUND GROUPS	\$	591,724	\$ 591,724	80909
Section 28. CIV OHIO CIVIL RIGHTS COMMISSION				80911
General Revenue Fund				80912
GRF 876-100 Personal Services	\$	7,000,000	\$ 7,000,000	80913
GRF 876-200 Maintenance	\$	400,000	\$ 400,000	80914
GRF 876-300 Equipment	\$	91,298	\$ 91,298	80915
TOTAL GRF General Revenue Fund	\$	7,491,298	\$ 7,491,298	80916
Federal Special Revenue Fund Group				80917
334 876-601 Federal Programs	\$	3,965,000	\$ 3,790,000	80918
TOTAL FED Federal Special Revenue				80919
Fund Group	\$	3,965,000	\$ 3,790,000	80920
State Special Revenue Fund Group				80921
217 876-604 General Reimbursement	\$	20,951	\$ 20,951	80922
TOTAL SSR State Special				80923
Revenue Fund Group	\$	20,951	\$ 20,951	80924
TOTAL ALL BUDGET FUND GROUPS	\$	11,477,249	\$ 11,302,249	80925
Section 29. COM DEPARTMENT OF COMMERCE				80927
General Revenue Fund				80928
GRF 800-410 Labor and Worker	\$	3,700,040	\$ 3,725,040	80929
Safety				
Total GRF General Revenue Fund	\$	3,700,040	\$ 3,725,040	80930
General Services Fund Group				80931
163 800-620 Division of	\$	3,385,803	\$ 3,490,056	80932

Administration					
163	800-637	Information Technology	\$ 2,753,299	\$ 2,772,924	80933
TOTAL GSF General Services Fund					80934
Group			\$ 6,139,102	\$ 6,262,980	80935
Federal Special Revenue Fund Group					80936
348	800-622	Underground Storage	\$ 195,008	\$ 195,008	80937
Tanks					
348	800-624	Leaking Underground	\$ 1,850,000	\$ 1,850,000	80938
Storage Tanks					
349	800-626	OSHA Enforcement	\$ 1,527,750	\$ 1,604,140	80939
TOTAL FED Federal Special Revenue					80940
Fund Group			\$ 3,572,758	\$ 3,649,148	80941
State Special Revenue Fund Group					80942
4B2	800-631	Real Estate Appraisal	\$ 60,000	\$ 60,000	80943
Recovery					
4H9	800-608	Cemeteries	\$ 273,465	\$ 273,465	80944
4X2	800-619	Financial Institutions	\$ 2,020,798	\$ 2,200,843	80945
5B9	800-632	PI & Security Guard	\$ 784,550	\$ 0	80946
Provider					
5K7	800-621	Penalty Enforcement	\$ 50,000	\$ 50,000	80947
543	800-602	Unclaimed	\$ 7,051,051	\$ 7,051,051	80948
Funds-Operating					
543	800-625	Unclaimed Funds-Claims	\$ 25,512,867	\$ 25,512,867	80949
544	800-612	Banks	\$ 6,657,997	\$ 6,657,997	80950
545	800-613	Savings Institutions	\$ 2,765,618	\$ 2,894,330	80951
546	800-610	Fire Marshal	\$ 3,868,918	\$ 0	80952
547	800-603	Real Estate	\$ 250,000	\$ 250,000	80953
Education/Research					
548	800-611	Real Estate Recovery	\$ 100,000	\$ 100,000	80954
549	800-614	Real Estate	\$ 3,586,754	\$ 3,705,892	80955
550	800-617	Securities	\$ 4,600,000	\$ 4,800,000	80956
552	800-604	Credit Union	\$ 2,613,356	\$ 2,751,852	80957

553	800-607	Consumer Finance	\$	3,764,279	\$	3,735,445	80958
556	800-615	Industrial Compliance	\$	24,627,687	\$	25,037,257	80959
6A4	800-630	Real Estate	\$	658,506	\$	664,006	80960
		Appraiser-Operating					
653	800-629	UST	\$	1,353,632	\$	1,249,632	80961
		Registration/Permit					
		Fee					
TOTAL SSR State Special Revenue							80962
Fund Group			\$	90,599,478	\$	86,994,637	80963
Liquor Control Fund Group							80964
043	800-601	Merchandising	\$	341,079,554	\$	353,892,432	80965
043	800-627	Liquor Control	\$	17,248,488	\$	15,981,346	80966
		Operating					
043	800-633	Economic Development	\$	23,277,500	\$	29,029,500	80967
		Debt Service					
043	800-636	Revitalization Debt	\$	4,747,800	\$	9,736,300	80968
		Service					
TOTAL LCF Liquor Control							80969
Fund Group			\$	386,353,342	\$	408,639,578	80970
TOTAL ALL BUDGET FUND GROUPS			\$	490,364,720	\$	509,271,383	80971
LABOR AND WORKER SAFETY							80972
The Department of Commerce may designate a portion of							80973
appropriation item 800-410, Labor and Worker Safety, to be used to							80974
match federal funding for the OSHA on-site consultation program.							80975
PENALTY ENFORCEMENT							80976
The foregoing appropriation item 800-621, Penalty							80977
Enforcement, shall be used to enforce sections 4115.03 to 4115.16							80978
of the Revised Code.							80979
UNCLAIMED FUNDS PAYMENTS							80980
The foregoing appropriation item 800-625, Unclaimed							80981
Funds-Claims, shall be used to pay claims pursuant to section							80982

169.08 of the Revised Code. If it is determined that additional 80983
amounts are necessary, the amounts are hereby appropriated. 80984

BANKS FUND (FUND 544) TRANSFER TO THE GRF 80985

On July 31, 2003, or as soon as possible thereafter, the 80986
Director of Budget and Management may transfer up to \$2,000,000 80987
cash from the Banks Fund (Fund 544) to the General Revenue Fund. 80988

FIRE MARSHAL FUND (FUND 546) TRANSFER TO THE GRF 80989

On July 31, 2003, or as soon as possible thereafter, the 80990
Director of Budget and Management may transfer up to \$10,000,000 80991
cash from the Fire Marshal Fund (Fund 546) to the General Revenue 80992
Fund. 80993

REAL ESTATE FUND (FUND 549) TRANSFER TO THE GRF 80994

On July 31, 2003, or as soon as possible thereafter, the 80995
Director of Budget and Management may transfer up to \$1,000,000 80996
cash from the Real Estate Fund (Fund 549) to the General Revenue 80997
Fund. 80998

INDUSTRIAL COMPLIANCE FUND (FUND 556) TRANSFER TO THE GRF 80999

On July 31, 2003, or as soon as possible thereafter, the 81000
Director of Budget and Management may transfer up to \$1,000,000 81001
cash from the Industrial Compliance Fund (Fund 556), to the 81002
General Revenue Fund. 81003

INCREASED APPROPRIATION AUTHORITY - MERCHANDISING 81004

The foregoing appropriation item 800-601, Merchandising, 81005
shall be used pursuant to section 4301.12 of the Revised Code. If 81006
it is determined that additional amounts are necessary, the 81007
amounts are hereby appropriated. 81008

ECONOMIC DEVELOPMENT DEBT SERVICE 81009

The foregoing appropriation item 800-633, Economic 81010
Development Debt Service, shall be used to meet all payments at 81011

the times they are required to be made during the period from July 81012
1, 2003, to June 30, 2005, for bond service charges on obligations 81013
issued under Chapter 166. of the Revised Code. If it is determined 81014
that additional appropriations are necessary for this purpose, 81015
such amounts are hereby appropriated, subject to the limitations 81016
set forth in section 166.11 of the Revised Code. The General 81017
Assembly acknowledges that an appropriation for this purpose is 81018
not required, but is made in this form and in this act for record 81019
purposes only. 81020

REVITALIZATION DEBT SERVICE 81021

The foregoing appropriation item 800-636, Revitalization Debt 81022
Service, shall be used to pay debt service and related financing 81023
costs under sections 151.01 and 151.40 of the Revised Code during 81024
the period from July 1, 2003, to June 30, 2005. If it is 81025
determined that additional appropriations are necessary for this 81026
purpose, such amounts are hereby appropriated. The General 81027
Assembly acknowledges the priority of the pledge of a portion of 81028
receipts from that source to obligations issued and to be issued 81029
under Chapter 166. of the Revised Code. 81030

ADMINISTRATIVE ASSESSMENTS 81031

Notwithstanding any other provision of law to the contrary, 81032
Fund 163, Division of Administration, shall receive assessments 81033
from all operating funds of the department in accordance with 81034
procedures prescribed by the Director of Commerce and approved by 81035
the Director of Budget and Management. 81036

Section 30. OCC OFFICE OF CONSUMERS' COUNSEL 81037

General Services Fund Group 81038

5F5 053-601 Operating Expenses \$ 9,277,519 \$ 9,277,519 81039

TOTAL GSF General Services Fund \$ 9,277,519 \$ 9,277,519 81040

Group

TOTAL ALL BUDGET FUND GROUPS	\$	9,277,519	\$	9,277,519	81041
Section 31. CEB CONTROLLING BOARD					81043
General Revenue Fund					81044
GRF 911-401 Emergency	\$	5,000,000	\$	5,000,000	81045
Purposes/Contingencies					
GRF 911-404 Mandate Assistance	\$	1,462,500	\$	1,462,500	81046
GRF 911-441 Ballot Advertising	\$	887,500	\$	487,500	81047
Costs					
TOTAL GRF General Revenue Fund	\$	7,350,000	\$	6,950,000	81048
State Special Revenue Fund Group					81049
5E2 911-601 Disaster Services	\$	4,000,000	\$	0	81050
TOTAL SSR State Special					81051
Revenue Fund Group	\$	4,000,000	\$	0	81052
TOTAL ALL BUDGET FUND GROUPS	\$	11,350,000	\$	6,950,000	81053
FEDERAL SHARE					81054
In transferring appropriations to or from appropriation items					81055
that have federal shares identified in this act, the Controlling					81056
Board shall add or subtract corresponding amounts of federal					81057
matching funds at the percentages indicated by the state and					81058
federal division of the appropriations in this act. Such changes					81059
are hereby appropriated.					81060
DISASTER ASSISTANCE					81061
Pursuant to requests submitted by the Department of Public					81062
Safety, the Controlling Board may approve transfers from the					81063
Emergency Purposes Fund to a Department of Public Safety General					81064
Revenue Fund appropriation item to provide funding for assistance					81065
to political subdivisions made necessary by natural disasters or					81066
emergencies. Such transfers may be requested and approved prior to					81067
the occurrence of any specific natural disasters or emergencies in					81068
order to facilitate the provision of timely assistance.					81069

SOUTHERN OHIO CORRECTIONAL FACILITY COST	81070
The Office of Criminal Justice Services and the Public Defender Commission may each request, upon approval of the Director of Budget and Management, additional funds from the Emergency Purposes Fund for costs related to the disturbance that occurred on April 11, 1993, at the Southern Ohio Correctional Facility in Lucasville, Ohio.	81071 81072 81073 81074 81075 81076
DISASTER SERVICES	81077
Pursuant to requests submitted by the Department of Public Safety, the Controlling Board may approve transfers from the foregoing appropriation item 911-601, Disaster Services, to a Department of Public Safety General Revenue Fund appropriation item to provide for assistance to political subdivisions made necessary by natural disasters or emergencies. These transfers may be requested and approved prior to the occurrence of any specific natural disasters or emergencies in order to facilitate the provision of timely assistance. The Emergency Management Agency of the Department of Public Safety shall use the funding for disaster aid requests that meet the Emergency Management Agency's criteria for assistance.	81078 81079 81080 81081 81082 81083 81084 81085 81086 81087 81088 81089
The foregoing appropriation item 911-601, Disaster Services, shall be used by the Controlling Board, pursuant to requests submitted by state agencies, to transfer cash and appropriation authority to any fund and appropriation item for the payment of state agency program expenses as follows:	81090 81091 81092 81093 81094
(A) The southern Ohio flooding, referred to as FEMA-DR-1164-OH;	81095 81096
(B) The flood/storm disaster referred to as FEMA-DR-1227-OH;	81097
(C) The Southern Ohio flooding, referred to as FEMA-DR-1321-OH;	81098 81099

(D) The flooding referred to as FEMA-DR-1339-OH;	81100
(E) The tornado/storms referred to as FEMA-DR-1343-OH;	81101
(F) Other disasters declared by the Governor, if the Director of Budget and Management determines that sufficient funds exist beyond the expected program costs of these disasters.	81102 81103 81104
The unencumbered balance of appropriation item 911-601, Disaster Services, at the end of fiscal year 2004 is transferred to fiscal year 2005 for use under the same appropriation item.	81105 81106 81107
MANDATE ASSISTANCE	81108
(A) The foregoing appropriation item 911-404, Mandate Assistance, shall be used to provide financial assistance to local units of government, school districts, and fire departments for the cost of the following three unfunded state mandates:	81109 81110 81111 81112
(1) The cost to county prosecutors for prosecuting certain felonies that occur on the grounds of state institutions operated by the Department of Rehabilitation and Correction and the Department of Youth Services;	81113 81114 81115 81116
(2) The cost, primarily to small villages and townships, of providing firefighter training and equipment or gear;	81117 81118
(3) The cost to school districts of in-service training for child abuse detection.	81119 81120
(B) The Department of Public Safety, the Office of Criminal Justice Services, and the Department of Education may prepare and submit to the Controlling Board one or more requests to transfer appropriations from appropriation item 911-404, Mandate Assistance. The state agencies charged with this administrative responsibility are listed below, as well as the estimated annual amounts that may be used for each program of state financial assistance.	81121 81122 81123 81124 81125 81126 81127 81128
ADMINISTERING	81129
ESTIMATED ANNUAL	81129

PROGRAM	AGENCY	AMOUNT	
			81130
Prosecution Costs	Office of Criminal Justice Services	\$146,500	81131
			81132
Firefighter Training Costs	Department of Public Safety	\$731,000	81133
Child Abuse Detection Training Costs	Department of Education	\$585,000	81134

(C) Subject to the total amount appropriated in each fiscal year for appropriation item 911-404, Mandate Assistance, the Department of Public Safety, the Office of Criminal Justice Services, and the Department of Education may request from the Controlling Board that amounts smaller or larger than these estimated annual amounts be transferred to each program.

(D) In addition to making the initial transfers requested by the Department of Commerce, the Office of Criminal Justice Services, and the Department of Education, the Controlling Board may transfer appropriations received by a state agency under this section back to appropriation item 911-404, Mandate Assistance, or to one or more of the other programs of state financial assistance identified under this section.

(E) It is expected that not all costs incurred by local units of government, school districts, and fire departments under each of the three programs of state financial assistance identified under this section will be fully reimbursed by the state. Reimbursement levels may vary by program and shall be based on: the relationship between the appropriation transfers requested by the Department of Public Safety, the Office of Criminal Justice Services, and the Department of Education and provided by the Controlling Board for each of the programs; the rules and procedures established for each program by the administering state agency; and the actual costs incurred by local units of government, school districts, and fire departments.

(F) Each of these programs of state financial assistance	81160
shall be carried out as follows:	81161
(1) PROSECUTION COSTS	81162
(a) Appropriations may be transferred to the Office of	81163
Criminal Justice Services to cover local prosecution costs for	81164
aggravated murder, murder, felonies of the first degree, and	81165
felonies of the second degree that occur on the grounds of	81166
institutions operated by the Department of Rehabilitation and	81167
Correction and the Department of Youth Services.	81168
(b) Upon a delinquency filing in juvenile court or the return	81169
of an indictment for aggravated murder, murder, or any felony of	81170
the first or second degree that was committed at a Department of	81171
Youth Services or a Department of Rehabilitation and Correction	81172
institution, the affected county may, in accordance with rules	81173
that the Office of Criminal Justice Services shall adopt, apply to	81174
the Office of Criminal Justice Services for a grant to cover all	81175
documented costs that are incurred by the county prosecutor's	81176
office.	81177
(c) Twice each year, the Office of Criminal Justice Services	81178
shall designate counties to receive grants from those counties	81179
that have submitted one or more applications in compliance with	81180
the rules that have been adopted by the Office of Criminal Justice	81181
Services for the receipt of such grants. In each year's first	81182
round of grant awards, if sufficient appropriations have been	81183
made, up to a total of \$100,000 may be awarded. In each year's	81184
second round of grant awards, the remaining appropriations	81185
available for this purpose may be awarded.	81186
(d) If for a given round of grants there are insufficient	81187
appropriations to make grant awards to all the eligible counties,	81188
the first priority shall be given to counties with cases involving	81189
aggravated murder and murder; second priority shall be given to	81190

cases involving a felony of the first degree; and third priority 81191
shall be given to cases involving a felony of the second degree. 81192
Within these priorities, the grant awards shall be based on the 81193
order in which the applications were received, except that 81194
applications for cases involving a felony of the first or second 81195
degree shall not be considered in more than two consecutive rounds 81196
of grant awards. 81197

(2) FIREFIGHTER TRAINING COSTS 81198

Appropriations may be transferred to the Department of Public 81199
Safety for use as full or partial reimbursement to local units of 81200
government and fire departments for the cost of firefighter 81201
training and equipment or gear. In accordance with rules that the 81202
department shall adopt, a local unit of government or fire 81203
department may apply to the department for a grant to cover all 81204
documented costs that are incurred to provide firefighter training 81205
and equipment or gear. The department shall make grants within the 81206
limits of the funding provided, with priority given to fire 81207
departments that serve small villages and townships. 81208

(3) CHILD ABUSE DETECTION TRAINING COSTS 81209

Appropriations may be transferred to the Department of 81210
Education for disbursement to local school districts as full or 81211
partial reimbursement for the cost of providing in-service 81212
training for child abuse detection. In accordance with rules that 81213
the department shall adopt, a local school district may apply to 81214
the department for a grant to cover all documented costs that are 81215
incurred to provide in-service training for child abuse detection. 81216
The department shall make grants within the limits of the funding 81217
provided. 81218

(G) Any moneys allocated within appropriation item 911-404, 81219
Mandate Assistance, not fully utilized may, upon application of 81220
the Ohio Public Defender Commission, and with the approval of the 81221

Controlling Board, be disbursed to boards of county commissioners 81222
to provide additional reimbursement for the costs incurred by 81223
counties in providing defense to indigent defendants pursuant to 81224
Chapter 120. of the Revised Code. 81225

The amount to be disbursed to each county shall be allocated 81226
proportionately on the basis of the total amount of reimbursement 81227
paid to each county as a percentage of the amount of reimbursement 81228
paid to all of the counties during the most recent state fiscal 81229
year for which data is available and as calculated by the Ohio 81230
Public Defender Commission. 81231

BALLOT ADVERTISING COSTS 81232

Pursuant to requests submitted by the Ohio Ballot Board, the 81233
Controlling Board shall approve transfers from the foregoing 81234
appropriation item 911-441, Ballot Advertising Costs, to an Ohio 81235
Ballot Board appropriation item in order to reimburse county 81236
boards of elections for the cost of public notices associated with 81237
statewide ballot initiatives. 81238

Of the foregoing appropriation item 911-441, Ballot 81239
Advertising Costs, the Director of Budget and Management shall 81240
transfer any amounts that are not needed for the purpose of 81241
reimbursing county boards of elections for the cost of public 81242
notices associated with statewide ballot initiatives to 81243
appropriation item 911-404, Mandate Assistance. 81244

Section 32. COS STATE BOARD OF COSMETOLOGY 81245

General Services Fund Group 81246
4K9 879-609 Operating Expenses \$ 2,681,359 \$ 2,822,359 81247
TOTAL GSF General Services Fund 81248
Group \$ 2,681,359 \$ 2,822,359 81249
TOTAL ALL BUDGET FUND GROUPS \$ 2,681,359 \$ 2,822,359 81250

Section 33. CSW COUNSELOR, SOCIAL WORKER, AND MARRIAGE AND 81252

FAMILY THERAPIST BOARD				81253
General Services Fund Group				81254
4K9 899-609 Operating Expenses	\$	1,021,524	\$ 1,044,812	81255
TOTAL GSF General Services Fund				81256
Group	\$	1,021,524	\$ 1,044,812	81257
TOTAL ALL BUDGET FUND GROUPS	\$	1,021,524	\$ 1,044,812	81258

Section 34. CLA COURT OF CLAIMS 81260

General Revenue Fund				81261
GRF 015-321 Operating Expenses	\$	2,452,000	\$ 2,477,000	81262
TOTAL GRF General Revenue Fund	\$	2,452,000	\$ 2,477,000	81263
State Special Revenue Fund Group				81264
5K2 015-603 CLA Victims of Crime	\$	1,532,043	\$ 1,582,684	81265
TOTAL SSR State Special Revenue				81266
Fund Group	\$	1,532,043	\$ 1,582,684	81267
TOTAL ALL BUDGET FUND GROUPS	\$	3,984,043	\$ 4,059,684	81268

OFFICE SPACE RENTAL EXPENSES 81269

Of the foregoing appropriation item 015-321, Operating 81270
 Expenses, in fiscal year 2005, \$302,000 shall be for the purpose 81271
 of paying fiscal year 2005 office space rental expenses. Upon 81272
 approval of the Controlling Board, the Court of Claims may expend 81273
 up to \$302,000 for the purpose of paying fiscal year 2005 office 81274
 space rental expenses. 81275

Section 35. CJS OFFICE OF CRIMINAL JUSTICE SERVICES 81276

General Revenue Fund				81277
GRF 196-401 Criminal Justice	\$	534,570	\$ 520,503	81278
Information System				
GRF 196-403 Center for Violence	\$	20,000	\$ 20,000	81279
Prevention				
GRF 196-405 Violence Prevention	\$	707,076	\$ 688,469	81280

Subsidy			
GRF 196-424 Operating Expenses	\$	1,431,371	\$ 1,427,971 81281
TOTAL GRF General Revenue Fund	\$	2,693,017	\$ 2,656,943 81282
General Services Fund Group			81283
4P6 196-601 General Services	\$	135,450	\$ 86,500 81284
TOTAL GSF Services Fund Group	\$	135,450	\$ 86,500 81285
Federal Special Revenue Fund Group			81286
3L5 196-604 Justice Program	\$	30,334,908	\$ 30,311,870 81287
3U1 196-602 Criminal Justice	\$	1,000,000	\$ 0 81288
Federal Programs			
3V8 196-605 Federal Program	\$	250,000	\$ 0 81289
Purposes FFY 01			
TOTAL FED Federal Special Revenue	\$	31,584,908	\$ 30,311,870 81290
Fund Group			
TOTAL ALL BUDGET FUND GROUPS	\$	34,413,375	\$ 33,055,313 81291
INDIGENT DEFENSE			81292
The Office of Criminal Justice Services shall make all			81293
efforts to maximize the amount of funding available for the			81294
defense of indigent persons.			81295
CRIMINAL JUSTICE INFORMATION SYSTEM			81296
The foregoing appropriation item 196-401, Criminal Justice			81297
Information System, shall be used by the Office of Criminal			81298
Justice Services to work on a plan to improve Ohio's criminal			81299
justice information systems. The Director of Criminal Justice			81300
Services shall evaluate the progress of this plan and issue a			81301
report to the Governor, the Speaker and the Minority Leader of the			81302
House of Representatives, the President and the Minority Leader of			81303
the Senate, the Criminal Justice Policy Board, and the Legislative			81304
Service Commission by the first day of January of each year of the			81305
two-year biennium beginning July 1, 2003, and ending June 30,			81306
2005.			81307

VIOLENCE PREVENTION SUBSIDY				81308
Of the foregoing appropriation item 196-405, Violence				81309
Prevention Subsidy, \$60,000 in fiscal year 2004 shall be used for				81310
Montgomery County's STVM Safe House Domestic Transitional Housing.				81311
OPERATING EXPENSES				81312
Of the foregoing appropriation item 196-424, Operating				81313
Expenses, up to \$650,000 in each fiscal year shall be used for the				81314
purpose of matching federal funds.				81315
JUVENILE ACCOUNTABILITY INCENTIVE BLOCK GRANT				81316
The foregoing appropriation item 196-602, Criminal Justice				81317
Federal Programs, shall be used to fund and close out the Juvenile				81318
Accountability Incentive Block Grant Program for federal fiscal				81319
year 1999.				81320
Section 36. DEN STATE DENTAL BOARD				81321
General Services Fund Group				81322
4K9 880-609 Operating Expenses	\$	1,324,456	\$ 1,346,656	81323
TOTAL GSF General Services Fund				81324
Group	\$	1,324,456	\$ 1,346,656	81325
TOTAL ALL BUDGET FUND GROUPS	\$	1,324,456	\$ 1,346,656	81326
Section 37. BDP BOARD OF DEPOSIT				81328
General Services Fund Group				81329
4M2 974-601 Board of Deposit	\$	1,676,000	\$ 1,676,000	81330
TOTAL GSF General Services Fund				81331
Group	\$	1,676,000	\$ 1,676,000	81332
TOTAL ALL BUDGET FUND GROUPS	\$	1,676,000	\$ 1,676,000	81333
BOARD OF DEPOSIT EXPENSE FUND				81334
Upon receiving certification of expenses from the Treasurer				81335
of State, the Director of Budget and Management shall transfer				81336

cash from the Investment Earnings Redistribution Fund (Fund 608) 81337
to the Board of Deposit Expense Fund (Fund 4M2). The latter fund 81338
shall be used to pay for banking charges and fees required for the 81339
operation of the State of Ohio Regular Account. 81340

Section 38. DEV DEPARTMENT OF DEVELOPMENT 81341

General Revenue Fund 81342

GRF 195-321 Operating Expenses \$ 2,695,236 \$ 3,020,115 81343

GRF 195-401 Thomas Edison Program \$ 16,634,934 \$ 17,334,934 81344

GRF 195-404 Small Business \$ 1,740,722 \$ 1,740,722 81345

Development

GRF 195-405 Minority Business \$ 1,620,755 \$ 1,669,378 81346

Development Division

GRF 195-407 Travel and Tourism \$ 6,049,345 \$ 7,049,345 81347

GRF 195-408 Coal Research \$ 588,041 \$ 599,802 81348

Development

GRF 195-410 Defense Conversion \$ 2,500,000 \$ 0 81349

Assistance

GRF 195-412 Business Development \$ 9,750,000 \$ 10,500,000 81350

Grants

GRF 195-414 First Frontier Match \$ 389,987 \$ 389,987 81351

GRF 195-415 Economic Development \$ 6,394,975 \$ 6,394,975 81352

Division and Regional

Offices

GRF 195-416 Governor's Office of \$ 4,372,324 \$ 4,372,324 81353

Appalachia

GRF 195-417 Urban/Rural Initiative \$ 589,390 \$ 589,390 81354

GRF 195-422 Third Frontier Action \$ 18,000,000 \$ 20,685,000 81355

Fund

GRF 195-426 Clean Ohio \$ 518,730 \$ 518,730 81356

Administration

GRF 195-432 International Trade \$ 4,492,713 \$ 4,492,713 81357

GRF 195-433 State Marketing \$ 500,000 \$ 750,000 81358

	Program				
GRF 195-434	Investment in Training	\$ 12,227,500	\$ 12,227,500		81359
	Grants				
GRF 195-436	Labor/Management	\$ 811,869	\$ 811,869		81360
	Cooperation				
GRF 195-497	CDBG Operating Match	\$ 1,107,400	\$ 1,107,400		81361
GRF 195-498	State Energy Match	\$ 100,000	\$ 100,000		81362
GRF 195-501	Appalachian Local	\$ 380,080	\$ 380,080		81363
	Development Districts				
GRF 195-502	Appalachian Regional	\$ 238,274	\$ 246,803		81364
	Commission Dues				
GRF 195-507	Travel and Tourism	\$ 1,025,000	\$ 1,025,000		81365
	Grants				
GRF 195-515	Economic Development	\$ 10,000,000	\$ 10,000,000		81366
	Contingency				
GRF 195-516	Shovel Ready Sites	\$ 2,500,000	\$ 2,500,000		81367
GRF 195-905	Third Frontier	\$ 0	\$ 7,360,000		81368
	Research &				
	Commercialization				
	General Obligation				
	Debt Service				
GRF 195-906	Coal	\$ 7,231,200	\$ 9,185,100		81369
	Research/Development				
	General Obligation				
	Debt Service				
TOTAL GRF	General Revenue Fund	\$ 112,458,475	\$ 125,051,167		81370
	General Services Fund Group				81371
135 195-605	Supportive Services	\$ 7,417,068	\$ 7,539,686		81372
136 195-621	International Trade	\$ 24,915	\$ 24,915		81373
685 195-636	General Reimbursements	\$ 1,316,012	\$ 1,232,530		81374
TOTAL GSF	General Services Fund				81375
Group		\$ 8,757,995	\$ 8,797,131		81376

Federal Special Revenue Fund Group				81377	
3K8 195-613 Community Development	\$	65,000,000	\$	65,000,000	81378
Block Grant					
3K9 195-611 Home Energy Assistance	\$	85,036,000	\$	85,036,000	81379
Block Grant					
3K9 195-614 HEAP Weatherization	\$	16,219,479	\$	16,219,479	81380
3L0 195-612 Community Services	\$	25,235,000	\$	25,235,000	81381
Block Grant					
3V1 195-601 HOME Program	\$	40,000,000	\$	40,000,000	81382
308 195-602 Appalachian Regional	\$	350,200	\$	350,200	81383
Commission					
308 195-603 Housing and Urban	\$	5,000,000	\$	5,000,000	81384
Development					
308 195-605 Federal Projects	\$	15,300,248	\$	15,300,248	81385
308 195-609 Small Business	\$	4,196,381	\$	4,296,381	81386
Administration					
308 195-618 Energy Federal Grants	\$	3,397,659	\$	3,397,659	81387
335 195-610 Oil Overcharge	\$	8,500,000	\$	8,500,000	81388
380 195-622 Housing Development	\$	5,606,080	\$	5,667,627	81389
Operating					
TOTAL FED Federal Special Revenue				81390	
Fund Group	\$	273,841,047	\$	274,002,594	81391
State Special Revenue Fund Group				81392	
4F2 195-639 State Special Projects	\$	540,183	\$	290,183	81393
4H4 195-641 First Frontier	\$	500,000	\$	500,000	81394
4S0 195-630 Enterprise Zone	\$	211,900	\$	211,900	81395
Operating					
4S1 195-634 Job Creation Tax	\$	375,800	\$	375,800	81396
Credit Operating					
4W1 195-646 Minority Business	\$	2,580,597	\$	2,580,597	81397
Enterprise Loan					
444 195-607 Water and Sewer	\$	523,775	\$	523,775	81398

		Commission Loans				
445	195-617	Housing Finance	\$	5,040,843	\$	4,983,738 81399
		Operating				
450	195-624	Minority Business	\$	13,563	\$	13,563 81400
		Bonding Program				
		Administration				
451	195-625	Economic Development	\$	2,358,310	\$	2,358,310 81401
		Financing Operating				
5M4	195-659	Universal Service	\$	170,000,000	\$	170,000,000 81402
5M5	195-660	Energy Efficiency	\$	12,000,000	\$	12,000,000 81403
		Revolving Loan				
611	195-631	Water and Sewer	\$	15,713	\$	15,713 81404
		Administration				
617	195-654	Volume Cap	\$	200,000	\$	200,000 81405
		Administration				
646	195-638	Low and Moderate	\$	40,000,000	\$	40,000,000 81406
		Income Housing Trust				
		Fund				
TOTAL SSR		State Special Revenue				81407
Fund Group			\$	234,360,684	\$	234,053,579 81408
Facilities Establishment		Fund Group				81409
037	195-615	Facilities	\$	63,931,149	\$	63,931,149 81410
		Establishment				
4Z6	195-647	Rural Industrial Park	\$	5,000,000	\$	5,000,000 81411
		Loan				
5D2	195-650	Urban Redevelopment	\$	10,475,000	\$	10,475,000 81412
		Loans				
5H1	195-652	Family Farm Loan	\$	1,500,000	\$	1,500,000 81413
		Guarantee				
5S8	195-627	Rural Development	\$	5,000,000	\$	5,000,000 81414
		Initiative				
5S9	195-628	Capital Access Loan	\$	3,000,000	\$	3,000,000 81415
		Program				

TOTAL 037 Facilities				81416
Establishment Fund Group	\$	88,906,149	\$ 88,906,149	81417
Clean Ohio Revitalization Fund				81418
003 195-663 Clean Ohio Operating	\$	150,000	\$ 150,000	81419
TOTAL 003 Clean Ohio Revitalization Fund	\$	150,000	\$ 150,000	81420
Coal Research/Development Fund				81421
046 195-632 Coal Research & Development Fund	\$	13,168,357	\$ 13,168,357	81422
TOTAL 046 Coal Research/Development Fund	\$	13,168,357	\$ 13,168,357	81423
TOTAL ALL BUDGET FUND GROUPS	\$	731,642,707	\$ 744,128,977	81424

Section 38.01. THOMAS EDISON PROGRAM 81426

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. 81427
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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. 81435
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Section 38.02. SMALL BUSINESS DEVELOPMENT 81440

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. 81441
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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.

In addition, the Office of Small Business may operate the 1st-Stop Business Connection and implement and coordinate the duties imposed on the Department of Development by Am. Sub. S.B. 239 of the 115th General Assembly.

MINORITY BUSINESS DEVELOPMENT DIVISION

Of the foregoing appropriation item 195-405, Minority Business Development Division, up to \$1,060,000 but not less than \$954,000 in each fiscal year shall be used to fund minority contractors and business assistance organizations. The Minority Business Development Division shall determine which cities need minority contractors and business assistance organizations by utilizing United States Census Bureau data and zip codes to locate the highest concentrations of minority businesses. The Minority Business Development Division also shall determine the numbers of minority contractors and business assistance organizations necessary and the amount of funding to be provided each. In addition, the Minority Business Development Division shall continue to plan and implement business conferences.

COAL RESEARCH DEVELOPMENT	81475
The foregoing appropriation item 195-408, Coal Research Development, shall be used for the administrative costs of the Coal Development Office within the Technology Division.	81476 81477 81478
Section 38.03. OHIO PREPAREDNESS FOR BRAC-2005	81479
The foregoing appropriation item 195-410, Defense Conversion Assistance, shall be used <u>for grants to local communities to pay for the costs associated with the research and preparation of response plans for</u> military installations in Ohio, including Wright Patterson Air Force Base, Springfield Air National Guard Base, and other Ohio military installations in the state for the U.S. Department of Defense Base Realignment and Closure (BRAC) 2005 Program. The grants shall contain requirements for cost sharing to evidence the commitment of local communities to this process. The Director of Development may reserve up to five per cent of the appropriation for contingency and administration support.	81480 81481 81482 81483 81484 81485 81486 81487 81488 81489 81490 81491
Section 38.04. BUSINESS DEVELOPMENT	81492
The foregoing appropriation item 195-412, Business Development Grants, shall be used as an incentive for attracting and retaining business opportunities for the state. Any such business opportunity, whether new, expanding, or relocating in Ohio, is eligible for funding. The project must create or retain a significant number of jobs for Ohioans. Grant awards may be considered only when (1) the project's viability hinges on an award of funds from appropriation item 195-412, Business Development Grants; (2) all other public or private sources of financing have been considered; or (3) the funds act as a catalyst for the infusion into the project of other financing sources.	81493 81494 81495 81496 81497 81498 81499 81500 81501 81502 81503
The department's primary goal shall be to award funds to	81504

political subdivisions of the state for off-site infrastructure 81505
improvements. In order to meet the particular needs of economic 81506
development in a region, the department may elect to award funds 81507
directly to a business for on-site infrastructure improvements. 81508
"Infrastructure improvements" mean improvements to water system 81509
facilities, sewer and sewage treatment facilities, electric or gas 81510
service facilities, fiber optic facilities, rail facilities, site 81511
preparation, and parking facilities. The Director of Development 81512
may recommend the funds be used in an alternative manner when 81513
deemed appropriate to meet an extraordinary economic development 81514
opportunity or need. 81515

The foregoing appropriation item 195-412, Business 81516
Development Grants, may be expended only after the submission of a 81517
request to the Controlling Board by the Department of Development 81518
outlining the planned use of the funds, and the subsequent 81519
approval of the request by the Controlling Board. 81520

The foregoing appropriation item 195-412, Business 81521
Development Grants, may be used for, but is not limited to, 81522
construction, rehabilitation, and acquisition projects for rail 81523
freight assistance as requested by the Department of 81524
Transportation. The Director of Transportation shall submit the 81525
proposed projects to the Director of Development for an evaluation 81526
of potential economic benefit. 81527

Section 38.05. FIRST FRONTIER MATCH 81528

The foregoing appropriation item 195-414, First Frontier 81529
Match, shall be used as matching funds to targeted counties for 81530
the purpose of marketing state, regional, and local 81531
characteristics that may attract economic development. "Targeted 81532
counties" mean counties that have a population of less than 81533
175,000 residents. The appropriation may be used either for 81534
marketing programs by individual targeted counties or for regional 81535

marketing campaigns that are marketing programs in which at least 81536
one targeted county is participating with one or more other 81537
targeted counties or larger counties. 81538

ECONOMIC DEVELOPMENT DIVISION AND REGIONAL OFFICES 81539

The foregoing appropriation item 195-415, Economic 81540
Development Division and Regional Offices, shall be used for the 81541
operating expenses of the Economic Development Division and the 81542
regional economic development offices and for grants for 81543
cooperative economic development ventures. 81544

Of the foregoing appropriation item 195-415, Economic 81545
Development Division and Regional Offices, up to \$500,000 in 81546
fiscal year 2004 shall be used to support the Ohio Broadband 81547
Initiative. 81548

Section 38.06. GOVERNOR'S OFFICE OF APPALACHIA 81549

The foregoing appropriation item 195-416, Governor's Office 81550
of Appalachia, shall be used for the administrative costs of 81551
planning and liaison activities for the Governor's Office of 81552
Appalachia. Funds not expended for planning and liaison activities 81553
may be expended for special project grants within the Appalachian 81554
Region. 81555

Of the foregoing appropriation item 195-416, Governor's 81556
Office of Appalachia, up to \$250,000 each fiscal year shall be 81557
used to match federal funds from the Appalachian Regional 81558
Commission to provide job training to impact the Appalachian 81559
Region. 81560

Of the foregoing appropriation item 195-416, Governor's 81561
Office of Appalachia, up to \$4,372,324 in each fiscal year shall 81562
be used in conjunction with other federal and state funds to 81563
provide financial assistance to projects in Ohio's Appalachian 81564
counties in order to further the goals of the Appalachian Regional 81565

Commission. Such projects and project sponsors shall meet 81566
Appalachian Regional Commission eligibility requirements. Grants 81567
shall be administered by the Department of Development. 81568

URBAN/RURAL INITIATIVE 81569

The foregoing appropriation item 195-417, Urban/Rural 81570
Initiative, shall be used to make grants in accordance with 81571
sections 122.19 to 122.22 of the Ohio Revised Code. 81572

Section 38.07. THIRD FRONTIER ACTION FUND 81573

The foregoing appropriation item 195-422, Third Frontier 81574
Action Fund, shall be used to make grants in accordance with 81575
sections 184.01 and 184.02 of the Revised Code. Prior to the 81576
release of funds from appropriation item 195-422, Third Frontier 81577
Action Fund, each grant award shall be recommended for funding by 81578
the Third Frontier Commission and obtain approval from the 81579
Controlling Board. 81580

Of the foregoing appropriation item 195-422, Third Frontier 81581
Action Fund, not more than six per cent in each fiscal year shall 81582
be used for operating expenditures in administering the program. 81583

In addition to the six per cent for operating expenditures, 81584
an additional administrative amount, not to exceed \$1,500,000 81585
within the biennium, shall be available for proposal evaluation, 81586
research and analyses, and marketing efforts deemed necessary to 81587
receive and disseminate information about science and 81588
technology-related opportunities in the state. 81589

SCIENCE AND TECHNOLOGY COLLABORATION 81590

The Department of Development shall work in close 81591
collaboration with the Board of Regents and the Third Frontier 81592
Commission in relation to appropriation items and programs listed 81593
in the following paragraph, and other technology-related 81594
appropriations and programs in the Department of Development and 81595

the Board of Regents as those agencies may designate, to ensure 81596
implementation of a coherent state strategy with respect to 81597
science and technology. 81598

Each of the following appropriations and programs: 195-401, 81599
Thomas Edison Program; 195-408, Coal Research Development; 81600
195-422, Third Frontier Action Fund; 195-632, Coal Research and 81601
Development Fund; 235-454, Research Challenge; 235-510, Ohio 81602
Supercomputer Center; 235-527, Ohio Aerospace Institute; 235-535, 81603
Agricultural Research and Development Center; 235-553, Dayton Area 81604
Graduate Studies Institute; 235-554, Computer Science Graduate 81605
Education; 235-556, Ohio Academic Resources Network; and 195-435, 81606
Biomedical Research and Technology Transfer Trust, shall be 81607
reviewed annually by the Third Frontier Commission with respect to 81608
its development of complementary relationships within a combined 81609
state science and technology investment portfolio and its overall 81610
contribution to the state's science and technology strategy, 81611
including the adoption of appropriately consistent criteria for: 81612
(1) the scientific merit of activities supported by the program; 81613
(2) the relevance of the program's activities to commercial 81614
opportunities in the private sector; (3) the private sector's 81615
involvement in a process that continually evaluates commercial 81616
opportunities to use the work supported by the program; and (4) 81617
the ability of the program and recipients of grant funding from 81618
the program to engage in activities that are collaborative, 81619
complementary, and efficient with respect to the expenditure of 81620
state funds. 81621

All programs listed in the preceding paragraph shall provide 81622
annual reports to the Third Frontier Commission discussing 81623
existing, planned, or possible collaborations between programs and 81624
recipients of grant funding related to technology, development, 81625
commercialization, and supporting Ohio's economic development. The 81626
annual review by the Third Frontier Commission shall be a 81627

comprehensive review of the entire state science and technology 81628
program portfolio rather than a review of individual programs. 81629

Section 38.08. INTERNATIONAL TRADE 81630

The foregoing appropriation item 195-432, International 81631
Trade, shall be used to operate and to maintain Ohio's 81632
out-of-state trade offices. 81633

The Director of Development may enter into contracts with 81634
foreign nationals to staff foreign offices. Such contracts may be 81635
paid in local currency or United States currency and shall be 81636
exempt from the provisions of section 127.16 of the Revised Code. 81637
The director also may establish foreign currency accounts in 81638
accordance with section 122.05 of the Revised Code for the payment 81639
of expenses related to the operation and maintenance of the 81640
foreign trade offices. 81641

The foregoing appropriation item 195-432, International 81642
Trade, shall be used to fund the International Trade Division and 81643
to assist Ohio manufacturers and agricultural producers in 81644
exporting to foreign countries in conjunction with the Department 81645
of Agriculture. 81646

Of the foregoing appropriation item 195-432, International 81647
Trade, up to \$35,000 may be used to purchase gifts for 81648
representatives of foreign governments or dignitaries of foreign 81649
countries. 81650

Section 38.09. OHIO INVESTMENT IN TRAINING PROGRAM 81651

The foregoing appropriation item 195-434, Investment in 81652
Training Grants, shall be used to promote training through grants 81653
for the reimbursement of eligible training expenses. 81654

Section 38.10. CDBG OPERATING MATCH 81655

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.

STATE OPERATING MATCH

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.

Section 38.11. TRAVEL AND TOURISM GRANTS

The foregoing appropriation item 195-507, Travel and Tourism Grants, shall be used to provide grants to local organizations to support various local travel and tourism events in Ohio.

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, up to \$160,000 in each fiscal year of the biennium may be used to support the outdoor dramas Trumpet in the Land, Blue Jacket, Tecumseh, and the Becky Thatcher Showboat Drama; \$40,000 in each fiscal year shall be used for the Cincinnati Film Commission; \$40,000 in each fiscal year shall be used for the Cleveland Film Commission; \$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; \$25,000 in each fiscal year shall be used for the Ohio River Trails Program; \$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. 81686

Section 38.11a. SHOVEL READY SITES 81687

The foregoing appropriation item 195-516, Shovel Ready Sites, 81688
shall be used for the Shovel Ready Sites Program. 81689

The Director of Development shall contract for pilot projects 81690
with three port authorities, two of which shall be from urban 81691
counties with populations of at least 200,000 but not more than 81692
600,000 residents, and one of which shall be from a rural county. 81693
The appropriation shall be used to leverage federal funds, local 81694
funds, or both, to provide grants for the preparation of sites for 81695
immediate construction for infrastructure in the state. 81696

Section 38.12. THIRD FRONTIER RESEARCH & COMMERCIALIZATION 81697
GENERAL OBLIGATION DEBT SERVICE 81698

The foregoing appropriation item 195-905, Third Frontier 81699
Research & Commercialization General Obligation Debt Service, 81700
shall be used to pay all debt service and related financing costs 81701
during the period from July 1, 2003, to June 30, 2005, on 81702
obligations to be issued for research and development purposes 81703
under Section 2p of Article VIII, Ohio Constitution, and 81704
implementing legislation. The Office of the Sinking Fund or the 81705
Director of Budget and Management shall effectuate the required 81706
payments by an intrastate transfer voucher. 81707

COAL RESEARCH AND DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE 81708

The foregoing appropriation item 195-906, Coal 81709
Research/Development General Obligation Debt Service, shall be 81710
used to pay all debt service and related financing costs at the 81711
times they are required to be made under sections 151.01 and 81712
151.07 of the Revised Code during the period from July 1, 2003, to 81713
June 30, 2005. The Commissioners of the Sinking Fund or the 81714
Director of Budget and Management shall effectuate the required 81715

payments by an intrastate transfer voucher. 81716

Section 38.13. SUPPORTIVE SERVICES 81717

The Director of Development may assess divisions of the 81718
department for the cost of central service operations. Such an 81719
assessment shall be based on a plan submitted to and approved by 81720
the Office of Budget and Management by the first day of August of 81721
each fiscal year, and contain the characteristics of 81722
administrative ease and uniform application. 81723

A division's payments shall be credited to the Supportive 81724
Services Fund (Fund 135) using an intrastate transfer voucher. 81725

GENERAL REIMBURSEMENT 81726

The foregoing appropriation item 195-636, General 81727
Reimbursements, shall be used for conference and subscription fees 81728
and other reimbursable costs. Revenues to the General 81729
Reimbursement Fund (Fund 685) shall consist of fees and other 81730
moneys charged for conferences, subscriptions, and other 81731
administrative costs that are not central service costs. 81732

Section 38.13a. TRAINING SERVICES 81733

Of the foregoing appropriation item 195-605, Federal 81734
Projects, \$400,000 in each fiscal year shall be used for grants to 81735
the Ohio Weatherization Training Center, administered by the 81736
Corporation for Ohio Appalachian Development, for training and 81737
technical assistance services. 81738

Section 38.14. HEAP WEATHERIZATION 81739

Fifteen per cent of the federal funds received by the state 81740
for the Home Energy Assistance Block Grant shall be deposited in 81741
appropriation item 195-614, HEAP Weatherization (Fund 3K9), and 81742
shall be used to provide home weatherization services in the 81743

state.	81744
Of the foregoing appropriation item 195-614, HEAP	81745
Weatherization, \$200,000 in each fiscal year shall be used for	81746
grants to the Ohio Weatherization Training Center, administered by	81747
the Corporation for Ohio Appalachian Development, for training and	81748
technical assistance services.	81749
 STATE SPECIAL PROJECTS	 81750
The foregoing appropriation item 195-639, State Special	81751
Projects, shall be used as a general account for the deposit of	81752
private-sector funds from utility companies and other	81753
miscellaneous state funds. Private-sector moneys shall be used to	81754
(1) pay the expenses of verifying the income-eligibility of HEAP	81755
applicants, (2) market economic development opportunities in the	81756
state, and (3) leverage additional federal funds. State funds	81757
shall be used to match federal housing grants for the homeless.	81758
 Section 38.15. MINORITY BUSINESS ENTERPRISE LOAN	 81759
All repayments from the Minority Development Financing	81760
Advisory Board loan program and the Ohio Mini-Loan Guarantee	81761
Program shall be deposited in the State Treasury to the credit of	81762
the Minority Business Enterprise Loan Fund (Fund 4W1).	81763
All operating costs of administering the Minority Business	81764
Enterprise Loan Fund shall be paid from the Minority Business	81765
Enterprise Loan Fund (Fund 4WI).	81766
 MINORITY BUSINESS BONDING FUND	 81767
Notwithstanding Chapters 122., 169., and 175. of the Revised	81768
Code and other provisions of Am. Sub. H.B. 283 of the 123rd	81769
General Assembly, the Director of Development may, upon the	81770
recommendation of the Minority Development Financing Advisory	81771
Board, pledge up to \$10,000,000 in the 2003-2005 biennium of	81772
unclaimed funds administered by the Director of Commerce and	81773

allocated to the Minority Business Bonding Program pursuant to 81774
section 169.05 of the Revised Code. The transfer of any cash by 81775
the Director of Budget and Management from the Department of 81776
Commerce's Unclaimed Funds Fund (Fund 543) to the Department of 81777
Development's Minority Business Bonding Fund (Fund 449) shall 81778
occur, if requested by the Director of Development, only if such 81779
funds are needed for payment of losses arising from the Minority 81780
Business Bonding Program, and only after proceeds of the initial 81781
transfer of \$2,700,000 by the Controlling Board to the Minority 81782
Business Bonding Program has been used for that purpose. Moneys 81783
transferred by the Director of Budget and Management from the 81784
Department of Commerce for this purpose may be moneys in custodial 81785
funds held by the Treasurer of State. If expenditures are required 81786
for payment of losses arising from the Minority Business Bonding 81787
Program, such expenditures shall be made from appropriation item 81788
195-623, Minority Business Bonding Contingency in the Minority 81789
Business Bonding Fund, and such amounts are appropriated. 81790

MINORITY BUSINESS BONDING PROGRAM ADMINISTRATION 81791

Investment earnings of the Minority Business Bonding Fund 81792
(Fund 449) shall be credited to the Minority Business Bonding 81793
Program Administration Fund (Fund 450). 81794

Section 38.16. ECONOMIC DEVELOPMENT FINANCING OPERATING 81795

The foregoing appropriation item 195-625, Economic 81796
Development Financing Operating, shall be used for the operating 81797
expenses of financial assistance programs authorized under Chapter 81798
166. of the Revised Code and under sections 122.43 and 122.45 of 81799
the Revised Code. 81800

VOLUME CAP ADMINISTRATION 81801

The foregoing appropriation item 195-654, Volume Cap 81802
Administration, shall be used for expenses related to the 81803

administration of the Volume Cap Program. Revenues received by the 81804
Volume Cap Administration Fund (Fund 617) shall consist of 81805
application fees, forfeited deposits, and interest earned from the 81806
custodial account held by the Treasurer of State. 81807

UNIVERSAL SERVICE FUND 81808

The foregoing appropriation item 195-659, Universal Service, 81809
shall be used to provide payments to regulated electric utility 81810
companies for low-income customers enrolled in Percentage of 81811
Income Payment Plan (PIPP) electric accounts, to fund targeted 81812
energy efficiency and customer education services to PIPP 81813
customers, and to cover the department's administrative costs 81814
related to the Universal Service Fund Programs. 81815

ENERGY EFFICIENCY REVOLVING LOAN FUND 81816

The foregoing appropriation item 195-660, Energy Efficiency 81817
Revolving Loan, shall be used to provide financial assistance to 81818
customers for eligible energy efficiency projects for residential, 81819
commercial and industrial business, local government, educational 81820
institution, nonprofit, and agriculture customers, and to pay for 81821
the program's administrative costs as provided in the Revised Code 81822
and rules adopted by the Director of Development. 81823

Section 38.17. FACILITIES ESTABLISHMENT FUND 81824

The foregoing appropriation item 195-615, Facilities 81825
Establishment (Fund 037), shall be used for the purposes of the 81826
Facilities Establishment Fund under Chapter 166. of the Revised 81827
Code. 81828

Notwithstanding Chapter 166. of the Revised Code, up to 81829
\$1,800,000 in cash per fiscal year may be transferred from the 81830
Facilities Establishment Fund (Fund 037) to the Economic 81831
Development Financing Operating Fund (Fund 451). The transfer is 81832
subject to Controlling Board approval pursuant to division (B) of 81833

section 166.03 of the Revised Code. 81834

Notwithstanding Chapter 166. of the Revised Code, up to 81835
\$20,475,000 in cash may be transferred during the biennium from 81836
the Facilities Establishment Fund (Fund 037) to the Urban 81837
Redevelopment Loans Fund (Fund 5D2) for the purpose of removing 81838
barriers to urban core redevelopment. The Director of Development 81839
shall develop program guidelines for the transfer and release of 81840
funds, including, but not limited to, the completion of all 81841
appropriate environmental assessments before state assistance is 81842
committed to a project. 81843

Notwithstanding Chapter 166. of the Revised Code, up to 81844
\$5,000,000 per fiscal year in cash may be transferred from the 81845
Facilities Establishment Fund (Fund 037) to the Rural Industrial 81846
Park Loan Fund (Fund 4Z6). The transfer is subject to Controlling 81847
Board approval pursuant to section 166.03 of the Revised Code. 81848

FAMILY FARM LOAN PROGRAM 81849

Notwithstanding Chapter 166. of the Revised Code, up to 81850
\$1,500,000 in each fiscal year shall be transferred from moneys in 81851
the Facilities Establishment Fund (Fund 037) to the Family Farm 81852
Loan Guarantee Fund (Fund 5H1) in the Department of Development. 81853
These moneys shall be used for loan guarantees. The transfer is 81854
subject to Controlling Board approval. 81855

Financial assistance from the Family Farm Loan Guarantee Fund 81856
(Fund 5H1) shall be repaid to Fund 5H1. This fund is established 81857
in accordance with sections 166.031, 901.80, 901.81, 901.82, and 81858
901.83 of the Revised Code. 81859

When the Family Farm Loan Guarantee Fund (Fund 5H1) ceases to 81860
exist, all outstanding balances, all loan repayments, and any 81861
other outstanding obligations shall revert to the Facilities 81862
Establishment Fund (Fund 037). 81863

RURAL DEVELOPMENT INITIATIVE FUND 81864

(A)(1) The Rural Development Initiative Fund (Fund 5S8) shall 81865
receive moneys from the Facilities Establishment Fund (Fund 037). 81866
The Director of Development may make grants from the Rural 81867
Development Initiative Fund as specified in division (A)(2) of 81868
this section to eligible applicants in Appalachian counties and in 81869
rural counties in the state that are designated as distressed 81870
pursuant to section 122.25 of the Revised Code. Preference shall 81871
be given to eligible applicants located in Appalachian counties 81872
designated as distressed by the federal Appalachian Regional 81873
Commission. The Rural Development Initiative Fund (Fund 5S8) shall 81874
cease to exist after June 30, 2007. All moneys remaining in the 81875
Fund after that date shall revert to the Facilities Establishment 81876
Fund (Fund 037). 81877

(2) The Director of Development shall make grants from the 81878
Rural Development Initiative Fund (Fund 5S8) only to eligible 81879
applicants who also qualify for and receive funding under the 81880
Rural Industrial Park Loan Program as specified in sections 122.23 81881
to 122.27 of the Revised Code. Eligible applicants shall use the 81882
grants for the purposes specified in section 122.24 of the Revised 81883
Code. All projects supported by grants from the fund are subject 81884
to Chapter 4115. of the Revised Code as specified in division (E) 81885
of section 166.02 of the Revised Code. The Director shall develop 81886
program guidelines for the transfer and release of funds. The 81887
release of grant moneys to an eligible applicant is subject to 81888
Controlling Board approval. 81889

(B) Notwithstanding Chapter 166. of the Revised Code, the 81890
Director of Budget and Management may transfer up to \$5,000,000 81891
per fiscal year in cash on an as needed basis at the request of 81892
the Director of Development from the Facilities Establishment Fund 81893
(Fund 037) to the Rural Development Initiative Fund (Fund 5S8). 81894
The transfer is subject to Controlling Board approval pursuant to 81895
section 166.03 of the Revised Code. 81896

CAPITAL ACCESS LOAN PROGRAM				81897
The foregoing appropriation item 195-628, Capital Access Loan Program, shall be used for operating, program, and administrative expenses of the program. Funds of the Capital Access Loan Program shall be used to assist participating financial institutions in making program loans to eligible businesses that face barriers in accessing working capital and obtaining fixed asset financing.				81898 81899 81900 81901 81902 81903
Notwithstanding Chapter 166. of the Revised Code, the Director of Budget and Management may transfer up to \$3,000,000 per fiscal year in cash on an as needed basis at the request of the Director of Development from the Facilities Establishment Fund (Fund 037) to the Capital Access Loan Program Fund (Fund 5S9). The transfer is subject to Controlling Board approval pursuant to section 166.03 of the Revised Code.				81904 81905 81906 81907 81908 81909 81910
Section 38.18. CLEAN OHIO OPERATING EXPENSES				81911
The foregoing appropriation item 195-663, Clean Ohio Operating, shall be used by the Department of Development in administering sections 122.65 to 122.658 of the Revised Code.				81912 81913 81914
Section 39. OBD OHIO BOARD OF DIETETICS				81915
General Services Fund Group				81916
4K9 860-609 Operating Expenses	\$	334,917	\$ 329,687	81917
TOTAL GSF General Services Fund Group	\$	334,917	\$ 329,687	81918 81919
TOTAL ALL BUDGET FUND GROUPS	\$	334,917	\$ 329,687	81920
Section 40. EDU DEPARTMENT OF EDUCATION				81922
General Revenue Fund				81923
GRF 200-100 Personal Services	\$	11,110,190	\$ 11,332,393	81924
GRF 200-320 Maintenance and	\$	5,066,249	\$ 5,066,249	81925

		Equipment				
GRF	200-408	Public Preschool	\$	19,018,551	\$	19,018,551 81926
GRF	200-410	Professional	\$	32,490,073	\$	33,440,073 81927
		Development				
GRF	200-411	Family and Children	\$	3,324,750	\$	3,324,750 81928
		First				
GRF	200-416	Career-Technical	\$	2,322,195	\$	2,322,195 81929
		Education Match				
GRF	200-420	Technical Systems	\$	5,703,750	\$	5,703,750 81930
		Development				
GRF	200-421	Alternative Education	\$	16,135,547	\$	16,135,547 81931
		Programs				
GRF	200-422	School Management	\$	1,778,000	\$	1,778,000 81932
		Assistance				
GRF	200-424	Policy Analysis	\$	592,220	\$	592,220 81933
GRF	200-425	Tech Prep Consortia	\$	2,133,213	\$	2,133,213 81934
		Support				
GRF	200-426	Ohio Educational	\$	34,331,741	\$	34,331,741 81935
		Computer Network				
GRF	200-427	Academic Standards	\$	9,000,592	\$	9,000,592 81936
GRF	200-431	School Improvement	\$	10,805,625	\$	10,805,625 81937
		Initiatives				
GRF	200-432	School Conflict	\$	583,010	\$	583,010 81938
		Management				
GRF	200-433	Reading/Writing/Math	\$	20,488,264	\$	20,488,264 81939
		Improvement				
GRF	200-437	Student Assessment	\$	41,353,391	\$	45,955,391 81940
GRF	200-439	Accountability/Report	\$	4,087,500	\$	4,087,500 81941
		Cards				
GRF	200-441	American Sign Language	\$	207,717	\$	207,717 81942
GRF	200-442	Child Care Licensing	\$	1,385,633	\$	1,385,633 81943
GRF	200-445	OhioReads	\$	4,500,000	\$	4,500,000 81944
		Admin/Volunteer				

		Support				
GRF	200-446	Education Management	\$	18,678,969	\$	18,678,969 81945
		Information System				
GRF	200-447	GED Testing/Adult High	\$	1,829,106	\$	1,829,106 81946
		School				
GRF	200-448	Educator Preparation	\$	24,375	\$	24,375 81947
GRF	200-449	Head Start/Head Start	\$	11,000,000	\$	5,000,000 81948
		Plus Start Up				
GRF	200-452	Teaching Success	\$	1,650,000	\$	1,650,000 81949
		Commission Initiatives				
GRF	200-455	Community Schools	\$	4,231,842	\$	4,231,842 81950
GRF	200-500	School Finance Equity	\$	13,888,641	\$	7,671,853 81951
GRF	200-501	Base Cost Funding	\$	4,441,761,256	\$	4,494,729,879 81952
GRF	200-502	Pupil Transportation	\$	388,939,229	\$	397,960,398 81953
GRF	200-503	Bus Purchase Allowance	\$	34,399,921	\$	34,399,921 81954
GRF	200-505	School Lunch Match	\$	8,998,025	\$	8,998,025 81955
GRF	200-509	Adult Literacy	\$	8,774,250	\$	8,774,250 81956
		Education				
GRF	200-511	Auxiliary Services	\$	127,903,356	\$	127,903,356 81957
GRF	200-513	Student Intervention	\$	38,990,815	\$	41,190,815 81958
		Services				
GRF	200-514	Postsecondary Adult	\$	19,919,464	\$	19,919,464 81959
		Career-Technical				
		Education				
GRF	200-520	Disadvantaged Pupil	\$	367,266,738	\$	367,266,738 81960
		Impact Aid				
GRF	200-521	Gifted Pupil Program	\$	48,201,031	\$	48,201,031 81961
GRF	200-525	Parity Aid	\$	333,890,279	\$	448,820,387 81962
GRF	200-532	Nonpublic	\$	55,803,103	\$	55,803,103 81963
		Administrative Cost				
		Reimbursement				
GRF	200-540	Special Education	\$	137,214,484	\$	139,536,046 81964
		Enhancements				

GRF 200-545	Career-Technical Education Enhancements	\$ 14,572,907	\$ 14,572,907	81965
GRF 200-546	Charge-Off Supplement	\$ 45,888,802	\$ 45,888,802	81966
GRF 200-558	Emergency Loan Interest Subsidy	\$ 3,022,500	\$ 2,300,000	81967
GRF 200-566	OhioReads Grants	\$ 17,125,223	\$ 17,167,728	81968
GRF 200-578	Safe and Supportive Schools	\$ 3,576,348	\$ 3,576,348	81969
GRF 200-901	Property Tax Allocation - Education	\$ 783,350,000	\$ 822,360,000	81970
GRF 200-906	Tangible Tax Exemption - Education	\$ 70,710,000	\$ 67,710,000	81971
TOTAL GRF	General Revenue Fund	\$ 7,228,028,875	\$ 7,438,357,757	81972
	General Services Fund Group			81973
138 200-606	Computer Services	\$ 7,404,690	\$ 7,635,949	81974
4D1 200-602	Ohio Prevention/Education Resource Center	\$ 347,000	\$ 347,000	81975
4L2 200-681	Teacher Certification and Licensure	\$ 5,038,017	\$ 5,236,517	81976
452 200-638	Miscellaneous Revenue	\$ 500,000	\$ 500,000	81977
5B1 200-651	Child Nutrition Services	\$ 800,000	\$ 800,000	81978
5H3 200-687	School District Solvency Assistance	\$ 18,000,000	\$ 18,000,000	81979
596 200-656	Ohio Career Information System	\$ 516,694	\$ 529,761	81980
TOTAL GSF	General Services Fund Group	\$ 32,606,401	\$ 33,049,227	81981 81982
	Federal Special Revenue Fund Group			81983
3C5 200-661	Early Childhood Education	\$ 21,508,746	\$ 21,508,746	81984

3D1	200-664	Drug Free Schools	\$	13,169,757	\$	13,347,966	81985
3D2	200-667	Honors Scholarship Program	\$	1,786,500	\$	1,786,500	81986
3H9	200-605	Head Start Collaboration Project	\$	275,000	\$	275,000	81987
3L6	200-617	Federal School Lunch	\$	185,948,186	\$	191,898,528	81988
3L7	200-618	Federal School Breakfast	\$	48,227,431	\$	49,524,254	81989
3L8	200-619	Child/Adult Food Programs	\$	63,577,244	\$	65,293,830	81990
3L9	200-621	Career-Technical Education Basic Grant	\$	48,029,701	\$	48,029,701	81991
3M0	200-623	ESEA Title 1A	\$	356,458,504	\$	384,975,184	81992
3M1	200-678	Innovative Education	\$	15,041,997	\$	16,094,937	81993
3M2	200-680	Ind W/Disab Education Act	\$	288,468,284	\$	331,392,575	81994
3S2	200-641	Education Technology	\$	19,682,057	\$	20,469,339	81995
3S6	200-698	Dispute Resolution-Federal	\$	140,000	\$	140,000	81996
3T4	200-613	Public Charter Schools	\$	23,287,500	\$	26,187,113	81997
3Y2	200-688	21st Century Community Learning Centers	\$	17,138,239	\$	18,500,000	81998
3Y4	200-632	Reading First	\$	29,881,256	\$	33,168,194	81999
3Y6	200-635	Improving Teacher Quality	\$	103,686,420	\$	104,100,000	82000
3Y7	200-689	English Language Acquisition	\$	4,872,334	\$	5,505,737	82001
3Z2	200-690	State Assessments	\$	11,894,315	\$	12,489,031	82002
309	200-601	Educationally Disadvantaged	\$	22,148,769	\$	22,899,001	82003
366	200-604	Adult Basic Education	\$	21,369,906	\$	22,223,820	82004
367	200-607	School Food Services	\$	10,767,759	\$	11,144,631	82005
368	200-614	Veterans' Training	\$	626,630	\$	655,587	82006

369	200-616	Career-Tech Education	\$	8,165,672	\$	8,165,672	82007
		Federal Enhancement					
370	200-624	Education of	\$	1,933,910	\$	1,933,910	82008
		Exceptional Children					
374	200-647	Troops to Teachers	\$	2,618,076	\$	2,622,370	82009
TOTAL FED Federal Special							82010
Revenue Fund Group			\$	1,320,704,193	\$	1,414,331,626	82011
State Special Revenue Fund Group							82012
4R7	200-695	Indirect Cost Recovery	\$	5,002,500	\$	5,250,400	82013
4V7	200-633	Interagency Support	\$	800,000	\$	800,000	82014
454	200-610	Guidance and Testing	\$	956,761	\$	956,761	82015
455	200-608	Commodity Foods	\$	11,308,000	\$	11,624,624	82016
5U2	200-685	National Education	\$	200,000	\$	200,000	82017
		Statistics					
5W2	200-663	Head Start Plus/Head	\$	57,170,000	\$	110,184,000	82018
		Start					
5X8	200-453	Jobs for Ohio	\$	1,750,000	\$	1,750,000	82019
		Graduates Program					
598	200-659	Auxiliary Services	\$	1,328,910	\$	1,328,910	82020
		Reimbursement					
620	200-615	Educational Grants	\$	1,000,000	\$	1,000,000	82021
TOTAL SSR State Special Revenue							82022
Fund Group			\$	79,516,171	\$	133,094,695	82023
Lottery Profits Education Fund Group							82024
017	200-612	Base Cost Funding	\$	606,123,500	\$	606,195,300	82025
017	200-682	Lease Rental Payment	\$	31,776,500	\$	31,704,700	82026
		Reimbursement					
TOTAL LPE Lottery Profits							82027
Education Fund Group			\$	637,900,000	\$	637,900,000	82028
Revenue Distribution Fund Group							82029
053	200-900	School District	\$	115,911,593	\$	115,911,593	82030
		Property Tax					

Replacement

TOTAL RDF Revenue Distribution			82031
Fund Group	\$ 115,911,593	\$ 115,911,593	82032
TOTAL ALL BUDGET FUND GROUPS	\$ 9,414,667,233	\$ 9,772,644,898	82033

Section 40.01. MAINTENANCE AND EQUIPMENT 82035

Of the foregoing appropriation item 200-320, Maintenance and 82036
Equipment, up to \$25,000 may be expended in each fiscal year for 82037
State Board of Education out-of-state travel. 82038

Section 40.02. PUBLIC PRESCHOOL 82039

The Department of Education shall distribute the foregoing 82040
appropriation item 200-408, Public Preschool, to pay the costs of 82041
comprehensive preschool programs. As used in this section, "school 82042
district" means a city, local, exempted village, or joint 82043
vocational school district, or an educational service center. 82044

(A) In each fiscal year, up to two per cent of the total 82045
appropriation may be used by the department for program support 82046
and technical assistance; developing program capacity; and 82047
assisting programs with facilities planning, construction, 82048
renovation, or lease agreements in conjunction with the Community 82049
Development Finance Fund (CDFD). The Department shall distribute 82050
the remainder of the appropriation in each fiscal year to serve 82051
children from families earning not more than 185 per cent of the 82052
federal poverty guidelines. 82053

(B) The department shall provide an annual report to the 82054
Governor, the Speaker of the House of Representatives, the 82055
President of the Senate, the State Board of Education, Head Start 82056
agencies, and other interested parties regarding the Public 82057
Preschool Program and performance indicators, as outlined by the 82058
Department. 82059

(C) For purposes of this section, "eligible child" means a 82060

child who is at least three years of age, is not of the age to be 82061
eligible for kindergarten, and whose family earns not more than 82062
185 per cent of the federal poverty guidelines. 82063

(D) After setting aside the amounts to make payments due from 82064
the previous fiscal year, in fiscal year 2004 and fiscal year 82065
2005, the Department shall distribute funds first to recipients of 82066
funds under the program in the previous fiscal year and the 82067
balance to new recipients. Awards under this section shall be 82068
distributed on a per-pupil basis, which the Department may adjust 82069
so that the per-pupil amount multiplied by the number of eligible 82070
children enrolled and receiving services, as defined by the 82071
Department, reported on the first day of December or the first 82072
business day following that date equals the amount allocated under 82073
division (A) of this section. The Department may increase the 82074
per-pupil amount by a reasonable percentage for inflation, to be 82075
determined by the Department. 82076

The Department may reallocate unobligated or unspent money to 82077
participating school districts for purposes of program expansion, 82078
improvement, or special projects to promote quality and 82079
innovation. 82080

(E) Costs for developing and administering a preschool 82081
program may not exceed fifteen per cent of the total approved 82082
costs of the program. 82083

All recipients of funds shall maintain such fiscal control 82084
and accounting procedures as may be necessary to ensure the 82085
disbursement of, and accounting for, these funds. The control of 82086
funds provided in this program, and title to property obtained 82087
therefrom, shall be under the authority of the approved recipient 82088
for purposes provided in the program unless, as described in 82089
division (J) of this section, a preschool program waives its right 82090
for funding or a program's funding is eliminated or reduced due to 82091
its inability to meet financial or program performance standards. 82092

The approved recipient shall administer and use such property and funds for the purposes specified. 82093
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(F) The Department shall prescribe target levels for critical performance indicators for the purpose of assessing public preschool programs. On-site reviews and follow-up visits shall be based on progress in meeting the prescribed target levels. 82095
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(G) The Department may examine a recipient's financial and program records. If the financial practices of the program are not in accordance with standard accounting principles or do not meet financial standards outlined under division (E) of this section, or if the program fails to substantially meet the Head Start performance standards or exhibits below average performance as measured against the performance indicators outlined in division (F) of this section, the preschool program shall propose and implement a corrective action plan that has been approved by the Department. The approved corrective action plan shall be signed by the school district board of education and the appropriate grantee official. The corrective action plan shall include a schedule for monitoring by the Department. Such monitoring may include monthly reports, inspections, a timeline for correction of deficiencies, and technical assistance to be provided by the Department or obtained by the public preschool program. The Department may withhold funding pending corrective action. If a public preschool program fails to satisfactorily complete a corrective action plan, the Department may either deny expansion funding to the program or withdraw all or part of the public preschool funding from the agency and establish a new state-funded agency through a competitive bidding process established by the Department. 82099
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(H) The department shall require public preschool programs to document child progress, using research-based indicators as prescribed by the department, and report results annually. The department shall determine the dates for documenting and 82121
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reporting. 82125

(I) Each school district shall develop a sliding fee scale 82126
based on family incomes in the district and shall charge families 82127
who earn more than the federal poverty guidelines for preschool. 82128

(J) If a public preschool program voluntarily waives its 82129
right for funding, or has its funding eliminated for not meeting 82130
financial standards or program performance standards, the grantee 82131
and delegate shall transfer control of title to property, 82132
equipment, and remaining supplies obtained through the program to 82133
designated grantees and return any unexpended funds to the 82134
Department along with any reports prescribed by the Department. 82135
The funding made available from a program that waives its right 82136
for funding or has its funding eliminated or reduced may be used 82137
by the Department for new grant awards or expansion grants. The 82138
Department may award new grants or expansion grants to eligible 82139
providers who apply. The eligible providers who apply must do so 82140
in accordance with the competitive bidding process established by 82141
the Department. 82142

Section 40.03. PROFESSIONAL DEVELOPMENT 82143

Of the foregoing appropriation item 200-410, Professional 82144
Development, \$5,200,000 in fiscal year 2004 shall be used by the 82145
Department of Education to support a statewide comprehensive 82146
system of regional professional development centers that support 82147
local educators' ability to foster academic achievement in the 82148
students they serve. Of the foregoing appropriation item 200-410, 82149
Professional Development, \$5,200,000 in fiscal year 2005 shall be 82150
used by the regional education delivery system. Before releasing 82151
these funds in fiscal year 2005, the Department of Education shall 82152
submit a spending plan to the Controlling Board. The release of 82153
the funds is contingent on Controlling Board approval of the 82154
spending plan. Both the regional professional development centers 82155

in fiscal year 2004 and the regional education delivery system in 82156
fiscal year 2005 shall include training that assists educators, 82157
school leadership, and technical assistance providers in 82158
understanding and implementing standards-based education, data 82159
analysis, and development of assessment systems for quality 82160
instruction. 82161

Of the foregoing appropriation item 200-410, Professional 82162
Development, \$7,079,625 in fiscal year 2004 and \$8,004,625 in 82163
fiscal year 2005 shall be used by the Department of Education to 82164
provide grants to pay \$2,000 of the application fee in order to 82165
assist teachers from public and chartered nonpublic schools 82166
applying for the first time to the National Board for Professional 82167
Teaching Standards for professional teaching certificates or 82168
licenses that the board offers. This set aside shall also be used 82169
to recognize and reward teachers who become certified by the 82170
National Board for Professional Teaching Standards pursuant to 82171
section 3319.55 of the Revised Code. Up to \$300,000 in each fiscal 82172
year of this set aside may be used by the Department to pay for 82173
costs associated with activities to support candidates through the 82174
application and certification process. 82175

These moneys shall be used to pay up to the first 500 82176
applications in fiscal year 2004 and the first 400 applications in 82177
fiscal year 2005 received by the Department. Each prospective 82178
applicant for certification or licensure shall submit an 82179
application to the Department of Education. When the Department 82180
has collected a group of applications, but not later than 30 days 82181
after receipt of the first application in a group, it shall send 82182
the applications to the National Board for Professional Teaching 82183
Standards along with a check to cover the remaining cost of the 82184
application fee for all applicants in that group. 82185

Of the foregoing appropriation item 200-410, Professional 82186
Development, up to \$13,442,358 in each fiscal year shall be 82187

allocated for entry year programs. These funds shall be used to 82188
support mentoring services and performance assessments of 82189
beginning teachers in school districts and chartered nonpublic 82190
schools. 82191

Of the foregoing appropriation item 200-410, Professional 82192
Development, up to \$188,090 in each fiscal year shall be used to 82193
provide technical assistance and grants for districts to develop 82194
local knowledge/skills-based compensation systems. Each district 82195
receiving grants shall issue an annual report to the Department of 82196
Education detailing the use of the funds and the impact of the 82197
system developed by the district. 82198

Of the foregoing appropriation item 200-410, Professional 82199
Development, up to \$670,000 in each fiscal year shall be used for 82200
training and professional development of school administrators, 82201
school treasurers, and school business officials. 82202

Of the foregoing appropriation item 200-410, Professional 82203
Development, \$144,000 in each fiscal year shall be used by the 82204
Department of Education to develop a supply and demand report that 82205
describes the availability of quality educators and critical 82206
educator shortage areas in Ohio. 82207

Of the foregoing appropriation item 200-410, Professional 82208
Development, \$1,056,000 in each fiscal year shall be used for 82209
educator recruitment programs targeting special need areas, 82210
including recruiting highly qualified minority candidates into 82211
teaching, recruiting prospective mathematics and science teachers, 82212
and targeting other areas of special need. 82213

Of the foregoing appropriation item 200-410, Professional 82214
Development, \$60,000 in fiscal year 2004 and \$70,000 in fiscal 82215
year 2005 shall be used to support the Ohio University Leadership 82216
Program. 82217

Of the foregoing appropriation item 200-410, Professional 82218

Development, \$4,650,000 in each fiscal year shall be allocated by 82219
the Department of Education on a per pupil basis, to school 82220
districts in academic emergency. These funds shall be used by the 82221
districts to provide an equivalent of five days of ongoing 82222
embedded professional development for classroom teachers who 82223
provide instruction in the subject areas of reading, writing, 82224
mathematics, science, or social studies to students enrolled in 82225
the ninth or tenth grade. This professional development shall 82226
focus on developing subject competency, developing cultural 82227
competency, developing skills for analyzing test data, and 82228
developing data-based intervention strategies to prepare students 82229
below grade level to pass the Ohio Graduation Test. Districts 82230
shall submit a research-based, professional development plan for 82231
five days of embedded professional development to the Department 82232
of Education prior to receiving funds. The plan shall detail how 82233
ninth and tenth grade teachers will learn and implement classroom 82234
strategies for students to reach state standards in mathematics, 82235
reading, writing, social studies, and science. 82236

CAREER-TECHNICAL EDUCATION MATCH 82237

The foregoing appropriation item 200-416, Career-Technical 82238
Education Match, shall be used by the Department of Education to 82239
provide vocational administration matching funds pursuant to 20 82240
U.S.C. 2311. 82241

Section 40.04. TECHNICAL SYSTEMS DEVELOPMENT 82242

The foregoing appropriation item 200-420, Technical Systems 82243
Development, shall be used to support the development and 82244
implementation of information technology solutions designed to 82245
improve the performance and customer service of the Department of 82246
Education. Funds may be used for personnel, maintenance, and 82247
equipment costs related to the development and implementation of 82248
these technical system projects. Implementation of these systems 82249

shall allow the Department to provide greater levels of assistance 82250
to school districts and to provide more timely information to the 82251
public, including school districts, administrators, and 82252
legislators. 82253

ALTERNATIVE EDUCATION PROGRAMS 82254

There is hereby created the Alternative Education Advisory 82255
Council, which shall consist of one representative from each of 82256
the following agencies: the Ohio Department of Education; the 82257
Department of Youth Services; the Ohio Department of Alcohol and 82258
Drug Addiction Services; the Department of Mental Health; the 82259
Office of the Governor or, at the Governor's discretion, the 82260
Office of the Lieutenant Governor; the Office of the Attorney 82261
General; and the Office of the Auditor of State. 82262

Of the foregoing appropriation item 200-421, Alternative 82263
Education Programs, not less than \$7,529,274 in each fiscal year 82264
shall be used for the renewal of successful implementation grants 82265
and for competitive matching grants to the 21 urban school 82266
districts as defined in division (O) of section 3317.02 of the 82267
Revised Code as it existed prior to July 1, 1998, and not less 82268
than \$7,494,820 in each fiscal year shall be used for the renewal 82269
of successful implementation of grants and for competitive 82270
matching grants to rural and suburban school districts for 82271
alternative educational programs for existing and new at-risk and 82272
delinquent youth. Programs shall be focused on youth in one or 82273
more of the following categories: those who have been expelled or 82274
suspended, those who have dropped out of school or who are at risk 82275
of dropping out of school, those who are habitually truant or 82276
disruptive, or those on probation or on parole from a Department 82277
of Youth Services facility. Grants shall be awarded according to 82278
the criteria established by the Alternative Education Advisory 82279
Council in 1999. Grants shall be awarded only to programs where 82280
the grant would not serve as the program's primary source of 82281

funding. These grants shall be administered by the Department of Education. 82282
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The Department of Education may waive compliance with any minimum education standard established under section 3301.07 of the Revised Code for any alternative school that receives a grant under this section on the grounds that the waiver will enable the program to more effectively educate students enrolled in the alternative school. 82284
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Of the foregoing appropriation item 200-421, Alternative Education Programs, \$75,000 in each fiscal year shall be used to support the Toledo Tech Academy. 82290
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Of the foregoing appropriation item 200-421, Alternative Education Programs, up to \$449,235 in each fiscal year may be used for program administration, monitoring, technical assistance, support, research, and evaluation. Any unexpended balance may be used to provide additional matching grants to urban, suburban, or rural school districts as outlined above. 82293
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Of the foregoing appropriation item 200-421, Alternative Education Programs, \$287,218 in each fiscal year shall be used to contract with the Center for Learning Excellence at The Ohio State University to provide technical support for the project and the completion of formative and summative evaluation of the grants. 82299
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Of the foregoing appropriation item 200-421, Alternative Education Programs, \$300,000 in each fiscal year shall be used to support Amer-I-Can. Of this set-aside, no funds shall be disbursed without approval of the Controlling Board. Amer-I-Can programs shall submit to the Controlling Board a biennial spending plan that delineates how these funds will be spent. Amer-I-Can programs also shall demonstrate to the Controlling Board that they have hired an independent evaluator and have selected valid and reliable instruments to assess pre and post changes in student 82304
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behavior.	82313
SCHOOL MANAGEMENT ASSISTANCE	82314
Of the foregoing appropriation item 200-422, School	82315
Management Assistance, \$351,000 in each fiscal year shall be used	82316
by the Auditor of State for expenses incurred in the Auditor of	82317
State's role relating to fiscal caution activities as defined in	82318
Chapter 3316. of the Revised Code. Expenses include duties related	82319
to the completion of performance audits for school districts that	82320
the Superintendent of Public Instruction determines are employing	82321
fiscal practices or experiencing budgetary conditions that could	82322
produce a state of fiscal watch or fiscal emergency.	82323
The remainder of foregoing appropriation item 200-422, School	82324
Management Assistance, shall be used by the Department of	82325
Education to provide fiscal technical assistance and inservice	82326
education for school district management personnel and to	82327
administer, monitor, and implement the fiscal watch and fiscal	82328
emergency provisions under Chapter 3316. of the Revised Code.	82329
POLICY ANALYSIS	82330
The foregoing appropriation item 200-424, Policy Analysis,	82331
shall be used by the Department of Education to support a system	82332
of administrative, statistical, and legislative education	82333
information to be used for policy analysis. Staff supported by	82334
this appropriation shall administer the development of reports,	82335
analyses, and briefings to inform education policymakers of	82336
current trends in education practice, efficient and effective use	82337
of resources, and evaluation of programs to improve education	82338
results. The database shall be kept current at all times. These	82339
research efforts shall be used to supply information and analysis	82340
of data to the General Assembly and other state policymakers,	82341
including the Office of Budget and Management and the Legislative	82342
Service Commission.	82343

The Department of Education may use funding from this 82344
appropriation item to purchase or contract for the development of 82345
software systems or contract for policy studies that will assist 82346
in the provision and analysis of policy-related information. 82347
Funding from this appropriation item also may be used to monitor 82348
and enhance quality assurance for research-based policy analysis 82349
and program evaluation to enhance the effective use of education 82350
information to inform education policymakers. 82351

TECH PREP CONSORTIA SUPPORT 82352

The foregoing appropriation item 200-425, Tech Prep Consortia 82353
Support, shall be used by the Department of Education to support 82354
state-level activities designed to support, promote, and expand 82355
tech prep programs. Use of these funds shall include, but not be 82356
limited to, administration of grants, program evaluation, 82357
professional development, curriculum development, assessment 82358
development, program promotion, communications, and statewide 82359
coordination of tech prep consortia. 82360

OHIO EDUCATIONAL COMPUTER NETWORK 82361

The foregoing appropriation item 200-426, Ohio Educational 82362
Computer Network, shall be used by the Department of Education to 82363
maintain a system of information technology throughout Ohio and to 82364
provide technical assistance for such a system in support of the 82365
State Education Technology Plan pursuant to section 3301.07 of the 82366
Revised Code. 82367

Of the foregoing appropriation item 200-426, Ohio Educational 82368
Computer Network, up to \$18,592,763 in each fiscal year shall be 82369
used by the Department of Education to support connection of all 82370
public school buildings to the state's education network, to each 82371
other, and to the Internet. In each fiscal year the Department of 82372
Education shall use these funds to assist data acquisition sites 82373
or school districts with the operational costs associated with 82374

this connectivity. The Department of Education shall develop a 82375
formula and guidelines for the distribution of these funds to the 82376
data acquisition sites or individual school districts. As used in 82377
this section, "public school building" means a school building of 82378
any city, local, exempted village, or joint vocational school 82379
district, or any community school established under Chapter 3314. 82380
of the Revised Code, or any educational service center building 82381
used for instructional purposes, or the Ohio School for the Deaf 82382
and the Ohio School for the Blind, or high schools chartered by 82383
the Ohio Department of Youth Services and high schools operated by 82384
Ohio Department of Rehabilitation and Corrections' Ohio Central 82385
School System. 82386

Of the foregoing appropriation item 200-426, Ohio Educational 82387
Computer Network, up to \$1,884,355 in each fiscal year shall be 82388
used for the Union Catalog and InfOhio Network. 82389

The Department of Education shall use up to \$3,412,500 in 82390
each fiscal year to assist designated data acquisition sites with 82391
operational costs associated with the increased use of the state's 82392
education network by chartered nonpublic schools. The Department 82393
of Education shall use the same per building amount as used to 82394
provide connectivity subsidy funds to public school buildings. 82395

The remainder of appropriation item 200-426, Ohio Educational 82396
Computer Network, shall be used to support development, 82397
maintenance, and operation of a network of uniform and compatible 82398
computer-based information and instructional systems. The 82399
technical assistance shall include, but not be restricted to, 82400
development and maintenance of adequate computer software systems 82401
to support network activities. Program funds may be used, through 82402
a formula and guidelines devised by the department, to subsidize 82403
the activities of designated data acquisition sites, as defined by 82404
State Board of Education rules, to provide school districts and 82405
chartered nonpublic schools with computer-based student and 82406

teacher instructional and administrative information services, 82407
including approved computerized financial accounting, and to 82408
ensure the effective operation of local automated administrative 82409
and instructional systems. To broaden the scope of the use of 82410
technology for education, the Department may use up to \$223,762 in 82411
each fiscal year to coordinate the activities of the computer 82412
network with other agencies funded by the department or the state. 82413
In order to improve the efficiency of network activities, the 82414
department and data acquisition sites may jointly purchase 82415
equipment, materials, and services from funds provided under this 82416
appropriation for use by the network and, when considered 82417
practical by the department, may utilize the services of 82418
appropriate state purchasing agencies. 82419

ACADEMIC STANDARDS 82420

Of the foregoing appropriation item 200-427, Academic 82421
Standards, up to \$731,250 in each fiscal year shall be used to 82422
provide funds to school districts that have one or more teachers 82423
participating in the teachers-on-loan program. 82424

The remainder of appropriation item 200-427, Academic 82425
Standards, shall be used by the Department of Education to develop 82426
and communicate to school districts academic content standards and 82427
curriculum models. The Department of Education shall communicate 82428
these standards and curricula to school districts primarily 82429
through Internet website postings and electronic mail. 82430

Section 40.05. SCHOOL IMPROVEMENT INITIATIVES 82431

Of the foregoing appropriation item 200-431, School 82432
Improvement Initiatives, \$10,505,625 in each fiscal year shall be 82433
used to provide technical assistance to school districts that are 82434
declared to be in a state of academic watch or academic emergency 82435
under section 3302.03 of the Revised Code to provide support to 82436
districts in the development and implementation of their 82437

continuous improvement plans as required in section 3302.04 of the Revised Code and to provide technical assistance and support in accordance with Title I of the "No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6317.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, up to \$250,000 in each fiscal year shall be used to reduce the dropout rate by addressing the academic and social problems of inner-city students through Project GRAD.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, \$50,000 in each fiscal year shall be used to support LEAF.

SCHOOL CONFLICT MANAGEMENT

The foregoing appropriation item 200-432, School Conflict Management, shall be used by the Department of Education for the purpose of providing dispute resolution and conflict management training, consultation, and materials for school districts, and for the purpose of providing competitive school conflict management grants to school districts.

READING/WRITING/MATH IMPROVEMENT

Of the foregoing appropriation item 200-433, Reading/Writing/Math Improvement, up to \$12,675,000 in each fiscal year shall be used for professional development in literacy for classroom teachers, administrators, and literacy specialists, and to provide intensive summer training for mathematics teachers.

Of the foregoing appropriation item 200-433, Reading/Writing/Math Improvement, \$250,000 in each fiscal year shall be used to continue the Waterford Early Reading Program.

Of the foregoing appropriation item 200-433, Reading/Writing/Math Improvement, up to \$1,000,000 in each fiscal year shall be used by the Department of Education to fund the

Reading Recovery Training Network, to cover the cost of release 82468
time for the teacher trainers, and to provide grants to districts 82469
to implement other reading improvement programs on a pilot basis. 82470
Funds from this appropriation item also may be used to conduct 82471
evaluations of the impact and effectiveness of Reading Recovery 82472
and other reading improvement programs. 82473

The remainder of appropriation item 200-433, 82474
Reading/Writing/Math Improvement, shall be used to support 82475
standards-based classroom reading and writing instruction and 82476
reading intervention and the design/development of standards-based 82477
literacy curriculum materials; to support literacy professional 82478
development partnerships between the Department of Education, 82479
higher education institutions, the literacy specialists project, 82480
the Ohio principals' literacy network, regional literacy teams, 82481
literacy networks, and school districts. 82482

STUDENT ASSESSMENT 82483

Of the foregoing appropriation item 200-437, Student 82484
Assessment, \$500,000 in fiscal year 2004 and \$100,000 in fiscal 82485
year 2005 shall be used by the Department of Education to train 82486
school district personnel to score the practice version of the 82487
Ohio Graduation Test to be taken by students enrolled in the ninth 82488
grade in school districts in academic watch or academic emergency 82489
pursuant to sections 3301.0710 and 3301.0711 of the Revised Code. 82490

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The remainder of appropriation item 200-437, Student 82492
Assessment, shall be used to develop, field test, print, 82493
distribute, score, report results, and support other associated 82494
costs for the tests required under sections 3301.0710 and 82495
3301.0711 of the Revised Code and for similar purposes as required 82496
by section 3301.27 of the Revised Code. 82497

ACCOUNTABILITY/REPORT CARDS 82498

The foregoing appropriation item 200-439, 82499
Accountability/Report Cards, shall be used for the development of 82500
an accountability system that includes the preparation and 82501
distribution of school report cards pursuant to section 3302.03 of 82502
the Revised Code. 82503

AMERICAN SIGN LANGUAGE 82504

Of the foregoing appropriation item 200-441, American Sign 82505
Language, up to \$136,943 in each fiscal year shall be used to 82506
implement pilot projects for the integration of American Sign 82507
Language deaf language into the kindergarten through twelfth-grade 82508
curriculum. 82509

The remainder of the appropriation shall be used by the 82510
Department of Education to provide supervision and consultation to 82511
school districts in dealing with parents of children who are deaf 82512
or hard of hearing, in integrating American Sign Language as a 82513
foreign language, and in obtaining interpreters and improving 82514
their skills. 82515

CHILD CARE LICENSING 82516

The foregoing appropriation item 200-442, Child Care 82517
Licensing, shall be used by the Department of Education to license 82518
and to inspect preschool and school-age child care programs in 82519
accordance with sections 3301.52 to 3301.59 of the Revised Code. 82520

OHIOREADS ADMIN/VOLUNTEER SUPPORT 82521

The foregoing appropriation item 200-445, OhioReads 82522
Admin/Volunteer Support, may be allocated by the OhioReads Office 82523
in the Department of Education at the direction of the OhioReads 82524
Council for volunteer coordinators in public school buildings, to 82525
educational service centers for costs associated with volunteer 82526
coordination, for background checks for volunteers, to evaluate 82527
the OhioReads Program, and for operating expenses associated with 82528

administering the program. 82529

Section 40.06. EDUCATION MANAGEMENT INFORMATION SYSTEM 82530

The foregoing appropriation item 200-446, Education 82531
Management Information System, shall be used by the Department of 82532
Education to improve the Education Management Information System 82533
(EMIS). 82534

Of the foregoing appropriation item 200-446, Education 82535
Management Information System, up to \$1,295,857 in each fiscal 82536
year shall be distributed to designated data acquisition sites for 82537
costs relating to processing, storing, and transferring data for 82538
the effective operation of the EMIS. These costs may include, but 82539
are not limited to, personnel, hardware, software development, 82540
communications connectivity, professional development, and support 82541
services, and to provide services to participate in the State 82542
Education Technology Plan pursuant to section 3301.07 of the 82543
Revised Code. 82544

Of the foregoing appropriation item 200-446, Education 82545
Management Information System, up to \$8,055,189 in each fiscal 82546
year shall be distributed on a per-pupil basis to school 82547
districts, community schools established under Chapter 3314. of 82548
the Revised Code, education service centers, joint vocational 82549
school districts, and any other education entity that reports data 82550
through EMIS. From this funding, each school district or community 82551
school established under Chapter 3314. of the Revised Code with 82552
enrollment greater than 100 students and each vocational school 82553
district shall receive a minimum of \$5,000 in each fiscal year. 82554
Each school district or community school established under Chapter 82555
3314. of the Revised Code with enrollment between one and one 82556
hundred and each education service center and each county board of 82557
MR/DD that submits data through EMIS shall receive \$3,000 in each 82558
fiscal year. This subsidy shall be used for costs relating to 82559

reporting, processing, storing, transferring, and exchanging data 82560
necessary to meet requirements of the Department of Education's 82561
data system. 82562

Of the foregoing appropriation item 200-446, Education 82563
Management Information System, \$2,532,500 in each fiscal year 82564
shall be used by the Department of Education for the development 82565
and implementation of a common core of Education Management 82566
Information System data definitions, business practices, and data 82567
format standards for the Education Management Information System. 82568
This common core shall provide the basis upon which a student 82569
software administration package certification process will be 82570
designed, developed, and conducted by the Department. On an annual 82571
basis, the Department of Education shall convene an advisory group 82572
of school districts, community schools, and other 82573
education-related entities to review data standards, the 82574
certification criteria, and the certification process to recommend 82575
changes and enhancements based upon surveys of the software 82576
industry and surveys of education agencies in other states to 82577
ensure that Ohio's data standards and associated software 82578
certification process reflect best practices, align with federal 82579
initiatives, and meet the needs of school districts. Additionally, 82580
the Department shall utilize these funds to continue support of 82581
the Student Management Record System, as defined by the Department 82582
of Education, and to ensure the software is in compliance with the 82583
Education Management Information System certification criteria. 82584
The Department of Education shall work with data acquisition sites 82585
and their member school districts and community schools to 82586
implement the software in up to four data acquisition sites in 82587
each fiscal year. 82588

School districts and community schools shall convert to a 82589
student software package that meets the certification criteria by 82590
July 1, 2005. If a school district or community school does not 82591

have a certified software package by July 1, 2005, the Department 82592
of Education shall work with the school district or community 82593
school and the data acquisition site to obtain the necessary 82594
software or service. 82595

GED TESTING/ADULT HIGH SCHOOL 82596

The foregoing appropriation item 200-447, GED Testing/Adult 82597
High School, shall be used to provide General Educational 82598
Development (GED) testing at no cost to applicants, pursuant to 82599
rules adopted by the State Board of Education. The Department of 82600
Education shall reimburse school districts and community schools, 82601
created in accordance with Chapter 3314. of the Revised Code, for 82602
a portion of the costs incurred in providing summer instructional 82603
or intervention services to students who have not graduated due to 82604
their inability to pass one or more parts of the state's ninth 82605
grade proficiency test. School districts shall also provide such 82606
services to students who are residents of the district pursuant to 82607
section 3313.64 of the Revised Code, but who are enrolled in 82608
chartered, nonpublic schools. The services shall be provided in 82609
the public school, in nonpublic schools, in public centers, or in 82610
mobile units located on or off the nonpublic school premises. No 82611
school district shall provide summer instructional or intervention 82612
services to nonpublic school students as authorized by this 82613
section unless such services are available to students attending 82614
the public schools within the district. No school district shall 82615
provide services for use in religious courses, devotional 82616
exercises, religious training, or any other religious activity. 82617
Chartered, nonpublic schools shall pay for any unreimbursed costs 82618
incurred by school districts for providing summer instruction or 82619
intervention services to students enrolled in chartered, nonpublic 82620
schools. School districts may provide these services to students 82621
directly or contract with postsecondary or nonprofit 82622
community-based institutions in providing instruction. The 82623

appropriation also shall be used for state reimbursement to school 82624
districts for adult high school continuing education programs 82625
pursuant to section 3313.531 of the Revised Code or for costs 82626
associated with awarding adult high school diplomas under section 82627
3313.611 of the Revised Code. 82628

EDUCATOR PREPARATION 82629

The foregoing appropriation item 200-448, Educator 82630
Preparation, shall be used by the Ohio Teacher Education and 82631
Licensure Advisory Commission to carry out the responsibilities of 82632
the 21-member Ohio Teacher Education and Licensure Advisory 82633
Commission. The advisory commission is charged by the State Board 82634
of Education with considering all matters related to educator 82635
preparation and licensure, including standards for educator 82636
preparation and licensure, approval of institutions and programs, 82637
and recommending decisions to the State Board of Education. 82638

TITLE IV-A HEAD START AND TITLE IV-A HEAD START PLUS START UP 82639

The foregoing appropriation item 200-449, Head Start/Head 82640
Start Plus Start Up, shall be used to provide start up grants for 82641
Title IV-A reimbursable funding for the provision of services to 82642
children eligible for Title IV-A services. In fiscal year 2004, 82643
these grants shall be provided to Title IV-A Head Start agencies. 82644
In fiscal year 2005, these grants shall be provided to Title IV-A 82645
Head Start agencies and Title IV-A Head Start Plus agencies. The 82646
amount of each grant shall be determined by the Department of 82647
Education. Funds appropriated for this purpose shall be reimbursed 82648
to the General Revenue Fund when the Title IV-A Head Start or 82649
Title IV-A Head Start Plus programs cease or are no longer funded 82650
from Title IV-A. If one program ceases or is no longer funded with 82651
Title IV-A funds, the General Revenue Fund will be reimbursed for 82652
that program. 82653

If a Title IV-A Head Start agency or Title IV-A Head Start 82654

Plus agency chooses not to participate in the program or if the 82655
Department or Education suspends or terminates part or all of its 82656
funding, reimbursement owed to the grantee shall be held by the 82657
Department of Education up to the amount of the grant owed by the 82658
grantee. If insufficient reimbursement is available to recover the 82659
amount owed by the grantee, the grantee shall return the remaining 82660
balance within 60 days of the date of the decision not to 82661
participate, the suspension, or the termination. Funding recovered 82662
from such grantees shall be used by the Department of Education 82663
for supplying grants to new grantees for Title IV-A reimbursable 82664
funding for provision of services to children eligible for Title 82665
IV-A services. Any funding remaining when the Title IV-A Head 82666
Start and the Title IV-A Head Start Plus programs cease or are no 82667
longer funded with Title IV-A funds shall be returned to the 82668
General Revenue Fund. 82669

The Title IV-A Head Start Plus agency that is receiving funds 82670
to operate a Head Start program in accordance with section 3301.35 82671
of the Revised Code shall provide the program through contracts 82672
with child care providers licensed or certified in accordance with 82673
Chapter 5104. of the Revised Code. If a licensed or certified 82674
child care provider is not in operation or willing to participate 82675
and if eligible families are in need of full-day and full-year 82676
Head Start and child care services, the Title IV-A Head Start Plus 82677
agency may be the sole source provider. 82678

TEACHING SUCCESS COMMISSION INITIATIVES 82679

The foregoing appropriation item 200-452, Teaching Success 82680
Commission Initiatives, shall be used by the Department of 82681
Education to support initiatives recommended by the Governor's 82682
Commission on Teaching Success. 82683

COMMUNITY SCHOOLS 82684

Of the foregoing appropriation item 200-455, Community 82685

Schools, up to \$1,308,661 in each fiscal year may be used by the 82686
Department of Education for additional services and 82687
responsibilities under section 3314.11 of the Revised Code. 82688

Of the foregoing appropriation item 200-455, Community 82689
Schools, up to \$250,000 in each fiscal year may be used by the 82690
Department of Education for developing and conducting training 82691
sessions for sponsors and prospective sponsors of community 82692
schools as prescribed in division (A)(1) of section 3314.015 of 82693
the Revised Code. In developing such training sessions, the 82694
Department shall collect and disseminate examples of best 82695
practices used by sponsors of independent charter schools in Ohio 82696
and other states. 82697

The remaining appropriation may be used by the Department of 82698
Education to make grants of up to \$50,000 to each proposing group 82699
with a preliminary agreement obtained under division (C)(2) of 82700
section 3314.02 of the Revised Code in order to defray planning 82701
and initial start-up costs. In the first year of operation of a 82702
community school, the Department of Education may make a grant of 82703
not more than \$100,000 to the governing authority of the school to 82704
partially defray additional start-up costs. The amount of the 82705
grant shall be based on a thorough examination of the needs of the 82706
community school. The Department of Education shall not utilize 82707
moneys received under this section for any other purpose other 82708
than those specified under this section. 82709

A community school awarded start-up grants from appropriation 82710
item 200-613, Public Charter Schools (Fund 3T4), shall not be 82711
eligible for grants under this section. 82712

Section 40.07. SCHOOL FINANCE EQUITY 82713

The foregoing appropriation item 200-500, School Finance 82714
Equity, shall be distributed to school districts based on the 82715
formula specified in section 3317.0213 of the Revised Code. 82716

Section 40.08. BASE COST FUNDING 82717

The foregoing appropriation item 200-501, Base Cost Funding, 82718
includes \$90,000,000 in each fiscal year for the state education 82719
aid offset due to the change in public utility valuation as a 82720
result of Am. Sub. S.B. 3 and Am. Sub. S.B. 287, both of the 123rd 82721
General Assembly. This amount represents the total state education 82722
aid offset due to the valuation change for school districts and 82723
joint vocational school districts from all relevant appropriation 82724
line item sources. If it is determined that the state education 82725
aid offset is more than \$90,000,000, the Controlling Board may 82726
increase the appropriation for appropriation item 200-501, Base 82727
Cost Funding, by the difference amount if presented with such a 82728
request from the Department of Education. The appropriation 82729
increase, if any, is hereby appropriated. If it is determined that 82730
the state education aid offset is less than \$90,000,000, the 82731
Director of Budget and Management shall then reduce the 82732
appropriation for appropriation item 200-501, Base Cost Funding, 82733
by the difference amount and notify the Controlling Board of this 82734
action. The appropriation decrease determined by the Director of 82735
Budget and Management, if any, is hereby approved, and 82736
appropriations are hereby reduced by the amount determined. 82737

Of the foregoing appropriation item 200-501, Base Cost 82738
Funding, up to \$425,000 shall be expended in each fiscal year for 82739
court payments pursuant to section 2151.357 of the Revised Code; 82740
an amount shall be available in each fiscal year for the cost of 82741
reappraisal guarantee pursuant to section 3317.04 of the Revised 82742
Code; an amount shall be available in each fiscal year to fund up 82743
to 225 full-time equivalent approved GRADS teacher grants pursuant 82744
to division (R) of section 3317.024 of the Revised Code; an amount 82745
shall be available in each fiscal year to make payments to school 82746
districts pursuant to division (A)(2) of section 3317.022 of the 82747

Revised Code; an amount shall be available in each fiscal year to 82748
make payments to school districts pursuant to division (F) of 82749
section 3317.022 of the Revised Code; an amount shall be available 82750
in each fiscal year to make payments to school districts pursuant 82751
to division (C) of section 3317.0212 of the Revised Code; and up 82752
to \$15,000,000 in each fiscal year shall be reserved for payments 82753
pursuant to sections 3317.026, 3317.027, and 3317.028 of the 82754
Revised Code except that the Controlling Board may increase the 82755
\$15,000,000 amount if presented with such a request from the 82756
Department of Education. Of the foregoing appropriation item 82757
200-501, Base Cost Funding, up to \$15,000,000 in each fiscal year 82758
shall be used to provide additional state aid to school districts 82759
for special education students pursuant to division (C)(3) of 82760
section 3317.022 of the Revised Code; up to \$2,000,000 in each 82761
fiscal year shall be reserved for Youth Services tuition payments 82762
pursuant to section 3317.024 of the Revised Code; and up to 82763
\$52,000,000 in each fiscal year shall be reserved to fund the 82764
state reimbursement of educational service centers pursuant to 82765
section 3317.11 of the Revised Code and the section of this act 82766
entitled "EDUCATIONAL SERVICE CENTERS FUNDING." An amount shall be 82767
available for special education weighted funding pursuant to 82768
division (C)(1) of section 3317.022 and division (D)(1) of section 82769
3317.16 of the Revised Code. 82770

Of the foregoing appropriation item 200-501, Base Cost 82771
Funding, an amount shall be available in each fiscal year to be 82772
used by the Department of Education for transitional aid for 82773
school districts. Funds shall be distributed pursuant to the 82774
section of this act entitled "TRANSITIONAL AID." 82775

Of the foregoing appropriation item 200-501, Base Cost 82776
Funding, up to \$1,000,000 in each fiscal year shall be used by the 82777
Department of Education for a pilot program to pay for educational 82778
services for youth who have been assigned by a juvenile court or 82779

other authorized agency to any of the facilities described in 82780
division (A) of the section titled "Private Treatment Facility 82781
Pilot Project." 82782

The remaining portion of appropriation item 200-501, Base 82783
Cost Funding, shall be expended for the public schools of city, 82784
local, exempted village, and joint vocational school districts, 82785
including base cost funding, special education speech service 82786
enhancement funding, career-technical education weight funding, 82787
career-technical education associated service funding, guarantee 82788
funding, and teacher training and experience funding pursuant to 82789
sections 3317.022, 3317.023, 3317.0212, and 3317.16 of the Revised 82790
Code. 82791

Appropriation items 200-500, School Finance Equity, 200-501, 82792
Base Cost Funding, 200-502, Pupil Transportation, 200-520, 82793
Disadvantaged Pupil Impact Aid, 200-521, Gifted Pupil Program, 82794
200-525, Parity Aid, and 200-546, Charge-Off Supplement, other 82795
than specific set-asides, are collectively used in each fiscal 82796
year to pay state formula aid obligations for school districts and 82797
joint vocational school districts pursuant to Chapter 3317. of the 82798
Revised Code. The first priority of these appropriation items, 82799
with the exception of specific set-asides, is to fund state 82800
formula aid obligations under Chapter 3317. of the Revised Code. 82801
It may be necessary to reallocate funds among these appropriation 82802
items in order to meet state formula aid obligations. If it is 82803
determined that it is necessary to transfer funds among these 82804
appropriation items to meet state formula aid obligations, the 82805
Department of Education shall seek approval from the Controlling 82806
Board to transfer funds among these appropriation items. 82807

Section 40.09. PUPIL TRANSPORTATION 82808

Of the foregoing appropriation item 200-502, Pupil 82809
Transportation, up to \$822,400 in each fiscal year may be used by 82810

the Department of Education for training prospective and 82811
experienced school bus drivers in accordance with training 82812
programs prescribed by the Department. Up to \$56,975,910 in each 82813
fiscal year may be used by the Department of Education for special 82814
education transportation reimbursements to school districts and 82815
county MR/DD boards for transportation operating costs as provided 82816
in division (M) of section 3317.024 of the Revised Code. The 82817
remainder of appropriation item 200-502, Pupil Transportation, 82818
shall be used for the state reimbursement of public school 82819
districts' costs in transporting pupils to and from the school 82820
they attend in accordance with the district's policy, State Board 82821
of Education standards, and the Revised Code. 82822

BUS PURCHASE ALLOWANCE 82823

The foregoing appropriation item 200-503, Bus Purchase 82824
Allowance, shall be distributed to school districts, educational 82825
service centers, and county MR/DD boards pursuant to rules adopted 82826
under section 3317.07 of the Revised Code. Up to 28 per cent of 82827
the amount appropriated may be used to reimburse school districts 82828
and educational service centers for the purchase of buses to 82829
transport handicapped and nonpublic school students and to county 82830
MR/DD boards, the Ohio School for the Deaf, and the Ohio School 82831
for the Blind for the purchase of buses to transport handicapped 82832
students. 82833

SCHOOL LUNCH MATCH 82834

The foregoing appropriation item 200-505, School Lunch Match, 82835
shall be used to provide matching funds to obtain federal funds 82836
for the school lunch program. 82837

Section 40.10. ADULT LITERACY EDUCATION 82838

The foregoing appropriation item 200-509, Adult Literacy 82839
Education, shall be used to support adult basic and literacy 82840

education instructional programs and the State Literacy Resource 82841
Center Program. 82842

Of the foregoing appropriation item 200-509, Adult Literacy 82843
Education, up to \$519,188 in each fiscal year shall be used for 82844
the support and operation of the State Literacy Resource Center. 82845

Of the foregoing appropriation item 200-509, Adult Literacy 82846
Education, \$146,250 in each fiscal year shall be used to support 82847
initiatives for English as a second language programs in 82848
combination with citizenship. Funding shall be provided to 82849
organizations that received such funds during fiscal year 2003 82850
from appropriation item 200-570, School Improvement Incentive 82851
Grants. 82852

The remainder of the appropriation shall be used to continue 82853
to satisfy the state match and maintenance of effort requirements 82854
for the support and operation of the Department of 82855
Education-administered instructional grant program for adult basic 82856
and literacy education in accordance with the department's state 82857
plan for adult basic and literacy education as approved by the 82858
State Board of Education and the Secretary of the United States 82859
Department of Education. 82860

AUXILIARY SERVICES 82861

The foregoing appropriation item 200-511, Auxiliary Services, 82862
shall be used by the Department of Education for the purpose of 82863
implementing section 3317.06 of the Revised Code. Of the 82864
appropriation, up to \$1,462,500 in each fiscal year may be used 82865
for payment of the Post-Secondary Enrollment Options Program for 82866
nonpublic students pursuant to section 3365.10 of the Revised 82867
Code. 82868

STUDENT INTERVENTION SERVICES 82869

Of the foregoing appropriation item 200-513, Student 82870
Intervention Services, \$3,700,000 in fiscal year 2004 and 82871

\$5,900,000 in fiscal year 2005 shall be allocated by the 82872
Department of Education, on a per pupil basis, to school districts 82873
in academic emergency. Districts shall use these funds for 82874
salaries, materials, and training to provide after-school, 82875
in-school, Saturday school, summer school, or other related 82876
intervention programs to students as specified in division (D)(2) 82877
of section 3301.0711 of the Revised Code. In fiscal year 2004 82878
these programs shall be provided to students enrolled in the ninth 82879
grade. In fiscal year 2005, these programs shall be provided to 82880
students enrolled in the ninth and tenth grades. At the end of 82881
each fiscal year, the school districts receiving these funds shall 82882
report to the Department of Education the number of students who 82883
were offered intervention, the number of students who 82884
participated, and the number of students who completed the 82885
intervention program, and shall provide an evaluation of the 82886
impact of the intervention on students. 82887

Of the foregoing appropriation item 200-513, Student 82888
Intervention Services, \$100,000 in each fiscal year shall be used 82889
for Project GRAD. 82890

Of the foregoing appropriation item 200-513, Student 82891
Intervention Services, \$150,000 in each fiscal year shall be used 82892
for Read Baby Read. 82893

The remainder of appropriation item 200-513, Student 82894
Intervention Services, shall be used to assist districts providing 82895
the intervention services specified in section 3313.608 of the 82896
Revised Code. The Department of Education shall establish 82897
guidelines for the use and distribution of these moneys. School 82898
districts receiving funds from this appropriation shall report to 82899
the Department of Education on how funds were used. 82900

POSTSECONDARY ADULT CAREER-TECHNICAL EDUCATION 82901

Of the foregoing appropriation item 200-514, Postsecondary 82902

Adult Career-Technical Education, \$40,000 in each fiscal year 82903
shall be used for the statewide coordination of the activities of 82904
the Ohio Young Farmers. 82905

The remainder of appropriation item 200-514, Postsecondary 82906
Adult Career-Technical Education, shall be used by the State Board 82907
of Education to provide postsecondary adult career-technical 82908
education under sections 3313.52 and 3313.53 of the Revised Code. 82909

DISADVANTAGED PUPIL IMPACT AID 82910

Notwithstanding the distribution formula outlined in section 82911
3317.029 of the Revised Code, each school district shall receive 82912
an additional two per cent in Disadvantaged Pupil Impact Aid 82913
(DPIA) funding in fiscal year 2004 over what was received in 82914
fiscal year 2003 unless the district receives DPIA funding from 82915
the DPIA guarantee provision pursuant to division (B) of section 82916
3317.029 of the Revised Code in fiscal year 2003. For such a 82917
district, its DPIA funding in fiscal year 2004 shall equal the 82918
amount of DPIA funding the district received in fiscal year 2003. 82919

Notwithstanding the distribution formula outlined in section 82920
3317.029 of the Revised Code, each school district shall receive 82921
an additional two per cent in DPIA funding in fiscal year 2005 82922
over what was received in fiscal year 2004 unless the district 82923
receives DPIA funding from the DPIA guarantee provision pursuant 82924
to division (B) of section 3317.029 of the Revised Code in fiscal 82925
year 2003. For such a district, its DPIA funding in fiscal year 82926
2005 shall equal the amount of DPIA funding the district received 82927
in fiscal year 2004. 82928

School districts must continue to comply with all expenditure 82929
guidelines and restrictions outlined in divisions (F), (G), (I), 82930
and (K) of section 3317.029 of the Revised Code by assuming a two 82931
per cent increase in funds for each program outlined in divisions 82932
(C), (D), and (E) of section 3317.029 of the Revised Code and by 82933

assuming a DPIA index equivalent to the index calculated in fiscal year 2003. 82934
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The Department of Education shall pay all-day, everyday kindergarten funding to all school districts in each fiscal year that qualified for and provided the service in fiscal year 2003 pursuant to section 3317.029 of the Revised Code. School districts and community schools that did not have a DPIA allocation in fiscal year 2003 shall not receive an allocation in fiscal year 2004 or fiscal year 2005. 82936
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Of the foregoing appropriation item 200-520, Disadvantaged Pupil Impact Aid, up to \$3,800,000 in each fiscal year shall be used for school breakfast programs. Of this amount, up to \$1,000,000 shall be used in each fiscal year by the Department of Education for the purpose of increasing participation in child nutrition programs, particularly school breakfast and summer meals. The Department shall collaborate with the Children's Hunger Alliance in the outreach effort. The remainder of the appropriation shall be used to partially reimburse school buildings within school districts that are required to have a school breakfast program pursuant to section 3313.813 of the Revised Code, at a rate decided by the Department. 82943
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Of the portion of the funds distributed to the Cleveland Municipal School District under this section, up to \$11,901,887 in each fiscal year shall be used to operate the school choice program in the Cleveland Municipal School District pursuant to sections 3313.974 to 3313.979 of the Revised Code. 82955
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Section 40.11. GIFTED PUPIL PROGRAM 82960

The foregoing appropriation item 200-521, Gifted Pupil Program, shall be used for gifted education units not to exceed 1,110 in each fiscal year pursuant to division (P) of section 3317.024 and division (F) of section 3317.05 of the Revised Code. 82961
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Of the foregoing appropriation item 200-521, Gifted Pupil Program, up to \$5,000,000 each in fiscal year may be used as an additional supplement for identifying gifted students pursuant to Chapter 3324. of the Revised Code.

Of the foregoing appropriation item 200-521, Gifted Pupil Program, the Department of Education may expend up to \$1,000,000 in each fiscal year for the Summer Honors Institute for gifted freshman and sophomore high school students. Up to \$600,000 in each fiscal year shall be used for research and demonstration projects. The Department of Education shall research and evaluate the effectiveness of gifted education programs in Ohio. Up to \$70,000 in each fiscal year shall be used for the Ohio Summer School for the Gifted (Martin Essex Program).

Section 40.12. PARITY AID

The foregoing appropriation item 200-525, Parity Aid, shall be distributed to school districts based on the formulas specified in section 3317.0217 of the Revised Code.

NONPUBLIC ADMINISTRATIVE COST REIMBURSEMENT

The foregoing appropriation item 200-532, Nonpublic Administrative Cost Reimbursement, shall be used by the Department of Education for the purpose of implementing section 3317.063 of the Revised Code.

Section 40.13. SPECIAL EDUCATION ENHANCEMENTS

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

be used in each fiscal year to fund special education classroom 82994
and related services units at institutions. 82995

Of the foregoing appropriation item 200-540, Special 82996
Education Enhancements, up to \$2,906,875 in each fiscal year shall 82997
be used for home instruction for children with disabilities; up to 82998
\$1,462,500 in each fiscal year shall be used for parent mentoring 82999
programs; and up to \$2,783,396 in each fiscal year may be used for 83000
school psychology interns. 83001

Of the foregoing appropriation item 200-540, Special 83002
Education Enhancements, \$3,406,090 in each fiscal year shall be 83003
used by the Department of Education to assist school districts in 83004
funding aides pursuant to paragraph (A)(3)(c)(i)(b) of rule 83005
3301-51-04 of the Administrative Code. 83006

Of the foregoing appropriation item 200-540, Special 83007
Education Enhancements, \$78,384,498 in each fiscal year shall be 83008
distributed by the Department of Education to county boards of 83009
mental retardation and developmental disabilities, educational 83010
service centers, and school districts for preschool special 83011
education units and preschool supervisory units in accordance with 83012
section 3317.161 of the Revised Code. The department may reimburse 83013
county boards of mental retardation and developmental 83014
disabilities, educational service centers, and school districts 83015
for related services as defined in rule 3301-31-05 of the 83016
Administrative Code, for preschool occupational and physical 83017
therapy services provided by a physical therapy assistant and 83018
certified occupational therapy assistant, and for an instructional 83019
assistant. To the greatest extent possible, the Department of 83020
Education shall allocate these units to school districts and 83021
educational service centers. The Controlling Board may approve the 83022
transfer of unallocated funds from appropriation item 200-501, 83023
Base Cost Funding, to appropriation item 200-540, Special 83024
Education Enhancements, to fully fund existing units as necessary 83025

or to fully fund additional units. The Controlling Board may 83026
approve the transfer of unallocated funds from appropriation item 83027
200-540, Special Education Enhancements, to appropriation item 83028
200-501, Base Cost Funding, to fully fund the special education 83029
weight cost funding. 83030

The Department of Education shall require school districts, 83031
educational service centers, and county MR/DD boards serving 83032
preschool children with disabilities to document child progress 83033
using research-based indicators prescribed by the Department and 83034
report results annually. The reporting dates and methodology shall 83035
be determined by the Department. 83036

Of the foregoing appropriation item 200-540, Special 83037
Education Enhancements, \$315,000 in each fiscal year shall be 83038
expended to conduct a demonstration project involving language and 83039
literacy intervention teams supporting student acquisition of 83040
language and literacy skills. The demonstration project shall 83041
demonstrate improvement of language and literacy skills of at-risk 83042
learners under the instruction of certified speech pathologists 83043
and educators. Baseline data shall be collected and comparison 83044
data for fiscal year 2004 and fiscal year 2005 shall be collected 83045
and reported to the Governor, Ohio Reads Council, Department of 83046
Education, and the General Assembly. 83047

Of the foregoing appropriation item 200-540, Special 83048
Education Enhancements, up to \$500,000 in each fiscal year shall 83049
be used for the Research-Based Reading Mentoring Program. 83050

Of the foregoing appropriation item 200-540, Special 83051
Education Enhancements, \$800,000 in each fiscal year shall be used 83052
to support the Bellefaire Jewish Children's Bureau. 83053

Section 40.14. CAREER-TECHNICAL EDUCATION ENHANCEMENTS 83054

Of the foregoing appropriation item 200-545, Career-Technical 83055

Education Enhancements, up to \$2,576,107 in each fiscal year shall 83056
be used to fund career-technical education units at institutions. 83057

Of the foregoing appropriation item 200-545, Career-Technical 83058
Education Enhancements, up to \$2,925,000 in each fiscal year shall 83059
be used by the Department of Education to fund competitive grants 83060
to tech prep consortia that expand the number of students enrolled 83061
in tech prep programs. These grant funds shall be used to directly 83062
support expanded tech prep programs, including equipment, provided 83063
to students enrolled in school districts, including joint 83064
vocational school districts, and affiliated higher education 83065
institutions. 83066

Of the foregoing appropriation item 200-545, Career-Technical 83067
Education Enhancements, \$2,225,000 in each fiscal year shall be 83068
used to provide an amount to each eligible school district for the 83069
replacement or updating of equipment essential for the instruction 83070
of students in job skills taught as part of a career-technical 83071
program or programs approved for such instruction by the State 83072
Board of Education. School districts replacing or updating 83073
career-technical education equipment may purchase or lease such 83074
equipment. The Department of Education shall review and approve 83075
all equipment requests and may allot appropriated funds to 83076
eligible school districts on the basis of the number of full-time 83077
equivalent workforce development teachers in all eligible 83078
districts making application for funds. 83079

The State Board of Education may adopt standards of need for 83080
equipment allocation. Pursuant to the adoption of any such 83081
standards of need by the State Board of Education, appropriated 83082
funds may be allotted to eligible districts according to such 83083
standards. Equipment funds allotted under either process shall be 83084
provided to a school district at 30, 40, or 50 per cent of cost on 83085
the basis of a rating developed by the Department of Education 83086
using the state share percentage as provided in division (B)(2) of 83087

section 3317.022 of the Revised Code. 83088

Of the foregoing appropriation item 200-545, Career-Technical 83089
Education Enhancements, up to \$3,650,000 in each fiscal year shall 83090
be used by the Department of Education to support existing High 83091
Schools That Work (HSTW) sites, develop and support new sites, 83092
fund technical assistance, and support regional centers and middle 83093
school programs. The purpose of HSTW is to combine challenging 83094
academic courses and modern career-technical studies to raise the 83095
academic achievement of students. It provides intensive technical 83096
assistance, focused staff development, targeted assessment 83097
services, and ongoing communications and networking opportunities. 83098

Of the foregoing appropriation item 200-545, Career-Technical 83099
Education Enhancements, \$2,400,000 in each fiscal year shall be 83100
used for K-12 career development. 83101

Of the foregoing appropriation item 200-545, Career-Technical 83102
Education Enhancements, up to \$496,800 in each fiscal year shall 83103
be allocated for the Ohio Career Information System (OCIS) and 83104
used for the dissemination of career information data to public 83105
schools, libraries, rehabilitation centers, two- and four-year 83106
colleges and universities, and other governmental units. 83107

Of the foregoing appropriation item 200-545, Career-Technical 83108
Educational Enhancements, \$300,000 in each fiscal year shall be 83109
used by the Department of Education to enable students in 83110
agricultural programs to enroll in a fifth quarter of instruction 83111
based on the agricultural education model of delivering work-based 83112
learning through supervised agricultural experience. The 83113
Department of Education shall determine eligibility criteria and 83114
the reporting process for the Agriculture 5th Quarter Project and 83115
shall fund as many programs as possible given the \$300,000 set 83116
aside. 83117

Section 40.15. CHARGE-OFF SUPPLEMENT 83118

The foregoing appropriation item 200-546, Charge-Off Supplement, shall be used by the Department of Education to make payments pursuant to section 3317.0216 of the Revised Code.

EMERGENCY LOAN INTEREST SUBSIDY

The foregoing appropriation item 200-558, Emergency Loan Interest Subsidy, shall be used to provide a subsidy to school districts receiving emergency school loans pursuant to section 3313.484 of the Revised Code. The subsidy shall be used to pay these districts the difference between the amount of interest the district is paying on an emergency loan, and the interest that the district would have paid if the interest rate on the loan had been two per cent.

Section 40.16. OHIOREADS GRANTS

Of the foregoing appropriation item 200-566, OhioReads Grants, the OhioReads Office in the Department of Education shall use \$2,125,223 in fiscal year 2004 and \$2,167,728 in fiscal year 2005 to fund the STARS program.

The remainder of the foregoing appropriation item 200-566, OhioReads Grants, shall be disbursed by the OhioReads Office in the Department of Education at the direction of the OhioReads Council to provide grants to public schools in city, local, and exempted village school districts; community schools; and educational service centers serving kindergarten through fourth grade students to support local reading literacy initiatives including reading programs, materials, professional development, tutoring, tutor recruitment and training, and parental involvement.

Grants awarded by the OhioReads Council are intended to improve reading outcomes, especially on reading proficiency tests.

SAFE AND SUPPORTIVE SCHOOLS

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.

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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.

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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.

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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.

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Section 40.17. PROPERTY TAX ALLOCATION - EDUCATION 83170

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 - Education, to any other appropriation item.

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The appropriation item 200-901, Property Tax Allocation - Education, is appropriated to pay for the state's costs incurred due to the homestead exemption and the property tax rollback. In cooperation with the Department of Taxation, the Department of

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Education shall distribute these funds directly to the appropriate 83179
school districts of the state, notwithstanding sections 321.24 and 83180
323.156 of the Revised Code, which provide for payment of the 83181
homestead exemption and property tax rollback by the Tax 83182
Commissioner to the appropriate county treasurer and the 83183
subsequent redistribution of these funds to the appropriate local 83184
taxing districts by the county auditor. 83185

Appropriation item 200-906, Tangible Tax Exemption - 83186
Education, is appropriated to pay for the state's costs incurred 83187
due to the tangible personal property tax exemption required by 83188
division (C)(3) of section 5709.01 of the Revised Code. In 83189
cooperation with the Department of Taxation, the Department of 83190
Education shall distribute to each county treasurer the total 83191
amount certified by the county treasurer pursuant to section 83192
319.311 of the Revised Code, for all school districts located in 83193
the county, notwithstanding the provision in section 319.311 of 83194
the Revised Code which provides for payment of the \$10,000 83195
tangible personal property tax exemption by the Tax Commissioner 83196
to the appropriate county treasurer for all local taxing districts 83197
located in the county. Pursuant to division (G) of section 321.24 83198
of the Revised Code, the county auditor shall distribute the 83199
amount paid by the Department of Education among the appropriate 83200
school districts. 83201

Upon receipt of these amounts, each school district shall 83202
distribute the amount among the proper funds as if it had been 83203
paid as real or tangible personal property taxes. Payments for the 83204
costs of administration shall continue to be paid to the county 83205
treasurer and county auditor as provided for in sections 319.54, 83206
321.26, and 323.156 of the Revised Code. 83207

Any sums, in addition to the amounts specifically 83208
appropriated in appropriation items 200-901, Property Tax 83209
Allocation - Education, for the homestead exemption and the 83210

property tax rollback payments, and 200-906, Tangible Tax 83211
Exemption - Education, for the \$10,000 tangible personal property 83212
tax exemption payments, which are determined to be necessary for 83213
these purposes, are hereby appropriated. 83214

Section 40.18. TEACHER CERTIFICATION AND LICENSURE 83215

The foregoing appropriation item 200-681, Teacher 83216
Certification and Licensure, shall be used by the Department of 83217
Education in each year of the biennium to administer teacher 83218
certification and licensure functions pursuant to sections 83219
3301.071, 3301.074, 3301.50, 3301.51, 3319.088, 3319.22, 3319.24 83220
to 3319.28, 3319.281, 3319.282, 3319.29, 3319.301, 3319.31, and 83221
3319.51 of the Revised Code. 83222

SCHOOL DISTRICT SOLVENCY ASSISTANCE 83223

Of the foregoing appropriation item 200-687, School District 83224
Solvency Assistance, \$9,000,000 in each fiscal year shall be 83225
allocated to the School District Shared Resource Account and 83226
\$9,000,000 in each fiscal year shall be allocated to the 83227
Catastrophic Expenditures Account. These funds shall be used to 83228
provide assistance and grants to school districts to enable them 83229
to remain solvent pursuant to section 3316.20 of the Revised Code. 83230
Assistance and grants shall be subject to approval by the 83231
Controlling Board. Any required reimbursements from school 83232
districts for solvency assistance shall be made to the appropriate 83233
account in the School District Solvency Assistance Fund (Fund 83234
5H3). 83235

Section 40.19. HEAD START PLUS/HEAD START 83236

There is hereby established the Title IV-A Head Start Program 83237
to be administered by the Department of Education in accordance 83238
with an interagency agreement entered into with the Department of 83239
Job and Family Services under division (A)(2) of section 5101.801 83240

of the Revised Code. The program shall provide benefits and 83241
services to TANF eligible individuals pursuant to the requirements 83242
of section 5101.801 of the Revised Code. Upon approval by the 83243
Department of Job and Family Services, the Department of Education 83244
shall adopt policies and procedures establishing program 83245
requirements for eligibility, services, fiscal accountability, and 83246
other criteria necessary to comply with the provisions of Title 83247
IV-A of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 83248
301, as amended. 83249

The foregoing appropriation item 200-663, Head Start 83250
Plus/Head Start, shall be used to reimburse Title IV-A Head Start 83251
Plus and Title IV-A Head Start programs for services to children. 83252
The Department of Education shall administer the Title IV-A Head 83253
Start Plus and Title IV-A Head Start programs in accordance with 83254
an interagency agreement between the Departments of Education and 83255
Job and Family Services. Title IV-A Head Start Plus and Title IV-A 83256
Head Start providers shall meet all requirements as outlined in 83257
section 3301.311 of the Revised Code. The Department of Education 83258
shall adopt policies and procedures to establish a procedure for 83259
approving Title IV-A Head Start Plus and Title IV-A Head Start 83260
agencies. 83261

Of the foregoing appropriation item 200-663, Head Start 83262
Plus/Head Start, up to \$57,170,000 in fiscal year 2004 shall be 83263
used to support the Title IV-A Head Start program. Up to two 83264
percent of this amount may be used by the Department of Education 83265
to provide associated program support and technical assistance. 83266

Of the foregoing appropriation item 200-663, Head Start 83267
Plus/Head Start, up to \$85,000,000 in fiscal year 2005 shall be 83268
used to support the Title IV-A Head Start Plus initiative. Title 83269
IV-A Head Start Plus shall provide up to 10,000 slots of full-day, 83270
full-year programming for children at least three years of age and 83271
not kindergarten age eligible. The program shall meet the child 83272

care needs of low-income families who meet eligibility 83273
requirements established in rules and administrative orders 83274
adopted by the Ohio Department of Job and Family Services and 83275
provide early education and comprehensive services as provided 83276
through the Head Start program before the enactment of this act. 83277

Of the foregoing appropriation item 200-663, Head Start 83278
Plus/Head Start, up to \$23,184,000 in fiscal year 2005 shall be 83279
used to support the Title IV-A Head Start program. This funding 83280
shall be used to support up to 4,000 slots of traditional half-day 83281
center-based, home-based, combination, or locally-designed option, 83282
Title IV-A Head Start services. 83283

Of the foregoing appropriation line item 200-663, Head Start 83284
Plus/Head Start, up to \$2,000,000 in fiscal year 2005 may be used 83285
by the Department of Education to provide associated program 83286
support and technical assistance. 83287

For purposes of this section, "eligible child" means a child 83288
who is at least three years of age and not of compulsory school 83289
age whose family earns not more than 100 per cent of the federal 83290
poverty level, except as otherwise provided in the following 83291
paragraph. 83292

The Department of Education, in consultation with Title IV-A 83293
Head Start agencies and, beginning in July 1, 2004, Title IV-A 83294
Head Start Plus agencies, shall establish criteria under which 83295
these agencies may apply to the Department for a waiver to include 83296
as "eligible children" those children from families earning up to 83297
the level of eligibility established for child care subsidy by the 83298
Department of Job and Family Services who otherwise qualify as 83299
"eligible children" under the preceding paragraph. 83300

In order to serve children whose families receive child care 83301
subsidy, Title IV-A Head Start agencies may enroll children whose 83302
families receive child care subsidy from the Ohio Department of 83303

Job and Family Services. Title IV-A Head Start agencies providing 83304
full-day, full-year comprehensive services, or otherwise meeting 83305
the child care needs of working families, may partner with child 83306
care centers or family day care homes or may access child care 83307
subsidy directly. This provision is to meet the child care needs 83308
of low-income families who are working, in training or education 83309
programs, or participating in Ohio Works First approved 83310
activities. 83311

For fiscal year 2005, the Department of Education shall 83312
conduct a head count of the number of children served by Head 83313
Start agencies under this program in December 2003. Any funding 83314
appropriated to this program which the Department of Education 83315
projects is not necessary to provide services to children enrolled 83316
as of that count shall be returned to the Department of Job and 83317
Family Services for use as child care assistance. 83318

The Department of Education shall provide an annual report to 83319
the Governor, the Speaker of the House of Representatives, the 83320
President of the Senate, the State Board of Education, Title IV-A 83321
Head Start Plus and Title IV-A Head Start providers, and other 83322
interested parties regarding the Title IV-A Head Start Plus and 83323
Title IV-A Head Start program and performance indicators as 83324
outlined by the Department of Education. 83325

JOBS FOR OHIO GRADUATES PROGRAM 83326

Pursuant to an interagency agreement entered into between the 83327
Department of Job and Family Services and the Department of 83328
Education, \$1,750,000 from Workforce Investment Act funds (Fund 83329
3V0), reserved for statewide workforce investment activities, in 83330
fiscal year 2004 and fiscal year 2005, shall be used to support 83331
the Jobs for Ohio Graduates programs administered by the 83332
Department of Education. 83333

AUXILIARY SERVICES REIMBURSEMENT 83334

Notwithstanding section 3317.064 of the Revised Code, if the unobligated cash balance is sufficient, the Treasurer of State shall transfer \$1,500,000 in fiscal year 2004 within thirty days after the effective date of this section and \$1,500,000 in fiscal year 2005 by August 1, 2004, from the Auxiliary Services Personnel Unemployment Compensation Fund to the Department of Education's Auxiliary Services Reimbursement Fund (Fund 598).

Section 40.20. LOTTERY PROFITS EDUCATION FUND

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

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

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

* LOTTERY PROFITS TRANSFERS

On or before the first day of May of each fiscal year, the Director of Budget and Management shall determine if lottery

profits transfers will meet the appropriation amounts from the 83365
Lottery Profits Education Fund. 83366

Section 40.21. LOTTERY PROFITS EDUCATION RESERVE FUND 83367

(A) There is hereby created the Lottery Profits Education 83368
Reserve Fund (Fund 018) in the State Treasury. At no time shall 83369
the amount to the credit of the fund exceed \$75,000,000. 83370
Investment earnings of the Lottery Profits Education Reserve Fund 83371
shall be credited to the fund. Notwithstanding any provisions of 83372
law to the contrary, for fiscal years 2004 and 2005, there is 83373
appropriated to the Department of Education, from the Lottery 83374
Profits Education Reserve Fund, an amount necessary to make loans 83375
authorized by sections 3317.0210, 3317.0211, and 3317.62 of the 83376
Revised Code. All loan repayments from loans made in fiscal years 83377
1992, 1993, 1994, 1995, 1996, 1997, 1998, or 1999 shall be 83378
deposited into the credit of the Lottery Profits Education Reserve 83379
Fund. 83380

(B)(1) On or before July 15, 2003, the Director of Budget and 83381
Management shall determine the amount by which lottery profit 83382
transfers received by the Lottery Profits Education Fund for 83383
fiscal year 2003 exceed \$637,722,600. The amount so certified 83384
shall be distributed in fiscal year 2004 pursuant to division (C) 83385
of this section. 83386

(2) On or before July 15, 2004, the Director of Budget and 83387
Management shall determine the amount by which lottery profit 83388
transfers received by the Lottery Profits Education Fund for 83389
fiscal year 2004 exceed \$637,900,000. The amount so determined 83390
shall be distributed in fiscal year 2005 pursuant to division (D) 83391
of this section. 83392

The Director of Budget and Management shall annually certify 83393
the amounts determined pursuant to this section to the Speaker of 83394
the House of Representatives and the President of the Senate. 83395

(C) In fiscal year 2004, if there is a balance in the Lottery Profits Education Fund, the moneys shall be allocated as provided in this division. Any amounts so allocated are appropriated.

An amount equal to five per cent of the estimated lottery profits of \$637,722,600 in fiscal year 2003 or the amount remaining in the fund, whichever is the lesser amount, shall be transferred to the Lottery Profits Education Reserve Fund within the limitations specified in division (A) of this section and be reserved and shall not be available for allocation or distribution during fiscal year 2004. Any amounts exceeding \$75,000,000 shall be distributed pursuant to division (E) of this section.

(D) In fiscal year 2005, if there is a balance in the Lottery Profits Education Fund, the moneys shall be allocated as provided in this division. Any amounts so allocated are appropriated.

An amount equal to five per cent of the estimated lottery profits transfers of \$637,900,000 in fiscal year 2004 or the amount remaining in the fund, whichever is the lesser amount, shall be transferred to the Lottery Profits Education Reserve Fund within the limitations specified in division (A) of this section and be reserved and shall not be available for allocation or distribution during fiscal year 2005. Any amounts exceeding \$75,000,000 shall be distributed pursuant to division (E) of this section.

(E) In the appropriate fiscal year, any remaining amounts after the operations required by division (C) or (D) of this section, respectively, shall be transferred to the Public School Building Fund (Fund 021) and such amount is appropriated to appropriation item CAP-622, Public School Buildings, in the School Facilities Commission.

Section 40.22. SCHOOL DISTRICT PROPERTY TAX REPLACEMENT

The foregoing appropriation item 200-900, School District
Property Tax Replacement, shall be used by the Department of
Education, in consultation with the Department of Taxation, to
make payments to school districts and joint vocational school
districts pursuant to section 5727.85 of the Revised Code.

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Section 40.23. * DISTRIBUTION FORMULAS

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The Department of Education shall report the following to the
Director of Budget and Management, the Legislative Office of
Education Oversight, and the Legislative Service Commission:

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(A) Changes in formulas for distributing state
appropriations, including administratively defined formula
factors;

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(B) Discretionary changes in formulas for distributing
federal appropriations;

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(C) Federally mandated changes in formulas for distributing
federal appropriations.

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Any such changes shall be reported two weeks prior to the
effective date of the change.

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**Section 40.24. DISTRIBUTION - SCHOOL DISTRICT SUBSIDY
PAYMENTS**

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This section shall not take effect unless the Director of
Budget and Management adopts an order putting it into effect and
certifies a copy of the order to the Superintendent of Public
Instruction and the Controlling Board.

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Notwithstanding any other provision of the Revised Code, the
monthly distribution of payments made to school districts and
educational service centers pursuant to section 3317.01 of the
Revised Code for the first six months of each fiscal year shall
equal, as nearly as possible, six and two-thirds per cent of the

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estimate of the amounts payable for each fiscal year. The monthly 83455
distribution of payments for the last six months of each fiscal 83456
year shall equal, as nearly as possible, ten per cent of the final 83457
calculation of the amounts payable to each school district for 83458
that fiscal year. 83459

The treasurer of each school district or educational service 83460
center may accrue, in addition to the payments defined in this 83461
section, to the accounts of the calendar years that end during 83462
each fiscal year, the difference between the sum of the first six 83463
months' payments in each fiscal year and the amounts the district 83464
would have received had the payments been made in, as nearly as 83465
possible in each fiscal year, twelve equal monthly payments. 83466

Notwithstanding the limitations on the amount of borrowing 83467
and time of payment provided for in section 133.10 of the Revised 83468
Code but subject to sections 133.26 and 133.30 of the Revised 83469
Code, a board of education of a school district may at any time 83470
between July 1, 2003, and December 31, 2003, or at any time 83471
between July 1, 2004, and December 31, 2004, borrow money to pay 83472
any necessary and actual expenses of the school district during 83473
the last six months of calendar years 2003 and 2004 and in 83474
anticipation of the receipt of any portion of the payments to be 83475
received by that district in the first six months of calendar 83476
years 2004 and 2005 representing the respective amounts accrued 83477
pursuant to the preceding paragraph, and issue notes to evidence 83478
that borrowing to mature not later than the thirtieth day of June 83479
of the calendar year following the calendar year in which such 83480
amount was borrowed. The principal amount borrowed in the last six 83481
months of calendar years 2003 or 2004 under this paragraph may not 83482
exceed the entire amount accrued or to be accrued by the district 83483
treasurer in those calendar years pursuant to the preceding 83484
paragraph. The proceeds of the notes shall be used only for the 83485
purposes for which the anticipated receipts are lawfully 83486

appropriated by the board of education. No board of education 83487
shall be required to use the authority granted by this paragraph. 83488
The receipts so anticipated, and additional amounts from 83489
distributions to the districts in the first six months of calendar 83490
years 2004 and 2005 pursuant to Chapter 3317. of the Revised Code 83491
needed to pay the interest on the notes, shall be deemed 83492
appropriated by the board of education to the extent necessary for 83493
the payment of the principal of and interest on the notes at 83494
maturity, and the amounts necessary to make those monthly 83495
distributions are appropriated from the General Revenue Fund. For 83496
the purpose of better ensuring the prompt payment of principal of 83497
and interest on the notes when due, the resolution of the board of 83498
education authorizing the notes may direct that the amount of the 83499
receipts anticipated, together with those additional amounts 83500
needed to pay the interest on the borrowed amounts, shall be 83501
deposited and segregated, in trust or otherwise, to the extent, at 83502
the time or times, and in the manner provided in that resolution. 83503
The borrowing authorized by this section does not constitute debt 83504
for purposes of section 133.04 of the Revised Code. School 83505
districts shall be reimbursed by the state for all necessary and 83506
actual costs to districts arising from this provision, including, 83507
without limitation, the interest paid on the notes while the notes 83508
are outstanding. The Department of Education shall adopt rules 83509
that are not inconsistent with this section for school district 83510
eligibility and application for reimbursement of such costs. 83511
Payments of these costs shall be made out of any anticipated 83512
balances in appropriation items distributed under Chapter 3317. of 83513
the Revised Code. The department shall submit all requests for 83514
reimbursement under these provisions to the Controlling Board for 83515
approval. 83516

During the last six months of each calendar year, instead of 83517
deducting the amount the Superintendent of Public Instruction 83518
would otherwise deduct from a school district's or educational 83519

service center's state aid payments in accordance with the 83520
certifications made for such year pursuant to sections 3307.56 and 83521
3309.51 of the Revised Code, the superintendent shall deduct an 83522
amount equal to forty per cent of the amount so certified. The 83523
secretaries of the retirement systems shall compute the 83524
certifications for the ensuing year under such sections as if the 83525
entire amounts certified as due in the calendar year ending the 83526
current fiscal year, but not deducted pursuant to this paragraph, 83527
had been deducted and paid in that calendar year. During the first 83528
six months of the ensuing calendar year, in addition to deducting 83529
the amounts the Superintendent of Public Instruction is required 83530
to deduct under such sections during such period, the 83531
superintendent shall deduct from a district's or educational 83532
service center's state aid payments an additional amount equal to 83533
the amount that was certified as due from the district for the 83534
calendar year that ends during the fiscal year, but that was not 83535
deducted because of this paragraph. The superintendent's 83536
certifications to the Director of Budget and Management during the 83537
first six months of the calendar year shall reflect such 83538
additional deduction. 83539

Section 40.25. EDUCATIONAL SERVICE CENTERS FUNDING 83540

(A) As used in this section: 83541

(1) "Internet- or computer-based community school" has the 83542
same meaning as in section 3314.02 of the Revised Code. 83543

(2) "Service center ADM" has the same meaning as in section 83544
3317.11 of the Revised Code. 83545

(B) Notwithstanding division (F) of section 3317.11 of the 83546
Revised Code, no funds shall be provided under that division to an 83547
educational service center in either fiscal year for any pupils of 83548
a city or exempted village school district unless an agreement to 83549
provide services under section 3313.843 of the Revised Code was 83550

entered into by January 1, 1997, except that funds shall be 83551
provided to an educational service center for any pupils of a city 83552
school district if the agreement to provide services was entered 83553
into within one year of the date upon which such district changed 83554
from a local school district to a city school district. 83555

(C) Notwithstanding any provision of the Revised Code to the 83556
contrary, an educational service center that sponsors a community 83557
school under Chapter 3314. of the Revised Code in either fiscal 83558
year may include the students of that community school in its 83559
service center ADM for purposes of state funding under division 83560
(F) of section 3317.11 of the Revised Code, unless the community 83561
school is an Internet- or computer-based community school. A 83562
service center shall include the community school students in its 83563
service center ADM only to the extent that the students are not 83564
already so included, and only in accordance with guidelines issued 83565
by the Department of Education. If the students of a community 83566
school sponsored by an educational service center are included in 83567
the service center ADM of another educational service center, 83568
those students shall be removed from the service center ADM of the 83569
other educational service center and added to the service center 83570
ADM of the community school's sponsoring service center. The 83571
General Assembly authorizes this procedure as an incentive for 83572
educational service centers to take over sponsorship of community 83573
schools from the State Board of Education as the State Board's 83574
sponsorship is phased out in accordance with Sub. H.B. 364 of the 83575
124th General Assembly. No student of an Internet- or 83576
computer-based community school shall be counted in the service 83577
center ADM of any educational service center. The Department shall 83578
pay educational service centers under division (F) of section 83579
3317.11 of the Revised Code for community school students included 83580
in their service center ADMs under this division only if 83581
sufficient funds earmarked within appropriation item 200-501, Base 83582
Cost Funding, for payments under that division remain after first 83583

paying for students attributable to their local and client school 83584
districts, in accordance with divisions (B) and (D) of this 83585
section. 83586

(D) If insufficient funds are earmarked within appropriation 83587
item 200-501, Base Cost Funding, for payments under division (F) 83588
of section 3317.11 of the Revised Code and division (C) of this 83589
section in fiscal year 2004 or fiscal year 2005, the Department 83590
shall prioritize the distribution of the earmarked funds as 83591
follows: 83592

(1) The Department shall first distribute to each educational 83593
service center the per-student amount specified in division (F) of 83594
section 3317.11 of the Revised Code for each student in its 83595
service center ADM attributable to the local school districts 83596
within the service center's territory. 83597

(2) The Department shall distribute the remaining funds in 83598
each fiscal year to each educational service center for the 83599
students in its service center ADM attributable to each city and 83600
exempted village school district that had entered into an 83601
agreement with an educational service center for that fiscal year 83602
under section 3313.843 of the Revised Code by January 1, 1997, up 83603
to the per-student amount specified in division (F) of section 83604
3317.11 of the Revised Code. If insufficient funds remain to pay 83605
each service center the full amount specified in division (F) of 83606
that section for each such student, the Department shall 83607
distribute the remaining funds to each service center 83608
proportionally, on a per-student basis for each such student, 83609
unless that proportional per-student amount exceeds the amount 83610
specified in division (F)(1) of that section. In that case, the 83611
Department shall distribute the per-student amount specified in 83612
division (F)(1) of that section to each service center for each 83613
such student and shall distribute the remainder proportionally, on 83614
a per-student basis for each such student, to the multi-county 83615

service centers described in division (F)(2) of that section. 83616

(3) If the Department has paid each service center under 83617
divisions (D)(1) and (2) of this section, the full amount 83618
specified in division (F) of section 3317.11 of the Revised Code 83619
for each student attributable to its local school districts and 83620
its client school districts described in division (D)(2) of this 83621
section the Department shall distribute any remaining funds 83622
proportionally, on a per-student basis, to each service center 83623
that sponsors a community school, other than an Internet- or 83624
computer-based community school, for the students included in the 83625
service center ADM under division (C) of this section. These 83626
payments shall not exceed per student the amount specified in 83627
division (F) of section 3317.11 of the Revised Code. 83628

Section 40.26. * For the school year commencing July 1, 2003, 83629
or the school year commencing July 1, 2004, or both, the 83630
Superintendent of Public Instruction may waive for the board of 83631
education of any school district the ratio of teachers to pupils 83632
in kindergarten through fourth grade required under paragraph 83633
(A)(3) of rule 3301-35-05 of the Administrative Code if the 83634
following conditions apply: 83635

(A) The board of education requests the waiver. 83636

(B) After the Department of Education conducts an on-site 83637
evaluation of the district related to meeting the required ratio, 83638
the board of education demonstrates to the satisfaction of the 83639
Superintendent of Public Instruction that providing the facilities 83640
necessary to meet the required ratio during the district's regular 83641
school hours with pupils in attendance would impose an extreme 83642
hardship on the district. 83643

(C) The board of education provides assurances that are 83644
satisfactory to the Superintendent of Public Instruction that the 83645
board will act in good faith to meet the required ratio as soon as 83646

possible. 83647

Section 40.27. PRIVATE TREATMENT FACILITY PILOT PROJECT 83648

(A) As used in this section: 83649

(1) The following are "participating residential treatment centers": 83650
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(a) Private residential treatment facilities that have 83652
entered into a contract with the Department of Youth Services to 83653
provide services to children placed at the facility by the 83654
Department and which, in fiscal year 2004 or fiscal year 2005 or 83655
both, the Department pays through appropriation item 470-401, Care 83656
and Custody; 83657

(b) Abraxas, in Shelby; 83658

(c) Paint Creek, in Bainbridge; 83659

(d) Act One, in Akron; 83660

(e) Friars Club, in Cincinnati. 83661

(2) "Education program" means an elementary or secondary 83662
education program or a special education program and related 83663
services. 83664

(3) "Served child" means any child receiving an education 83665
program pursuant to division (B) of this section. 83666

(4) "School district responsible for tuition" means a city, 83667
exempted village, or local school district that, if tuition 83668
payment for a child by a school district is required under law 83669
that existed in fiscal year 1998, is the school district required 83670
to pay that tuition. 83671

(5) "Residential child" means a child who resides in a 83672
participating residential treatment center and who is receiving an 83673
educational program under division (B) of this section. 83674

(B) A youth who is a resident of the state and has been assigned by a juvenile court or other authorized agency to a residential treatment facility specified in division (A) of this section shall be enrolled in an approved educational program located in or near the facility. Approval of the educational program shall be contingent upon compliance with the criteria established for such programs by the Department of Education. The educational program shall be provided by a school district or educational service center, or by the residential facility itself. Maximum flexibility shall be given to the residential treatment facility to determine the provider. In the event that a voluntary agreement cannot be reached and the residential facility does not choose to provide the educational program, the educational service center in the county in which the facility is located shall provide the educational program at the treatment center to children under twenty-two years of age residing in the treatment center.

(C) Any school district responsible for tuition for a residential child shall, notwithstanding any conflicting provision of the Revised Code regarding tuition payment, pay tuition for the child for fiscal year 2004 and fiscal year 2005 to the education program provider and in the amount specified in this division. If there is no school district responsible for tuition for a residential child and if the participating residential treatment center to which the child is assigned is located in the city, exempted village, or local school district that, if the child were not a resident of that treatment center, would be the school district where the child is entitled to attend school under sections 3313.64 and 3313.65 of the Revised Code, that school district, notwithstanding any conflicting provision of the Revised Code, shall pay tuition for the child for fiscal year 2004 and fiscal year 2005 under this division unless that school district

is providing the educational program to the child under division 83707
(B) of this section. 83708

A tuition payment under this division shall be made to the 83709
school district, educational service center, or residential 83710
treatment facility providing the educational program to the child. 83711

The amount of tuition paid shall be: 83712

(1) The amount of tuition determined for the district under 83713
division (A) of section 3317.08 of the Revised Code; 83714

(2) In addition, for any student receiving special education 83715
pursuant to an individualized education program as defined in 83716
section 3323.01 of the Revised Code, a payment for excess costs. 83717
This payment shall equal the actual cost to the school district, 83718
educational service center, or residential treatment facility of 83719
providing special education and related services to the student 83720
pursuant to the student's individualized education program, minus 83721
the tuition paid for the child under division (C)(1) of this 83722
section. 83723

A school district paying tuition under this division shall 83724
not include the child for whom tuition is paid in the district's 83725
average daily membership certified under division (A) of section 83726
3317.03 of the Revised Code. 83727

(D) In each of fiscal years 2004 and 2005, the Department of 83728
Education shall reimburse, from appropriations made for the 83729
purpose, a school district, educational service center, or 83730
residential treatment facility, whichever is providing the 83731
service, that has demonstrated that it is in compliance with the 83732
funding criteria for each served child for whom a school district 83733
must pay tuition under division (C) of this section. The amount of 83734
the reimbursement shall be the formula amount specified in section 83735
3317.022 of the Revised Code, except that the department shall 83736
proportionately reduce this reimbursement if sufficient funds are 83737

not available to pay this amount to all qualified providers. 83738

(E) Funds provided to a school district, educational service 83739
center, or residential treatment facility under this section shall 83740
be used to supplement, not supplant, funds from other public 83741
sources for which the school district, service center, or 83742
residential treatment facility is entitled or eligible. 83743

(F) The Department of Education shall track the utilization 83744
of funds provided to school districts, educational service 83745
centers, and residential treatment facilities under this section 83746
and monitor the effect of the funding on the educational programs 83747
they provide in participating residential treatment facilities. 83748
The department shall monitor the programs for educational 83749
accountability. 83750

Section 40.28. SCHOOL DISTRICT PARTICIPATION IN NATIONAL 83751
ASSESSMENT OF EDUCATION PROGRESS 83752

The General Assembly intends for the Superintendent of Public 83753
Instruction to provide for school district participation in the 83754
administration of the National Assessment of Education Progress in 83755
accordance with section 3301.27 of the Revised Code. Each school 83756
and school district selected for participation by the 83757
Superintendent of Public Instruction shall participate. 83758

Section 40.29. Notwithstanding division (C)(1) of section 83759
3313.975 of the Revised Code, in addition to students in 83760
kindergarten through third grade, initial scholarships may be 83761
awarded to fourth, fifth, sixth, seventh, and eighth grade 83762
students in fiscal year 2004 and in fiscal year 2005. 83763

Section 40.30. STATEMENT OF STATE SHARE PERCENTAGE FOR BASE 83764
COST AND PARITY AID FUNDING 83765

Pursuant to division (D)(3) of section 3317.012 of the 83766

Revised Code, and based on the most recent data available prior to 83767
the enactment of this act, the General Assembly has determined 83768
that the state share percentage of base cost and parity aid 83769
funding for the update year (fiscal year 2002) is 49.0%. This is 83770
the target percentage for fiscal year 2004 and fiscal year 2005 83771
that the General Assembly shall use to fulfill its obligation 83772
under division (D)(4) of section 3317.012 of the Revised Code. 83773

Pursuant to division (D)(4) of section 3317.012 of the 83774
Revised Code, and based on the most recent data available prior to 83775
the enactment of this act, the General Assembly has determined 83776
that the state share percentage of base cost and parity aid 83777
funding for fiscal year 2004 is 46.5% and for fiscal year 2005 is 83778
48.6%. This determination fulfills the General Assembly's 83779
obligation under that division for fiscal year 2004 and fiscal 83780
year 2005. 83781

Section 40.31. DEPARTMENT OF EDUCATION APPROPRIATION 83782
TRANSFERS FOR STUDENT ASSESSMENT 83783

In fiscal year 2004 and fiscal year 2005, if the 83784
Superintendent of Public Instruction determines that additional 83785
funds are needed to fully fund the requirements of Am. Sub. S.B. 1 83786
of the 124th General Assembly for assessments of student 83787
performance, the Superintendent of Public Instruction may 83788
recommend the reallocation of unspent and unencumbered 83789
appropriations within the Department of Education to the General 83790
Revenue Fund appropriation item 200-437, Student Assessment, to 83791
the Director of Budget and Management. If the Director of Budget 83792
and Management determines that such a reallocation is required, 83793
the Director of Budget and Management may transfer unspent and 83794
unencumbered funds within the Department of Education as necessary 83795
to appropriation item 200-437, Student Assessment. 83796

Section 40.34a. The amendments by this act to division (C)(4) 83797
of section 3313.981, division (B)(2)(e) of section 3314.08, 83798
division (A)(4) of section 3317.023, and division (A)(3) of 83799
section 3317.03 of the Revised Code shall not apply in fiscal year 83800
2004. In fiscal year 2004, the Department of Education shall 83801
implement those divisions as if they accounted for one-fourth of 83802
joint vocational school district students, as they did prior to 83803
the effective date of those amendments. Those divisions, as 83804
amended by this act to reduce the percentage of joint vocational 83805
school district students accounted for from one-fourth to ten per 83806
cent, shall apply beginning in fiscal year 2005. 83807

Section 40.35. (A) As used in this section: 83808

(1) "IEP" has the same meaning as in section 3314.08 of the 83809
Revised Code. 83810

(2) "SBH student" means a student receiving special education 83811
and related services for severe behavior handicap conditions 83812
pursuant to an IEP. 83813

(B) This section applies only to a community school 83814
established under Chapter 3314. of the Revised Code that in each 83815
of fiscal years 2004 and 2005 enrolls a number of SBH students 83816
equal to at least fifty per cent of the total number of students 83817
enrolled in the school in the applicable fiscal year. 83818

(C) In addition to any payments made under section 3314.08 of 83819
the Revised Code, in each of fiscal years 2004 and 2005 the 83820
Department of Education shall pay to a community school a subsidy 83821
equal to the difference between the aggregate amount calculated 83822
and paid in that fiscal year to the community school for special 83823
education and related services additional weighted costs for the 83824
SBH students enrolled in the school and the aggregate amount that 83825
would have been calculated for the school for special education 83826

and related services additional weighted costs for those same 83827
students in fiscal year 2001. If the difference is a negative 83828
number, the amount of the subsidy shall be zero. 83829

(D) The amount of any subsidy paid to a community school 83830
under this section shall not be deducted from any moneys 83831
calculated under Chapter 3317. of the Revised Code for payment to 83832
a school district in which any of its students are entitled to 83833
attend school under section 3313.64 or 3313.65 of the Revised 83834
Code. 83835

The amount of any subsidy paid to a community school under 83836
this section shall be paid from the amount appropriated to the 83837
Department of Education in appropriation item 200-501, Base Cost 83838
Funding. 83839

Section 40.36. (A) As used in this section: 83840

(1) "Entitled to attend school" means entitled to attend 83841
school in a school district under section 3313.64 and 3313.65 of 83842
the Revised Code. 83843

(2) "Formula ADM" and "category six special education ADM" 83844
have the same meanings as in section 3317.02 of the Revised Code. 83845

(3) "Individualized education program" has the same meaning 83846
as in section 3323.01 of the Revised Code. 83847

(4) "Parent" has the same meaning as in section 3313.64 of 83848
the Revised Code. 83849

(5) "Qualified special education child" is a child for whom 83850
all of the following conditions apply: 83851

(a) The school district in which the child is entitled to 83852
attend school has identified the child as autistic; 83853

(b) The school district in which the child is entitled to 83854
attend school has developed an individualized education program 83855

under Chapter 3323. of the Revised Code for the child; 83856

(c) The child either: 83857

(i) Was enrolled in the school district in which the child is 83858
entitled to attend school in any grade from preschool through 83859
twelve in the school year prior to the year in which a scholarship 83860
under this section is first sought for the child; 83861

(ii) Is eligible to enter school in any grade preschool 83862
through twelve in the school district in which the child is 83863
entitled to attend school in the school year in which a 83864
scholarship under this section is first sought for the child. 83865

(6) "Registered private provider" means a nonpublic school or 83866
other nonpublic entity that has been approved by the Department of 83867
Education to participate in the program established under this 83868
section. 83869

(B) There is hereby established the Pilot Project Special 83870
Education Scholarship Program. Under the program, in fiscal years 83871
2004 and 2005, the Department of Education shall pay a scholarship 83872
to the parent of each qualified special education child upon 83873
application of that parent pursuant to procedures and deadlines 83874
established by rule of the State Board of Education. Each 83875
scholarship shall be used only to pay tuition for the child on 83876
whose behalf the scholarship is awarded to attend a special 83877
education program that implements the child's individualized 83878
education program and that is operated by a school district other 83879
than the school district in which the child is entitled to attend 83880
school or by another public entity, to either of which under law 83881
the parent is required to pay tuition on behalf of the child, or 83882
by a registered private provider. Each scholarship shall be in an 83883
amount not to exceed the lesser of the tuition charged for the 83884
child by the special education program or fifteen thousand 83885
dollars. The purpose of the scholarship is to permit the parent of 83886

a qualified special education child the choice to send the child 83887
to a special education program, instead of, or in addition to, the 83888
one operated by or for the school district in which the child is 83889
entitled to attend school, to receive the services prescribed in 83890
the child's individualized education program. A scholarship under 83891
this section shall not be awarded to the parent of a child who 83892
attends a public special education program under a contract, 83893
compact, or other bilateral agreement between the school district 83894
in which the child is entitled to attend school and another school 83895
district or other public provider or to the parent of a child who 83896
attends a community school established under Chapter 3314. of the 83897
Revised Code. A child attending a special education program with a 83898
scholarship under this section shall continue to be entitled to 83899
transportation to and from that program in the manner prescribed 83900
by law. 83901

(C)(1) Notwithstanding anything to the contrary in the 83902
Revised Code, a child for whom a scholarship is awarded under this 83903
section shall be counted in the formula ADM and the category six 83904
special education ADM of the district in which the child is 83905
entitled to attend school and not in the formula ADM and the 83906
category six special education ADM of any other school district. 83907

(2) In each fiscal year, the Department shall deduct from the 83908
amounts paid to each school district under Chapter 3317. of the 83909
Revised Code, and, if necessary, sections 321.24 and 323.156 of 83910
the Revised Code, the aggregate amount of scholarships awarded 83911
under this section for qualified special education children 83912
included in the formula ADM and category six special education ADM 83913
of that school district as provided in division (C)(1) of this 83914
section. The scholarships deducted shall be considered as an 83915
approved special education and related services expense for the 83916
purpose of the school district's compliance with division (C)(5) 83917
of section 3317.022 of the Revised Code. 83918

(3) From time to time, the Department shall make a payment to the parent of each qualified special education child for whom a scholarship has been awarded under this section. The scholarship amount shall be proportionately reduced in the case of any such child who is not enrolled in the special education program for which a scholarship was awarded under this section for the entire school year.

(D) A scholarship shall not be paid to a parent for payment of tuition owed to a nonpublic entity unless that entity is a registered private provider. The Department shall approve entities that meet the standards established by rule of the State Board for the program established under this section.

(E) The State Board shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures necessary to implement this section, including, but not limited to, procedures and deadlines for parents to apply for scholarships, standards for registered private providers, and procedures for approval of entities as registered private providers. The Board shall adopt the rules so that the program established under this section is operational by January 1, 2004.

(F) The Legislative Office of Education Oversight shall conduct a formative evaluation of the program established under this section and shall report its findings to the General Assembly not later than March 1, 2005. In conducting the evaluation, the Office shall to the extent possible gather comments from parents who have been awarded scholarships under the program, school district officials, representatives of registered private providers, educators, and representatives of educational organizations for inclusion in the report required under this section. The report required under this section is not subject to the provision prescribed in the last paragraph of section 3301.68 of the Revised Code.

Section 40.37. (A) Not later than January 31, 2004, the department of education shall recommend to the general assembly, in consultation with stakeholders, plans for an Ohio Regional Education Delivery System to provide services and technical assistance to school districts. The recommendations shall address how the system should provide services currently provided by educational service centers, regional professional development centers, special education regional resource centers, area media centers, school improvement facilitators, Ohio SchoolNet regional services, data acquisition sites, educational technology centers, and other regional service providers. The department shall also recommend that the system provide services and technical assistance to chartered nonpublic schools to assist these schools in meeting Ohio's statutory and administrative code provisions applicable to such schools. However, the recommendations shall specify that in providing services to chartered nonpublic schools, the system is not required to create additional services or technical assistance beyond those provided to school districts.

(B) The regional service centers recommended under the Ohio Regional Education Delivery System shall be distributed geographically throughout the state.

(C) The department, in consultation with stakeholders, shall recommend an accountability system for the Ohio Regional Education Delivery System. The recommended accountability system shall include minimum standards for operation and the provision of services. It shall also include benchmarks against performance measures based on each of the following:

- (1) Student achievement;
- (2) The effectiveness and efficiency of service delivery;
- (3) The quality of implementation of state initiatives;

(4) Satisfaction expressed by school districts and other entities that use the Ohio Regional Education Delivery System with the quality of the system.	83981 83982 83983
(D) If the Department and stakeholders are unable to reach an agreement on plans for the Ohio Regional Education Delivery System by January 31, 2004, as required by division (A) of this section, the Department shall develop such plans on its own and recommend them to the General Assembly not later than February 15, 2004.	83984 83985 83986 83987 83988
Section 40.38. (A) There is hereby created the Head Start Partnership Study Council consisting of the following seventeen members:	83989 83990 83991
(1) Two employees of the Department of Job and Family Services appointed by the Director of Job and Family Services;	83992 83993
(2) Two employees of the Department of Education appointed by the Superintendent of Public Instruction;	83994 83995
(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;	83996 83997 83998
(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;	83999 84000 84001
(5) Two representatives of Head Start agencies appointed by the Ohio Head Start Association;	84002 84003
(6) Two representatives of child care providers appointed by the Ohio Association of Child Care Providers;	84004 84005
(7) One representative appointed by the Ohio Day Care Council;	84006 84007
(8) One representative appointed by the County Commissioner's Association of Ohio;	84008 84009

(9) One representative appointed by the Association of 84010
Directors of County Departments of Job and Family Services. 84011

Initial appointments of members shall be made not later than 84012
September 1, 2003. Vacancies in any of those appointments shall be 84013
filled in the same manner as original appointments. 84014

The Speaker of the House of Representatives and the President 84015
of the Senate jointly shall appoint the chairperson of the 84016
Council. 84017

Members of the Council shall serve without compensation. 84018

(B) In fiscal year 2004, the Council shall advise the 84019
Departments of Education and Job and Family Services in planning 84020
for the implementation of the Title IV-A Head Start Plus Program 84021
as established under sections 3301.33 and 3301.35 of the Revised 84022
Code and shall report to the General Assembly on the plans for 84023
that program by December 31, 2003. 84024

(C) In fiscal year 2005, the Council shall monitor the 84025
implementation of the Title IV-A Head Start Plus Program as 84026
established under sections 3301.33 and 3301.35 of the Revised Code 84027
and provide advice to the Departments of Education and Job and 84028
Family Services in that implementation. 84029

(D) Unless reauthorized by the General Assembly, the Council 84030
shall cease to exist on July 1, 2005. 84031

Section 40.39. (A) In the 2004-2005 and 2005-2006 school 84032
years, before a student identified with disabilities may begin 84033
receiving services for the first time under an individualized 84034
education program, as defined in section 3323.01 of the Revised 84035
Code, the school district in which that student is enrolled shall 84036
require the student to undergo a comprehensive eye examination 84037
performed either by an optometrist licensed under Chapter 4725. of 84038
the Revised Code or by a physician authorized under Chapter 4731. 84039

of the Revised Code to practice medicine and surgery or 84040
osteopathic medicine and surgery who is comprehensively trained 84041
and educated in the treatment of the human eye, eye disease, or 84042
comprehensive vision services. 84043

(B) The superintendent of each school district or the 84044
superintendent's designee may determine fulfillment of the 84045
requirement prescribed in division (A) of this section based on 84046
any special circumstances of the student, the student's parent, 84047
guardian, or family that may prevent the student from undergoing 84048
the eye examination prior to beginning special education services. 84049

(C) Neither the state nor any school district shall be 84050
responsible for paying for the eye examination required by this 84051
section. 84052

(D) The Director of Health shall, in accordance with Chapter 84053
119. of the Revised Code, adopt a rule that defines for purposes 84054
of this section "comprehensively trained and educated in the 84055
treatment of the human eye, eye disease, or comprehensive vision 84056
services" and shall adopt any other rules necessary for the 84057
implementation of this section. 84058

Section 40.40. TRANSITIONAL AID 84059

The Department of Education shall distribute earmarked funds 84060
within appropriation item 200-501, Base Cost Funding, for 84061
transitional aid in each fiscal year to each city, local, and 84062
exempted village school district that experiences a decrease in 84063
its SF-3 funding plus charge-off supplement for the current fiscal 84064
year in excess of five per cent of its SF-3 funding plus 84065
charge-off supplement for the previous fiscal year. The Department 84066
shall distribute to each such district an amount to reduce the 84067
decrease to five per cent of the district's SF-3 funding plus 84068
charge-off supplement for the previous fiscal year. For this 84069
purpose, "SF-3 funding plus charge-off supplement" equals the sum 84070

of the following:	84071
(A) Base cost funding under division (A) of section 3317.022 of the Revised Code;	84072 84073
(B) Special education and related services additional weighted funding under division (C)(1) of section 3317.022 of the Revised Code;	84074 84075 84076
(C) Speech services funding under division (C)(4) of section 3317.022 of the Revised Code;	84077 84078
(D) Vocational education additional weighted funding under division (E) of section 3317.022 of the Revised Code;	84079 84080
(E) GRADS funding under division (R) of section 3317.024 of the Revised Code;	84081 84082
(F) Adjustments for classroom teachers and educational service personnel under divisions (B), (C), and (D) of section 3317.023 of the Revised Code;	84083 84084 84085
(G) Disadvantaged Pupil Impact Aid under section 3317.029 of the Revised Code;	84086 84087
(H) Gifted education units under division (F) of section 3317.05 of the Revised Code;	84088 84089
(I) Equity aid under section 3317.0213 of the Revised Code;	84090
(J) Transportation under division (D) of section 3317.022 of the Revised Code;	84091 84092
(K) The state aid guarantee under section 3317.0212 of the Revised Code;	84093 84094
(L) The excess cost supplement under division (F) of section 3317.022 of the Revised Code;	84095 84096
(M) Parity aid under section 3317.0217 of the Revised Code;	84097
(N) The reappraisal guarantee under division (C) of section 3317.04 of the Revised Code;	84098 84099

(O) The charge-off supplement under section 3317.0216 of the Revised Code. 84100
84101

Section 41. OEB OHIO EDUCATIONAL TELECOMMUNICATIONS NETWORK 84102
COMMISSION 84103

General Revenue Fund 84104

GRF 374-100	Personal Services	\$	1,300,000	\$	1,300,000	84105
GRF 374-200	Maintenance	\$	800,000	\$	800,000	84106
GRF 374-300	Equipment	\$	97,500	\$	97,500	84107
GRF 374-401	Statehouse News Bureau	\$	260,000	\$	260,000	84108
GRF 374-402	Ohio Government	\$	762,146	\$	762,146	84109

Telecommunications
Studio

GRF 374-403	Ohio SONET	\$	2,000,000	\$	2,000,000	84110
GRF 374-404	Telecommunications	\$	3,962,199	\$	3,864,269	84111

Operating Subsidy

TOTAL GRF General Revenue Fund	\$	9,181,845	\$	9,083,915	84112
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General Services Fund Group 84113

4F3 374-603	Affiliate Services	\$	3,067,447	\$	3,067,447	84114
4T2 374-605	Government	\$	150,000	\$	150,000	84115

Television/Telecommunications
Operating

TOTAL GSF General Services					84116
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Fund Group	\$	3,217,447	\$	3,217,447	84117
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TOTAL ALL BUDGET FUND GROUPS	\$	12,399,292	\$	12,301,362	84118
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STATEHOUSE NEWS BUREAU 84119

The foregoing appropriation item 374-401, Statehouse News Bureau, shall be used solely to support the operations of the Ohio Statehouse News Bureau. 84120
84121
84122

OHIO GOVERNMENT TELECOMMUNICATIONS STUDIO 84123

The foregoing appropriation item 374-402, Ohio Government 84124

Telecommunications Studio, shall be used solely to support the				84125
operations of the Ohio Government Telecommunications Studio.				84126
OHIO SONET				84127
The foregoing appropriation item 374-403, Ohio SONET, shall				84128
be used by the Ohio Educational Telecommunications Network				84129
Commission to pay monthly operating expenses and maintenance of				84130
the television and radio transmission infrastructure.				84131
TELECOMMUNICATIONS OPERATING SUBSIDY				84132
The foregoing appropriation item 374-404, Telecommunications				84133
Operating Subsidy, shall be distributed by the Ohio Educational				84134
Telecommunications Network Commission to Ohio's qualified public				84135
educational television stations, radio reading services, and				84136
educational radio stations to support their operations. The funds				84137
shall be distributed pursuant to an allocation developed by the				84138
Ohio Educational Telecommunications Network Commission.				84139
Section 42. ELC OHIO ELECTIONS COMMISSION				84140
General Revenue Fund				84141
GRF 051-321 Operating Expenses	\$	294,857	\$ 294,857	84142
TOTAL GRF General Revenue Fund	\$	294,857	\$ 294,857	84143
State Special Revenue Fund Group				84144
4P2 051-601 Ohio Elections				84145
Commission Fund	\$	312,716	\$ 321,766	84146
TOTAL SSR State Special				84147
Revenue Fund Group	\$	312,716	\$ 321,766	84148
TOTAL ALL BUDGET FUND GROUPS	\$	607,573	\$ 616,623	84149
Section 43. FUN STATE BOARD OF EMBALMERS AND FUNERAL				84151
DIRECTORS				84152
General Services Fund Group				84153
4K9 881-609 Operating Expenses	\$	563,639	\$ 594,870	84154

TOTAL GSF General Services				84155
Fund Group	\$	563,639	\$ 594,870	84156
TOTAL ALL BUDGET FUND GROUPS	\$	563,639	\$ 594,870	84157
 Section 44. ERB STATE EMPLOYMENT RELATIONS BOARD				84159
General Revenue Fund				84160
GRF 125-321 Operating Expenses	\$	3,268,338	\$ 3,268,338	84161
TOTAL GRF General Revenue Fund	\$	3,268,338	\$ 3,268,338	84162
General Services Fund Group				84163
572 125-603 Training and Publications	\$	75,541	\$ 75,541	84164
TOTAL GSF General Services				84165
Fund Group	\$	75,541	\$ 75,541	84166
TOTAL ALL BUDGET FUND GROUPS	\$	3,343,879	\$ 3,343,879	84167
 Section 45. ENG STATE BOARD OF ENGINEERS AND SURVEYORS				84169
General Services Fund Group				84170
4K9 892-609 Operating Expenses	\$	999,150	\$ 1,041,369	84171
TOTAL GSF General Services				84172
Fund Group	\$	999,150	\$ 1,041,369	84173
TOTAL ALL BUDGET FUND GROUPS	\$	999,150	\$ 1,041,369	84174
 Section 46. EPA ENVIRONMENTAL PROTECTION AGENCY				84176
General Revenue Fund				84177
GRF 715-403 Clean Ohio	\$	788,985	\$ 788,985	84178
GRF 715-501 Local Air Pollution Control	\$	1,119,878	\$ 1,091,882	84179
GRF 717-321 Surface Water	\$	9,333,376	\$ 9,358,950	84180
GRF 718-321 Groundwater	\$	1,195,001	\$ 1,163,554	84181
GRF 719-321 Air Pollution Control	\$	2,543,260	\$ 2,543,260	84182
GRF 721-321 Drinking Water	\$	2,713,032	\$ 2,713,032	84183
GRF 723-321 Hazardous Waste	\$	110,184	\$ 107,284	84184

GRF 724-321	Pollution Prevention	\$	765,137	\$	745,002	84185
GRF 725-321	Laboratory	\$	1,290,237	\$	1,293,971	84186
GRF 726-321	Corrective Actions	\$	1,253,593	\$	1,255,080	84187
TOTAL GRF	General Revenue Fund	\$	21,112,683	\$	21,061,000	84188
General Services Fund Group						84189
199 715-602	Laboratory Services	\$	1,042,081	\$	1,045,654	84190
219 715-604	Central Support	\$	15,239,297	\$	15,544,407	84191
Indirect						
4A1 715-640	Operating Expenses	\$	3,308,758	\$	3,369,731	84192
TOTAL GSF	General Services					84193
Fund Group		\$	19,590,136	\$	19,959,792	84194
Federal Special Revenue Fund Group						84195
3F2 715-630	Revolving Loan Fund -	\$	80,000	\$	80,000	84196
Operating						
3F3 715-632	Fed Supported Cleanup	\$	2,792,648	\$	2,326,434	84197
and Response						
3F4 715-633	Water Quality	\$	737,850	\$	712,850	84198
Management						
3F5 715-641	Nonpoint Source	\$	7,090,002	\$	7,155,000	84199
Pollution Management						
3J1 715-620	Urban Stormwater	\$	850,000	\$	956,001	84200
3K2 715-628	Clean Water Act 106	\$	4,125,992	\$	4,125,992	84201
3K4 715-634	DOD Monitoring and	\$	1,462,173	\$	1,450,333	84202
Oversight						
3K6 715-639	Remedial Action Plan	\$	416,000	\$	385,001	84203
3N1 715-655	Pollution Prevention	\$	10,172	\$	0	84204
Grants						
3N4 715-657	DOE Monitoring and	\$	3,362,932	\$	3,427,442	84205
Oversight						
3V7 715-606	Agencywide Grants	\$	100,268	\$	0	84206
352 715-611	Wastewater Pollution	\$	252,000	\$	265,002	84207
353 715-612	Public Water Supply	\$	2,909,865	\$	2,916,174	84208

354	715-614	Hazardous Waste Management - Federal	\$	4,195,192	\$	4,203,891	84209
357	715-619	Air Pollution Control - Federal	\$	5,447,334	\$	5,599,501	84210
362	715-605	Underground Injection Control - Federal	\$	101,874	\$	101,874	84211
TOTAL FED Federal Special Revenue							84212
Fund Group			\$	33,934,302	\$	33,705,495	84213
State Special Revenue Fund Group							84214
3T3	715-669	Drinking Water SRF	\$	3,631,132	\$	3,716,777	84215
4J0	715-638	Underground Injection Control	\$	379,488	\$	394,385	84216
4K2	715-648	Clean Air - Non Title V	\$	3,092,801	\$	3,370,002	84217
4K3	715-649	Solid Waste	\$	14,286,500	\$	14,698,987	84218
4K4	715-650	Surface Water Protection	\$	9,380,180	\$	9,380,181	84219
4K5	715-651	Drinking Water Protection	\$	6,294,334	\$	6,255,946	84220
4P5	715-654	Cozart Landfill	\$	146,792	\$	149,728	84221
4R5	715-656	Scrap Tire Management	\$	5,800,000	\$	6,000,000	84222
4R9	715-658	Voluntary Action Program	\$	603,435	\$	795,671	84223
4T3	715-659	Clean Air - Title V Permit Program	\$	16,950,003	\$	16,650,001	84224
4U7	715-660	Construction & Demolition Debris	\$	220,000	\$	220,000	84225
5H4	715-664	Groundwater Support	\$	1,768,661	\$	1,797,036	84226
5N2	715-613	Dredge and Fill	\$	30,000	\$	30,000	84227
5S1	715-607	Clean Ohio - Operating	\$	206,735	\$	208,174	84228
500	715-608	Immediate Removal Special Account	\$	475,024	\$	482,000	84229
503	715-621	Hazardous Waste	\$	11,051,591	\$	11,465,671	84230

		Facility Management					
503	715-662	Hazardous Waste	\$	566,350	\$	576,619	84231
		Facility Board					
505	715-623	Hazardous Waste	\$	10,862,544	\$	11,557,987	84232
		Cleanup					
505	715-674	Clean Ohio	\$	999,896	\$	1,179,249	84233
		Environmental Review					
541	715-670	Site Specific Cleanup	\$	344,448	\$	345,075	84234
542	715-671	Risk Management	\$	142,087	\$	146,188	84235
		Reporting					
6A1	715-645	Environmental	\$	1,500,000	\$	1,500,000	84236
		Education					
602	715-626	Motor Vehicle	\$	1,444,464	\$	1,437,398	84237
		Inspection and					
		Maintenance					
644	715-631	ER Radiological Safety	\$	281,424	\$	286,114	84238
660	715-629	Infectious Waste	\$	160,000	\$	160,000	84239
		Management					
676	715-642	Water Pollution	\$	4,858,798	\$	4,964,625	84240
		Control Loan					
		Administration					
678	715-635	Air Toxic Release	\$	314,081	\$	210,662	84241
679	715-636	Emergency Planning	\$	2,798,648	\$	2,828,647	84242
696	715-643	Air Pollution Control	\$	750,002	\$	750,000	84243
		Administration					
699	715-644	Water Pollution	\$	625,000	\$	625,000	84244
		Control Administration					
TOTAL SSR State Special Revenue			\$	99,964,418	\$	102,182,123	84245
Fund Group							
TOTAL ALL BUDGET FUND GROUPS			\$	174,601,539	\$	176,908,410	84246
		CENTRAL SUPPORT INDIRECT					84247
		Notwithstanding any other provision of law to the contrary,					84248

the Director of Environmental Protection, with the approval of the 84249
 Director of Budget and Management, shall utilize a methodology for 84250
 determining each division's payments into the Central Support 84251
 Indirect Fund (Fund 219). The methodology used shall contain the 84252
 characteristics of administrative ease and uniform application. 84253
 Payments to the Central Support Indirect Fund (Fund 219) shall be 84254
 made using an intrastate transfer voucher. 84255

CLEAN OHIO - OPERATING 84256

The foregoing appropriation item 715-607, Clean Ohio - 84257
 Operating, shall be used by the Ohio Environmental Protection 84258
 Agency in administering sections 122.65 to 122.658 of the Revised 84259
 Code. 84260

Section 47. EBR ENVIRONMENTAL REVIEW APPEALS COMMISSION 84261

General Revenue Fund 84262
 GRF 172-321 Operating Expenses \$ 437,131 \$ 439,109 84263
 TOTAL GRF General Revenue Fund \$ 437,131 \$ 439,109 84264
 TOTAL ALL BUDGET FUND GROUPS \$ 437,131 \$ 439,109 84265

Section 48. ETH OHIO ETHICS COMMISSION 84267

General Revenue Fund 84268
 GRF 146-321 Operating Expenses \$ 1,286,869 \$ 1,351,213 84269
 TOTAL GRF General Revenue Fund \$ 1,286,869 \$ 1,351,213 84270
 General Services Fund Group 84271
 4M6 146-601 Operating Expenses \$ 409,543 \$ 383,543 84272
 TOTAL GSF General Services 84273
 Fund Group \$ 409,543 \$ 383,543 84274
 TOTAL ALL BUDGET FUND GROUPS \$ 1,696,412 \$ 1,734,756 84275

Section 49. EXP OHIO EXPOSITIONS COMMISSION 84277

General Revenue Fund 84278

GRF 723-403 Junior Fair Subsidy	\$	465,412	\$	465,412	84279
TOTAL GRF General Revenue Fund	\$	465,412	\$	465,412	84280
State Special Revenue Fund Group					84281
4N2 723-602 Ohio State Fair	\$	520,000	\$	520,000	84282
Harness Racing					
506 723-601 Operating Expenses	\$	13,211,481	\$	13,643,315	84283
640 723-603 State Fair Reserve	\$	125,000	\$	0	84284
TOTAL SSR State Special Revenue					84285
Fund Group	\$	13,856,481	\$	14,163,315	84286
TOTAL ALL BUDGET FUND GROUPS	\$	14,321,893	\$	14,628,727	84287

STATE FAIR RESERVE 84288

The foregoing appropriation item 723-603, State Fair Reserve, 84289
shall serve as a budget reserve fund for the Ohio Expositions 84290
Commission in the event of a significant decline in attendance due 84291
to inclement weather or extraordinary circumstances during the 84292
Ohio State Fair resulting in a loss of revenue. The State Fair 84293
Reserve may be used by the Ohio Expositions Commission to pay 84294
bills resulting from the Ohio State Fair only if all the following 84295
criteria are met: 84296

(A) Admission revenues for the 2003 Ohio State Fair are less 84297
than \$2,542,500 or admission revenues for the 2004 Ohio State Fair 84298
are less than \$2,619,000 due to inclement weather or extraordinary 84299
circumstances. These amounts are ninety per cent of the projected 84300
admission revenues for each year. 84301

(B) The Ohio Expositions Commission declares a state of 84302
fiscal exigency and requests release of funds by the Director of 84303
Budget and Management. 84304

(C) The Director of Budget and Management releases the funds. 84305
The Director of Budget and Management may approve or disapprove 84306
the request for release of funds, may increase or decrease the 84307
amount of release, and may place such conditions as the director 84308

considers necessary on the use of the released funds. The Director 84309
of Budget and Management may transfer appropriation authority from 84310
fiscal year 2004 to fiscal year 2005 as needed. 84311

In the event that the Ohio Expositions Commission faces a 84312
temporary cash shortage that will preclude it from meeting current 84313
obligations, the Commission may request the Director of Budget and 84314
Management to approve use of the State Fair Reserve to meet those 84315
obligations. The request shall include a plan describing how the 84316
Commission will eliminate the cash shortage. If the Director of 84317
Budget and Management approves the expenditures, the Commission 84318
shall reimburse Fund 640 by the thirtieth day of June of that same 84319
fiscal year through an intrastate transfer voucher. The amount 84320
reimbursed is hereby appropriated. 84321

Section 50. GOV OFFICE OF THE GOVERNOR 84322

General Revenue Fund 84323

GRF 040-321 Operating Expenses \$ 4,112,358 \$ 4,235,726 84324

GRF 040-403 Federal Relations \$ 510,000 \$ 510,000 84325

GRF 040-408 Office of Veterans' \$ 276,723 \$ 285,025 84326

Affairs

TOTAL GRF General Revenue Fund \$ 4,899,081 \$ 5,030,751 84327

General Services Fund Group 84328

412 040-607 Federal Relations \$ 500,000 \$ 500,000 84329

TOTAL GSF General Services Fund \$ 500,000 \$ 500,000 84330

Group

TOTAL ALL BUDGET FUND GROUPS \$ 5,399,081 \$ 5,530,751 84331

APPOINTMENT OF LEGAL COUNSEL FOR THE GOVERNOR 84332

The Governor may expend a portion of the foregoing 84333
appropriation item 040-321, Operating Expenses, to hire or appoint 84334
legal counsel to be used in proceedings involving the Governor in 84335
the Governor's official capacity or the Governor's office only, 84336

without the approval of the Attorney General, notwithstanding 84337
sections 109.02 and 109.07 of the Revised Code. 84338

FEDERAL RELATIONS 84339

A portion of the foregoing appropriation items 040-403, 84340
Federal Relations, and 040-607, Federal Relations, may be used to 84341
support Ohio's membership in national or regional associations. 84342

The Office of the Governor may charge any state agency of the 84343
executive branch using an intrastate transfer voucher such amounts 84344
necessary to defray the costs incurred for the conduct of federal 84345
relations associated with issues that can be attributed to the 84346
agency. Amounts collected shall be deposited to the Office of the 84347
Governor Federal Relations Fund (Fund 412). 84348

Section 51. DOH DEPARTMENT OF HEALTH 84349

General Revenue Fund 84350

GRF 440-407 Animal Borne Disease \$ 2,690,101 \$ 2,690,101 84351
and Prevention

GRF 440-412 Cancer Incidence \$ 1,038,815 \$ 1,066,616 84352
Surveillance System

GRF 440-413 Healthy Communities \$ 4,139,009 \$ 4,139,009 84353

GRF 440-416 Child and Family \$ 9,034,972 \$ 9,034,972 84354
Health Services

GRF 440-418 Immunizations \$ 8,431,975 \$ 8,600,615 84355

GRF 440-419 Sexual Assault \$ 35,899 \$ 35,899 84356
Prevention

GRF 440-444 AIDS Prevention and \$ 7,589,816 \$ 7,589,816 84357
Treatment

GRF 440-446 Infectious Disease \$ 439,330 \$ 439,330 84358
Prevention

GRF 440-451 Lab and Public Health \$ 6,085,250 \$ 6,085,250 84359
Prevention Programs

GRF 440-452 Child and Family \$ 1,024,017 \$ 1,024,017 84360

		Health Services Match					
GRF	440-453	Health Care Quality Assurance	\$	10,453,728	\$	10,453,728	84361
GRF	440-454	Local Environmental Health	\$	1,087,654	\$	1,122,654	84362
GRF	440-459	Help Me Grow	\$	9,861,089	\$	9,861,089	84363
GRF	440-461	Center for Vital and Health Stats	\$	3,579,790	\$	3,579,790	84364
GRF	440-504	Poison Control Network	\$	388,000	\$	388,000	84365
GRF	440-505	Medically Handicapped Children	\$	6,462,257	\$	6,462,738	84366
GRF	440-507	Targeted Health Care Services Over 21	\$	731,023	\$	731,023	84367
GRF	440-508	Migrant Health	\$	91,301	\$	91,301	84368
TOTAL GRF		General Revenue Fund	\$	73,164,026	\$	73,395,948	84369
		General Services Fund Group					84370
4K9	440-XXX	Occupational Therapy, Physical Therapy, and Athletic Trainers Board	\$	771,391	\$	801,480	84371
142	440-618	General Operations - General Services Fund	\$	3,372,444	\$	3,461,915	84372
211	440-613	Central Support Indirect Costs	\$	26,578,343	\$	26,584,707	84373
473	440-622	Lab Operating Expenses	\$	4,154,045	\$	4,154,045	84374
683	440-633	Employee Assistance Program	\$	1,192,234	\$	1,192,214	84375
698	440-634	Nurse Aide Training	\$	170,000	\$	170,000	84376
TOTAL GSF		General Services Fund Group	\$	36,238,457	\$	36,364,361	84378
		Federal Special Revenue Fund Group					84379
320	440-601	Maternal Child Health	\$	34,451,205	\$	35,136,169	84380

		Block Grant				
387	440-602	Preventive Health	\$	8,200,000	\$	8,200,000 84381
		Block Grant				
389	440-604	Women, Infants, and Children	\$	210,000,000	\$	220,000,000 84382
391	440-606	Medicaid/Medicare	\$	26,294,274	\$	26,820,159 84383
392	440-618	General Operations - Federal Fund	\$	114,474,764	\$	115,319,323 84384
		TOTAL FED Federal Special Revenue				84385
		Fund Group	\$	393,420,243	\$	405,475,651 84386
		State Special Revenue Fund Group				84387
4D6	440-608	Genetics Services	\$	2,300,000	\$	2,300,000 84388
4F9	440-610	Sickle Cell Disease Control	\$	1,035,344	\$	1,035,344 84389
4G0	440-636	Heirloom Birth Certificate	\$	5,000	\$	5,000 84390
4G0	440-637	Birth Certificate Surcharge	\$	5,000	\$	5,000 84391
4L3	440-609	Miscellaneous Expenses	\$	256,082	\$	144,119 84392
4T4	440-603	Child Highway Safety	\$	233,894	\$	233,894 84393
4V6	440-641	Save Our Sight	\$	1,733,327	\$	1,767,994 84394
470	440-618	General Operations - State Special Revenue	\$	14,525,443	\$	16,025,194 84395
471	440-619	Certificate of Need	\$	475,000	\$	483,572 84396
477	440-627	Medically Handicapped Children Audit	\$	4,640,498	\$	4,733,008 84397
5B5	440-616	Quality, Monitoring, and Inspection	\$	838,479	\$	838,479 84398
5C0	440-615	Alcohol Testing and Permit	\$	1,455,405	\$	1,455,405 84399
5D6	440-620	Second Chance Trust	\$	887,018	\$	825,951 84400
5G4	440-639	Adoption Services	\$	20,000	\$	20,000 84401
5E1	440-624	Health Services	\$	688,321	\$	0 84402

5L1	440-623	Nursing Facility	\$	586,153	\$	617,517	84403
		Technical Assistance					
		Program					
610	440-626	Radiation Emergency	\$	923,315	\$	923,315	84404
		Response					
666	440-607	Medically Handicapped	\$	14,320,687	\$	14,320,687	84405
		Children - County					
		Assessments					
TOTAL SSR State Special Revenue							84406
Fund Group			\$	44,928,966	\$	45,734,479	84407
Holding Account Redistribution Fund Group							84408
R14	440-631	Vital Statistics	\$	70,000	\$	70,000	84409
R48	440-625	Refunds, Grants	\$	20,400	\$	20,400	84410
		Reconciliation, and					
		Audit Settlements					
TOTAL 090 Holding Account							84411
Redistribution Fund Group			\$	90,400	\$	90,400	84412
TOTAL ALL BUDGET FUND GROUPS							84413

Section 51.01. CANCER REGISTRY SYSTEM 84415

Of the foregoing appropriation item 440-412, Cancer Incidence 84416
 Surveillance System, not more than \$50,000 in each fiscal year 84417
 shall be provided to Health Comp, Inc. 84418

The remaining moneys in appropriation item 440-412, Cancer 84419
 Incidence Surveillance System, shall be used to maintain and 84420
 operate the Ohio Cancer Incidence Surveillance System pursuant to 84421
 sections 3701.261 to 3701.263 of the Revised Code. 84422

HEALTHY COMMUNITIES 84423

Of the foregoing appropriation item 440-413, Healthy 84424
 Communities, \$50,000 in each fiscal year shall be allocated to the 84425
 Columbus Yassenoff Jewish Community Center to fund nutrition and 84426

exercise education for children ages eight to thirteen. 84427

CHILD AND FAMILY HEALTH SERVICES 84428

Of the foregoing appropriation item 440-416, Child and Family 84429
Health Services, \$1,700,000 in each fiscal year shall be used for 84430
women's health services. None of the funds received through these 84431
grants shall be used to provide abortion services. None of the 84432
funds received through these grants shall be used for counseling 84433
for or referrals for abortion, except in the case of a medical 84434
emergency. These funds shall be distributed by the Director of 84435
Health to programs that the Department of Health determines will 84436
provide services that are physically and financially separate from 84437
abortion-providing and abortion-promoting activities, and that do 84438
not include counseling for or referrals for abortion, other than 84439
in the case of medical emergency. 84440

These women's health services include and are limited to the 84441
following: pelvic exams and lab testing; breast exams and patient 84442
education on breast cancer; screening for cervical cancer; 84443
screening and treatment for Sexually Transmitted Diseases (STDs) 84444
and HIV screening; voluntary choice of contraception, including 84445
abstinence and natural family planning; patient education and 84446
pre-pregnancy counseling on the dangers of smoking, alcohol, and 84447
drug use during pregnancy; education on sexual coercion and 84448
violence in relationships; and prenatal care or referral for 84449
prenatal care. These health care services shall be provided by 84450
licensed doctors, nurses, medical assistants, counselors, and 84451
social workers in a medical clinic setting. 84452

The Director of Health shall adopt rules in accordance with 84453
Chapter 119. of the Revised Code specifying reasonable eligibility 84454
standards that must be met to receive the state funding and 84455
provide reasonable methods by which a grantee wishing to be 84456
eligible for federal funding may comply with these requirements 84457
for state funding without losing its eligibility for federal 84458

funding. 84459

Each applicant for these funds shall provide sufficient 84460
assurance to the Director of Health of all of the following: 84461

(A) The program shall not discriminate in the provision of 84462
services based on an individual's religion, race, national origin, 84463
handicapping condition, age, number of pregnancies, or marital 84464
status; 84465

(B) The program shall provide services without subjecting 84466
individuals to any coercion to accept services or to employ any 84467
particular methods of family planning; 84468

(C) Acceptance of services shall be solely on a voluntary 84469
basis and may not be made a prerequisite to eligibility for, or 84470
receipt of, any other service, assistance from, or participation 84471
in, any other program of the service provider; 84472

(D) The costs for services provided by the program, if any 84473
are charged, shall be based on the patient's ability to pay and 84474
priority in the provision of services shall be given to persons 84475
from low-income families. 84476

In distributing these grant funds, the Director of Health 84477
shall give priority to grant requests from local departments of 84478
health for women's health services to be provided directly by 84479
personnel of the local department of health. Local departments of 84480
health that apply for grants for women's health services to be 84481
provided directly by personnel of the local department of health 84482
need not provide all the listed women's health services in order 84483
to qualify for a grant. However, in prioritizing awards among 84484
local departments of health that qualify for funding under this 84485
paragraph, the Director of Health may consider, among other 84486
reasonable factors, the comprehensiveness of the women's health 84487
services to be offered, provided that no local department of 84488
health shall be discriminated against in the process of awarding 84489

these grant funds because the applicant does not provide 84490
contraception. 84491

If funds remain after awarding grants to all local 84492
departments of health that qualify for the priority, the Director 84493
of Health may make grants to other applicants. Other grant 84494
applicants need not provide all the listed women's health services 84495
in order to qualify for a grant. However, in prioritizing awards 84496
among such other applicants that qualify for funding under this 84497
paragraph, the Director of Health may consider, among other 84498
reasonable factors, the comprehensiveness of the women's health 84499
services to be offered, provided that no applicant shall be 84500
discriminated against in the process of awarding these grant funds 84501
because the applicant does not provide contraception. 84502

Of the foregoing appropriation item 440-416, Child and Family 84503
Health Services, not more than \$270,000 shall be used in each 84504
fiscal year for the OPTIONS dental care access program. 84505

Of the foregoing appropriation item 440-416, Child and Family 84506
Health Services, not more than \$900,000 in each fiscal year shall 84507
be used by federally qualified health centers and federally 84508
designated look-alikes to provide services to uninsured low-income 84509
persons. 84510

Of the foregoing appropriation item 440-416, Child and Family 84511
Health Services, \$500,000 in each fiscal year shall be used for 84512
abstinence-only education. The Director of Health shall develop 84513
guidelines for the establishment of abstinence programs for 84514
teenagers with the purpose of decreasing unplanned pregnancies and 84515
abortion. The guidelines shall be developed pursuant to Title V of 84516
the "Social Security Act," 42 U.S.C. 510, and shall include, but 84517
are not limited to, advertising campaigns and direct training in 84518
schools and other locations. 84519

Of the foregoing appropriation item 440-416, Child and Family 84520

Health Services, \$30,000 in each fiscal year shall be allocated to 84521
the Jewish Family Service of Cleveland, \$10,000 in each fiscal 84522
year shall be allocated to the Jewish Family Service of 84523
Cincinnati, and \$10,000 in each fiscal year shall be allocated to 84524
the Jewish Family Services of Columbus for interpreters for health 84525
care. 84526

Of the foregoing appropriation item 440-416, Child and Family 84527
Health Services, \$25,000 in each fiscal year shall be allocated to 84528
Clermont County's Comprehensive Community Suicide Prevention 84529
Program. 84530

Of the foregoing appropriation item 440-416, Child and Family 84531
Health Services, \$25,000 in each fiscal year shall be allocated to 84532
the Health Education Center in Cincinnati. 84533

Of the foregoing appropriation item 440-416, Child and Family 84534
Health Services, \$62,500 in each fiscal year shall be allocated to 84535
the Cincinnati YWCA Hippy. 84536

Of the foregoing appropriation item 440-416, Child and Family 84537
Health Services, \$25,000 in each fiscal year shall be allocated to 84538
the Helping Hearts Program. 84539

Of the foregoing appropriation item 440-416, Child and Family 84540
Health Services, \$25,000 in each fiscal year shall be allocated to 84541
the Tree of Knowledge Learning Center. 84542

Of the foregoing appropriation item 440-416, Child and Family 84543
Health Services, \$50,000 in each fiscal year shall be allocated to 84544
the Mayerson Foundation. 84545

SEXUAL ASSAULT PREVENTION AND INTERVENTION 84546

The foregoing appropriation item 440-419, Sexual Assault 84547
Prevention and Intervention, shall be used for the following 84548
purposes: 84549

(A) Funding of new services in counties with no services for 84550

sexual assault;	84551
(B) Expansion of services provided in currently funded projects so that comprehensive crisis intervention and prevention services are offered;	84552 84553 84554
(C) Start-up funding for Sexual Assault Nurse Examiner (SANE) projects;	84555 84556
(D) Statewide expansion of local outreach and public awareness efforts.	84557 84558
HIV/AIDS PREVENTION/TREATMENT	84559
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.	84560 84561 84562 84563
INFECTIOUS DISEASE PREVENTION	84564
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.	84565 84566 84567 84568
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.	84569 84570 84571 84572 84573 84574 84575
Of the foregoing appropriation item 440-446, Infectious Disease Prevention, not more than \$250,000 in each fiscal year shall be used for the purchase of drugs for sexually transmitted diseases.	84576 84577 84578 84579
HELP ME GROW	84580

The foregoing appropriation item 440-459, Help Me Grow, shall 84581
be used by the Department of Health to distribute subsidies to 84582
counties to implement the Help Me Grow program. Appropriation item 84583
440-459 may be used in conjunction with Temporary Assistance for 84584
Needy Families from the Department of Job and Family Services, 84585
Early Intervention funding from the Department of Mental 84586
Retardation and Developmental Disabilities, and in conjunction 84587
with other early childhood funds and services to promote the 84588
optimal development of young children. Local contracts shall be 84589
developed between local departments of job and family services and 84590
family and children first councils for the administration of TANF 84591
funding for the Help Me Grow Program. The Department of Health 84592
shall enter into an interagency agreement with the Department of 84593
Education, Department of Mental Retardation and Developmental 84594
Disabilities, Department of Job and Family Services, and 84595
Department of Mental Health to ensure that all early childhood 84596
programs and initiatives are coordinated and school linked. 84597

POISON CONTROL NETWORK 84598

The foregoing appropriation item 440-504, Poison Control 84599
Network, shall be used in each fiscal year by the Department of 84600
Health for grants to the consolidated Ohio Poison Control Center 84601
to provide poison control services to Ohio citizens. 84602

Notwithstanding section 3701.83 of the Revised Code, not 84603
later than the fifteenth day of July of each fiscal year or as 84604
soon as possible thereafter, the Director of Budget and Management 84605
shall transfer cash in the amount of \$127,287 from appropriation 84606
item 440-618, General Operations - General Services Fund, (Fund 84607
142) to the General Revenue Fund. 84608

TARGETED HEALTH CARE SERVICES OVER 21 84609

In each fiscal year, appropriation item 440-507, Targeted 84610
Health Care Services Over 21, shall be used to administer the 84611

cystic fibrosis program and implement the Hemophilia Insurance
Premium Payment program. 84612
84613

EXTENSION OF HEMOPHILIA HEALTH INSURANCE PREMIUM PAYMENTS 84614

The Director of Health shall continue to provide, through 84615
contracts with or grants to hemophilia treatment centers, for 84616
health insurance premiums to be paid for individuals who are at 84617
least twenty-one years of age, diagnosed with hemophilia or a 84618
related bleeding disorder, and receive such assistance on the day 84619
prior to the effective date of this section under the program for 84620
care and treatment of persons suffering from hemophilia 84621
established under former section 3701.144 of the Revised Code 84622
until the effective date of the initial rules adopted under 84623
division (A)(12) of section 3701.021 of the Revised Code for the 84624
hemophilia program established under section 3701.029 of the 84625
Revised Code. The Public Health Council shall adopt those rules 84626
not later than twelve months after the effective date of this 84627
section. 84628

MATERNAL CHILD HEALTH BLOCK GRANT 84629

Of the foregoing appropriation item 440-601, Maternal Child 84630
Health Block Grant (Fund 320), \$2,091,299 shall be used in each 84631
fiscal year for the purposes of abstinence-only education. The 84632
Director of Health shall develop guidelines for the establishment 84633
of abstinence programs for teenagers with the purpose of 84634
decreasing unplanned pregnancies and abortion. Such guidelines 84635
shall be pursuant to Title V of the "Social Security Act," 42 84636
U.S.C. 510, and shall include, but are not limited to, advertising 84637
campaigns and direct training in schools and other locations. 84638

GENETICS SERVICES 84639

The foregoing appropriation item 440-608, Genetics Services 84640
(Fund 4D6), shall be used by the Department of Health to 84641
administer programs authorized by sections 3701.501 and 3701.502 84642

of the Revised Code. None of these funds shall be used to counsel 84643
or refer for abortion, except in the case of a medical emergency. 84644

SAFETY AND QUALITY OF CARE STANDARDS 84645

The Department of Health may use Fund 471, Certificate of 84646
Need, for administering sections 3702.11 to 3702.20 and 3702.30 of 84647
the Revised Code in each fiscal year. 84648

MEDICALLY HANDICAPPED CHILDREN AUDIT 84649

The Medically Handicapped Children Audit Fund (Fund 477) 84650
shall receive revenue from audits of hospitals and recoveries from 84651
third-party payers. Moneys may be expended for payment of audit 84652
settlements and for costs directly related to obtaining recoveries 84653
from third-party payers and for encouraging Medically Handicapped 84654
Children's Program recipients to apply for third-party benefits. 84655
Moneys also may be expended for payments for diagnostic and 84656
treatment services on behalf of medically handicapped children, as 84657
defined in division (A) of section 3701.022 of the Revised Code, 84658
and Ohio residents who are twenty-one or more years of age and who 84659
are suffering from cystic fibrosis or hemophilia. Moneys may also 84660
be expended for administrative expenses incurred in operating the 84661
Medically Handicapped Children's Program. 84662

CASH TRANSFER FROM LIQUOR CONTROL FUND TO ALCOHOL TESTING AND 84663
PERMIT FUND 84664

The Director of Budget and Management, pursuant to a plan 84665
submitted by the Department of Health, or as otherwise determined 84666
by the Director of Budget and Management, shall set a schedule to 84667
transfer cash from the Liquor Control Fund (Fund 043) to the 84668
Alcohol Testing and Permit Fund (Fund 5C0) to meet the operating 84669
needs of the Alcohol Testing and Permit program. 84670

The Director of Budget and Management shall transfer to the 84671
Alcohol Testing and Permit Fund (Fund 5C0) from the Liquor Control 84672
Fund (Fund 043) established in section 4301.12 of the Revised Code 84673

such amounts at such times as determined by the transfer schedule.				84674
MEDICALLY HANDICAPPED CHILDREN - COUNTY ASSESSMENTS				84675
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.				84676 84677 84678 84679
NURSING FACILITY TECHNICAL ASSISTANCE PROGRAM				84680
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.				84681 84682 84683 84684 84685 84686 84687 84688
Section 52. HEF HIGHER EDUCATIONAL FACILITY COMMISSION				84689
Agency Fund Group				84690
461 372-601 Operating Expenses	\$	15,290	\$ 16,819	84691
TOTAL AGY Agency Fund Group	\$	15,290	\$ 16,819	84692
TOTAL ALL BUDGET FUND GROUPS	\$	15,290	\$ 16,819	84693
Section 53. SPA COMMISSION ON HISPANIC/LATINO AFFAIRS				84695
General Revenue Fund				84696
GRF 148-100 Personal Services	\$	127,419	\$ 127,419	84697
GRF 148-200 Maintenance	\$	35,901	\$ 35,901	84698
TOTAL GRF General Revenue Fund	\$	163,320	\$ 163,320	84699
General Services Fund Group				84700
601 148-602 Gifts and	\$	8,485	\$ 8,485	84701
Miscellaneous				
TOTAL GSF General Services				84702

Fund Group	\$	8,485	\$	8,485	84703
TOTAL ALL BUDGET FUND GROUPS	\$	171,805	\$	171,805	84704

Section 54. OHS OHIO HISTORICAL SOCIETY 84706

General Revenue Fund 84707

GRF 360-403 Adena - Worthington	\$	200,000	\$	150,000	84708
Home					

GRF 360-501 Operating Subsidy	\$	3,589,973	\$	3,589,973	84709
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GRF 360-502 Site Operations	\$	8,240,438	\$	8,240,438	84710
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GRF 360-503 Ohio Bicentennial	\$	1,847,239	\$	58,164	84711
Commission					

GRF 360-504 Ohio Preservation	\$	339,733	\$	339,733	84712
Office					

GRF 360-505 Afro-American Museum	\$	778,231	\$	778,231	84713
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GRF 360-506 Hayes Presidential	\$	524,981	\$	524,981	84714
Center					

GRF 360-508 Historical Grants	\$	2,200,000	\$	1,550,000	84715
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TOTAL GRF General Revenue Fund	\$	17,720,595	\$	15,231,520	84716
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TOTAL ALL BUDGET FUND GROUPS	\$	17,720,595	\$	15,231,520	84717
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SUBSIDY APPROPRIATION 84718

Upon approval by the Director of Budget and Management, the 84719
foregoing appropriation items shall be released to the Ohio 84720
Historical Society in quarterly amounts that in total do not 84721
exceed the annual appropriations. The funds and fiscal records of 84722
the society for fiscal years 2004 and 2005 shall be examined by 84723
independent certified public accountants approved by the Auditor 84724
of State, and a copy of the audited financial statements shall be 84725
filed with the Office of Budget and Management. The society shall 84726
prepare and submit to the Office of Budget and Management the 84727
following: 84728

(A) An estimated operating budget for each fiscal year of the 84729
biennium. The operating budget shall be submitted at or near the 84730

beginning of each year. 84731

(B) Financial reports, indicating actual receipts and 84732
expenditures for the fiscal year to date. These reports shall be 84733
filed at least semiannually during the fiscal biennium. 84734

The foregoing appropriations shall be considered to be the 84735
contractual consideration provided by the state to support the 84736
state's offer to contract with the Ohio Historical Society under 84737
section 149.30 of the Revised Code. If the Ohio Historical Society 84738
accepts this contractual offer, the society may not, during fiscal 84739
year 2004 or 2005, close any of the sites operated by the society 84740
as of the effective date of this section. 84741

Not later than May 15, 2004, the Ohio Historical Society 84742
shall submit to the Controlling Board a plan for the 84743
implementation of the recommendations of the Select Committee to 84744
Study the Effectiveness of Ohio's Historical Programs and 84745
Partnerships. No appropriations to the society for fiscal year 84746
2005 may be expended without prior approval of the implementation 84747
plan by the Controlling Board. 84748

HAYES PRESIDENTIAL CENTER 84749

If a United States government agency, including, but not 84750
limited to, the National Park Service, chooses to take over the 84751
operations or maintenance of the Hayes Presidential Center, in 84752
whole or in part, the Ohio Historical Society shall make 84753
arrangements with the National Park Service or other United States 84754
government agency for the efficient transfer of operations or 84755
maintenance. 84756

HISTORICAL GRANTS 84757

Of the foregoing appropriation item 360-508, Historical 84758
Grants, \$100,000 in each fiscal year shall be distributed to the 84759
Hebrew Union College in Cincinnati for the Center for Holocaust 84760
and Humanity Education, \$150,000 in fiscal year 2004 shall be 84761

distributed to the National Underground Railroad Freedom Center in 84762
Cincinnati, \$250,000 in each fiscal year shall be distributed to 84763
the Great Lakes Historical Society in Vermilion, \$600,000 in each 84764
fiscal year shall be distributed to the Western Reserve Historical 84765
Society in Cleveland, \$500,000 in fiscal year 2004 shall be 84766
distributed to the Village of Dennison for the Historical Center 84767
Street District, \$100,000 in each fiscal year shall be distributed 84768
to the Harbor Heritage Society Steamship Mather in Cleveland, and 84769
\$500,000 in each fiscal year shall be distributed to the 84770
Cincinnati Museum Center. 84771

OHIO BICENTENNIAL COMMISSION ROYALTIES 84772

Notwithstanding any previous arrangement to the contrary, the 84773
Ohio Bicentennial Commission shall keep the first \$100,000 in 84774
earned royalties associated with the Ohio Bicentennial logo during 84775
the 2004-2005 biennium. This \$100,000 shall be used to cover the 84776
operating expenses of the Ohio Bicentennial Commission in fiscal 84777
year 2005. The remaining moneys collected from royalties 84778
associated with the Ohio Bicentennial logo shall be deposited into 84779
the General Revenue Fund, of which \$350,000 shall be distributed 84780
to the Ohio Historical Society for use in appropriation item 84781
360-403, Adena - Worthington Home. 84782

Section 55. REP OHIO HOUSE OF REPRESENTATIVES 84783

General Revenue Fund				84784	
GRF 025-321 Operating Expenses	\$	19,018,547	\$	19,969,473	84785
TOTAL GRF General Revenue Fund	\$	19,018,547	\$	19,969,473	84786
General Services Fund Group				84787	
103 025-601 House Reimbursement	\$	1,351,875	\$	1,419,469	84788
4A4 025-602 Miscellaneous Sales	\$	35,690	\$	37,474	84789
TOTAL GSF General Services				84790	
Fund Group	\$	1,387,565	\$	1,456,943	84791
TOTAL ALL BUDGET FUND GROUPS	\$	20,406,112	\$	21,426,416	84792

Section 56. IGO OFFICE OF THE INSPECTOR GENERAL				84794
General Revenue Fund				84795
GRF 965-321 Operating Expenses	\$	812,000	\$ 812,000	84796
TOTAL GRF General Revenue Fund	\$	812,000	\$ 812,000	84797
General Services Fund Group				84798
5X9 965-401 Inspector General	\$	100,000	\$ 100,000	84799
Reimbursement				
TOTAL GSF General Services Fund	\$	100,000	\$ 100,000	84800
Group				
State Special Revenue Fund Group				84801
4Z3 965-602 Special Investigations	\$	100,000	\$ 100,000	84802
TOTAL SSR State Special Revenue	\$	100,000	\$ 100,000	84803
Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	1,012,000	\$ 1,012,000	84804
INSPECTOR GENERAL REIMBURSEMENT				84805
The foregoing appropriation item 965-401, Inspector General				84806
Reimbursement, shall be used for reimbursement from agreements				84807
with state agencies and the voluntary contributions from private				84808
parties for investigative costs of the Inspector General.				84809
SPECIAL INVESTIGATIONS				84810
Of the foregoing appropriation item 965-602, Special				84811
Investigations, up to \$100,000 in each fiscal year may be used for				84812
investigative costs, pursuant to section 121.481 of the Revised				84813
Code.				84814
Section 57. INS DEPARTMENT OF INSURANCE				84815
Federal Special Revenue Fund Group				84816
3U5 820-602 OSHIIP Operating Grant	\$	560,559	\$ 560,559	84817
TOTAL FED Federal Special				84818
Revenue Fund Group	\$	560,559	\$ 560,559	84819

State Special Revenue Fund Group				84820
554 820-601 Operating Expenses -	\$	506,515	\$ 561,411	84821
OSHIIP				
554 820-606 Operating Expenses	\$	21,815,431	\$ 22,357,575	84822
555 820-605 Examination	\$	7,433,751	\$ 7,639,581	84823
TOTAL SSR State Special Revenue				84824
Fund Group	\$	29,755,697	\$ 30,558,567	84825
TOTAL ALL BUDGET FUND GROUPS	\$	30,316,256	\$ 31,119,126	84826

MARKET CONDUCT EXAMINATION 84827

When conducting a market conduct examination of any insurer 84828
doing business in this state, the Superintendent of Insurance may 84829
assess the costs of the examination against the insurer. The 84830
superintendent may enter into consent agreements to impose 84831
administrative assessments or fines for conduct discovered that 84832
may be violations of statutes or regulations administered by the 84833
superintendent. All costs, assessments, or fines collected shall 84834
be deposited to the credit of the Department of Insurance 84835
Operating Fund (Fund 554). 84836

EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES 84837

The Superintendent of Insurance may transfer funds from the 84838
Department of Insurance Operating Fund (Fund 554), established by 84839
section 3901.021 of the Revised Code, to the Superintendent's 84840
Examination Fund (Fund 555), established by section 3901.071 of 84841
the Revised Code, only for the expenses incurred in examining 84842
domestic fraternal benefit societies as required by section 84843
3921.28 of the Revised Code. 84844

On July 1, 2003, or as soon as possible thereafter, the 84845
Director of Budget and Management shall transfer \$1,000,000 from 84846
the Department of Insurance Operating Fund (Fund 554) to the 84847
General Revenue Fund. 84848

Section 58. JFS DEPARTMENT OF JOB AND FAMILY SERVICES			84849
General Revenue Fund			84850
GRF 600-321	Support Services		84851
	State	\$ 62,361,047 \$ 58,611,047	84852
	Federal	\$ 7,176,249 \$ 7,125,883	84853
	Support Services Total	\$ 69,537,296 \$ 65,736,930	84854
GRF 600-410	TANF State	\$ 272,619,061 \$ 272,619,061	84855
GRF 600-413	Child Care	\$ 84,120,596 \$ 88,120,596	84856
	Match/Maintenance of Effort		
GRF 600-416	Computer Projects		84857
	State	\$ 120,000,000 \$ 120,000,000	84858
	Federal	\$ 31,095,442 \$ 31,400,454	84859
	Computer Projects Total	\$ 151,095,442 \$ 151,400,454	84860
GRF 600-420	Child Support Administration	\$ 5,091,446 \$ 5,091,446	84861
GRF 600-421	Office of Family Stability	\$ 4,864,932 \$ 4,864,932	84862
GRF 600-422	Local Operations	\$ 2,305,232 \$ 2,305,232	84863
GRF 600-423	Office of Children and Families	\$ 5,000,000 \$ 5,000,000	84864
GRF 600-424	Office of Workforce Development	\$ 877,971 \$ 877,971	84865
GRF 600-425	Office of Ohio Health Plans		84866
	State	\$ 21,944,901 \$ 22,603,740	84867
	Federal	\$ 21,848,555 \$ 22,495,502	84868
	Office of Ohio Health Plans Total	\$ 43,793,456 \$ 45,099,242	84869
GRF 600-435	Unemployment Compensation Review	\$ 3,188,473 \$ 3,188,473	84870

	Commission				
GRF 600-439	Commission to Reform	\$	125,000	\$	125,000 84871
	Medicaid				
GRF 600-502	Child Support Match	\$	16,814,103	\$	16,814,103 84872
GRF 600-511	Disability Financial	\$	22,839,371	\$	22,839,371 84873
	Assistance				
GRF 600-521	Family Stability	\$	55,206,401	\$	55,206,401 84874
	Subsidy				
GRF 600-523	Children and Families	\$	69,846,563	\$	69,846,563 84875
	Subsidy				
GRF 600-525	Health Care/Medicaid				84876
	State	\$	3,676,753,835	\$	3,892,593,671 84877
	Federal	\$	5,223,371,246	\$	5,567,441,206 84878
	Health Care Total	\$	8,900,125,081	\$	9,460,034,877 84879
GRF 600-528	Adoption Services				84880
	State	\$	33,395,955	\$	36,017,981 84881
	Federal	\$	37,368,248	\$	41,115,000 84882
	Adoption Services	\$	70,764,203	\$	77,132,981 84883
	Total				
TOTAL GRF	General Revenue Fund				84884
	State	\$	4,457,354,887	\$	8,672,725,588 84885
	Federal	\$	5,320,859,740	\$	5,669,578,045 84886
	GRF Total	\$	9,778,214,627	\$	14,342,303,633 84887
	General Services Fund Group				84888
4A8 600-658	Child Support	\$	27,255,646	\$	26,680,794 84889
	Collections				
4R4 600-665	BCII Services/Fees	\$	136,974	\$	136,974 84890
5C9 600-671	Medicaid Program	\$	54,686,270	\$	55,137,078 84891
	Support				
5N1 600-677	County Technologies	\$	5,000,000	\$	5,000,000 84892
613 600-645	Training Activities	\$	135,000	\$	135,000 84893
TOTAL GSF	General Services				84894
Fund Group		\$	87,213,890	\$	87,089,846 84895

Federal Special Revenue Fund Group				84896
3A2 600-641 Emergency Food	\$	2,083,500	\$ 2,187,675	84897
Distribution				
3D3 600-648 Children's Trust Fund	\$	2,040,524	\$ 2,040,524	84898
Federal				
3F0 600-623 Health Care Federal	\$	408,467,306	\$ 424,104,433	84899
3F0 600-650 Hospital Care	\$	298,128,308	\$ 305,879,644	84900
Assurance Match				
3G5 600-655 Interagency	\$	1,180,523,642	\$ 1,245,244,536	84901
Reimbursement				
3H7 600-617 Child Care Federal	\$	224,539,425	\$ 235,045,596	84902
3N0 600-628 IV-E Foster Care	\$	173,963,142	\$ 173,963,142	84903
Maintenance				
3S5 600-622 Child Support Projects	\$	534,050	\$ 534,050	84904
3V0 600-662 WIA Ohio Option #7	\$	87,407,014	\$ 89,352,850	84905
3V0 600-688 Workforce Investment	\$	93,636,390	\$ 94,932,750	84906
Act				
3V4 600-678 Federal Unemployment	\$	153,690,682	\$ 154,111,608	84907
Programs				
3V4 600-679 Unemployment	\$	3,097,320	\$ 2,860,297	84908
Compensation Review				
Commission - Federal				
3V6 600-689 TANF Block Grant	\$	786,095,609	\$ 841,909,688	84909
3W3 600-659 TANF/Title XX	\$	88,994,049	\$ 93,498,158	84910
316 600-602 State and Local	\$	11,212,594	\$ 11,249,282	84911
Training				
327 600-606 Child Welfare	\$	29,119,408	\$ 28,665,728	84912
331 600-686 Federal Operating	\$	48,237,185	\$ 47,340,081	84913
365 600-681 JOB Training Program	\$	5,000,000	\$ 0	84914
384 600-610 Food Stamps and State	\$	134,560,572	\$ 135,141,694	84915
Administration				
385 600-614 Refugee Services	\$	5,793,656	\$ 5,841,407	84916
395 600-616 Special	\$	3,975,821	\$ 3,975,821	84917

		Activities/Child and Family Services				
396	600-620	Social Services Block Grant	\$	74,969,767	\$	74,986,134 84918
397	600-626	Child Support	\$	304,157,939	\$	307,468,576 84919
398	600-627	Adoption Maintenance/ Administration	\$	339,957,978	\$	340,104,370 84920
TOTAL FED		Federal Special Revenue				84921
Fund Group			\$	4,460,185,881	\$	4,620,438,044 84922
State Special Revenue		Fund Group				84923
198	600-647	Children's Trust Fund	\$	4,336,109	\$	4,336,109 84924
4A9	600-607	Unemployment Compensation Admin Fund	\$	8,001,000	\$	8,001,000 84925
4E3	600-605	Nursing Home Assessments	\$	4,759,913	\$	4,759,914 84926
4E7	600-604	Child and Family Services Collections	\$	300,000	\$	300,000 84927
4F1	600-609	Foundation Grants/Child and Family Services	\$	119,310	\$	119,310 84928
4J5	600-613	Nursing Facility Bed Assessments	\$	35,060,013	\$	35,064,238 84929
4J5	600-618	Residential State Supplement Payments	\$	15,700,000	\$	15,700,000 84930
4K1	600-621	ICF/MR Bed Assessments	\$	20,467,050	\$	20,428,726 84931
4R3	600-687	Banking Fees	\$	892,000	\$	892,000 84932
4Z1	600-625	HealthCare Compliance	\$	10,000,000	\$	10,000,000 84933
5A5	600-685	Unemployment Benefit Automation	\$	14,000,000	\$	0 84934
5P5	600-692	Health Care Services	\$	492,932,514	\$	515,947,439 84935
5Q9	600-619	Supplemental Inpatient Hospital Payments	\$	30,797,539	\$	30,797,539 84936

5R2 600-608	Medicaid-Nursing Facilities	\$ 125,517,482	\$ 134,666,713	84937
5S3 600-629	MR/DD Medicaid Administration and Oversight	\$ 1,620,960	\$ 1,620,960	84938
5T2 600-652	Child Support Special Payment	\$ 1,500,000	\$ 750,000	84939
5U3 600-654	Health Care Services Administration	\$ 7,576,322	\$ 6,119,127	84940
5U6 600-663	Children and Family Support	\$ 4,929,718	\$ 4,929,718	84941
651 600-649	Hospital Care Assurance Program Fund	\$ 208,634,072	\$ 214,058,558	84942
TOTAL SSR	State Special Revenue			84943
Fund Group		\$ 987,144,002	\$ 1,008,491,351	84944
Agency Fund Group				84945
192 600-646	Support Intercept - Federal	\$ 136,500,000	\$ 136,500,000	84946
5B6 600-601	Food Stamp Intercept	\$ 5,000,000	\$ 5,000,000	84947
583 600-642	Support Intercept - State	\$ 20,565,582	\$ 20,565,582	84948
TOTAL AGY	Agency Fund Group	\$ 162,065,582	\$ 162,065,582	84949
Holding Account	Redistribution Fund Group			84950
R12 600-643	Refunds and Audit Settlements	\$ 5,343,906	\$ 5,343,906	84951
R13 600-644	Forgery Collections	700,000	700,000	84952
TOTAL 090	Holding Account Redistribution Fund Group	\$ 6,043,906	\$ 6,043,906	84953
TOTAL ALL BUDGET	FUND GROUPS	\$15,480,867,888	\$16,230,432,362	84954
Section 58.01.	OHIO COMMISSION TO REFORM MEDICAID			84956
	The foregoing appropriation item 600-439, Commission to			84957

Reform Medicaid, shall be used to fund the Ohio Commission to	84958
Reform Medicaid.	84959
HEALTH CARE/MEDICAID	84960
The foregoing appropriation item 600-525, Health	84961
Care/Medicaid, shall not be limited by the provisions of section	84962
131.33 of the Revised Code.	84963
Section 58.02. CHILD SUPPORT COLLECTIONS/TANF MOE	84964
The foregoing appropriation item 600-658, Child Support	84965
Collections, shall be used by the Department of Job and Family	84966
Services to meet the TANF maintenance of effort requirements of	84967
Pub. L. No. 104-193. After the state has met the maintenance of	84968
effort requirement, the Department of Job and Family Services may	84969
use funds from appropriation item 600-658 to support public	84970
assistance activities.	84971
Section 58.03. MEDICAID PROGRAM SUPPORT FUND - STATE	84972
The foregoing appropriation item 600-671, Medicaid Program	84973
Support, shall be used by the Department of Job and Family	84974
Services to pay for Medicaid services and contracts. The	84975
Department may also deposit to Fund 5C9 revenues received from	84976
other state agencies for Medicaid services under the terms of	84977
interagency agreements between the Department and other state	84978
agencies.	84979
Section 58.04. HEALTH CARE SERVICES ADMINISTRATION	84980
The foregoing appropriation item 600-654, Health Care	84981
Services Administration, shall be used by the Department of Job	84982
and Family Services for costs associated with the administration	84983
of the Medicaid program.	84984
Section 58.05. HEALTH CARE SERVICES ADMINISTRATION FUND	84985

Of the amount received by the Department of Job and Family Services during fiscal year 2004 and fiscal year 2005 from the first installment of assessments paid under section 5112.06 of the Revised Code and intergovernmental transfers made under section 5112.07 of the Revised Code, the Director of Job and Family Services shall deposit \$350,000 into the state treasury to the credit of the Health Care Services Administration Fund (Fund 5U3).

HOSPITAL CARE ASSURANCE MATCH FUND

Appropriation item 600-650, Hospital Care Assurance Match, shall be used by the Department of Job and Family Services in accordance with division (B) of section 5112.18 of the Revised Code.

Section 58.06. TANF FEDERAL BLOCK GRANT FUNDS AND TRANSFERS

Upon the request of the Department of Job and Family Services, the Director of Budget and Management may seek Controlling Board approval to increase appropriations in appropriation item 600-689, TANF Block Grant, provided sufficient funds exist to do so without any corresponding decrease in other appropriation items. The Department of Job and Family Services shall provide the Director of Budget and Management and the Controlling Board with documentation to support the need for the increased appropriation.

All transfers of moneys from or charges against TANF Federal Block Grant awards for use in the Social Services Block Grant or the Child Care and Development Block Grant shall be done after the Department of Job and Family Services gives written notice to the Director of Budget and Management. The Department of Job and Family Services shall first provide the Director of Budget and Management with documentation to support the need for such transfers or charges for use in the Social Services Block Grant or

in the Child Care and Development Block Grant. 85016

Before the thirtieth day of September of each fiscal year, 85017
the Department of Job and Family Services shall file claims with 85018
the United States Department of Health and Human Services for 85019
reimbursement for all allowable expenditures for services provided 85020
by the Department of Job and Family Services, or other agencies 85021
that may qualify for Social Services Block Grant funding pursuant 85022
to Title XX of the Social Security Act. 85023

Section 58.06a. GOVERNOR'S OFFICE FOR FAITH-BASED NONPROFIT 85024
AND OTHER NONPROFIT ORGANIZATIONS 85025

Of the foregoing appropriation item 600-659, TANF/Title XX, 85026
\$625,000 in the fiscal year 2004-2005 biennium shall be used to 85027
support the activities of the Governor's Office for Faith-Based 85028
Nonprofit and Other Nonprofit Organizations. 85029

OHIO ASSOCIATION OF SECOND HARVEST FOOD BANKS 85030

Of the foregoing appropriation item 600-659, TANF/Title XX 85031
(Fund 3W3), up to \$4,500,000 in each fiscal year shall be used by 85032
the Department of Job and Family Services to support expenditures 85033
to the Ohio Association of Second Harvest Food Banks according to 85034
the following criteria. 85035

As used in this section, "federal poverty guidelines" has the 85036
same meaning as in section 5101.46 of the Revised Code. 85037

The Department of Job and Family Services shall provide an 85038
annual grant of \$4,500,000 in each of the fiscal years 2004 and 85039
2005 to the Ohio Association of Second Harvest Food Banks. In each 85040
fiscal year, the Ohio Association of Second Harvest Food Banks 85041
shall use \$2,500,000 for the purchase of food products for the 85042
Ohio Food Program, of which up to \$105,000 may be used for food 85043
storage and transport, and shall use \$2,000,000 for the 85044
Agricultural Surplus Production Alliance Project. Funds provided 85045

for the Ohio Food Program shall be used to purchase food products 85046
and to distribute those food products to agencies participating in 85047
the emergency food distribution program. No funds provided through 85048
this grant may be used for administrative expenses other than 85049
funds provided for food storage and transport. As soon as possible 85050
after entering into a grant agreement at the beginning of each 85051
fiscal year, the Department of Job and Family Services shall 85052
distribute the grant funds in one single payment. The Ohio 85053
Association of Second Harvest Food Banks shall develop a plan for 85054
the distribution of the food products to local food distribution 85055
agencies. Agencies receiving these food products shall ensure that 85056
individuals and families who receive any of the food products 85057
purchased with these funds have an income at or below 150 per cent 85058
of the federal poverty guidelines. The Department of Job and 85059
Family Services and the Ohio Association of Second Harvest Food 85060
Banks shall agree on reporting requirements to be incorporated 85061
into the grant agreement. 85062

The Ohio Association of Second Harvest Food Banks shall 85063
return any fiscal year 2004 funds from this grant remaining 85064
unspent on June 30, 2004, to the Department of Job and Family 85065
Services not later than November 1, 2004. The Ohio Association of 85066
Second Harvest Food Banks shall return any fiscal year 2005 funds 85067
from the grant remaining unspent on June 30, 2005, to the 85068
Department of Job and Family Services no later than November 1, 85069
2005. 85070

Section 58.06.A.1. OHIO ALLIANCE OF BOYS AND GIRLS CLUBS 85071

Of the foregoing appropriation item 600-659, TANF/Title XX 85072
(Fund 3W3), the Department of Job and Family Services shall use up 85073
to \$600,000 in each fiscal year to support expenditures of the 85074
Ohio Alliance of Boys and Girls Clubs to provide nutritional 85075
meals, snacks, and educational and enrichment services to children 85076

participating in programs and activities operated by eligible Boys and Girls Clubs. 85077
85078

The Department of Job and Family Services shall provide an annual grant of \$600,000 in each fiscal year to the Ohio Alliance of Boys and Girls Clubs. As soon as possible after entering into a grant agreement at the beginning of each fiscal year, the Department of Job and Family Services shall distribute the grant funds in one single payment. The Department of Job and Family Services and the Ohio Alliance of Boys and Girls Clubs shall agree on reporting requirements to be incorporated into the grant agreement. 85079
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The Ohio Alliance of Boys and Girls Clubs shall return any fiscal year 2004 funds from the grant remaining unspent on June 30, 2004, to the Ohio Department of Job and Family Services not later than November 1, 2004. The Ohio Alliance of Boys and Girls Clubs shall return any fiscal year 2005 funds from this grant remaining unspent on June 30, 2005, to the Ohio Department of Job and Family Services not later than November 1, 2005. 85088
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Section 58.06b. ADULT PROTECTIVE SERVICES 85095

Of the foregoing appropriation item 600-659, TANF/Title XX (Fund 3W3), up to \$2,700,000 in each fiscal year shall be used by the Department of Job and Family Services to reimburse county departments of job and family services for all or part of the costs they incur in providing adult protective services pursuant to sections 5101.60 to 5101.71 of the Revised Code. 85096
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Section 58.07. PRESCRIPTION DRUG REBATE FUND 85102

The foregoing appropriation item 600-692, Health Care Services, shall be used by the Department of Job and Family Services in accordance with section 5111.081 of the Revised Code. Moneys recovered by the Department pursuant to the Department's 85103
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85106

rights of recovery under section 5101.58 of the Revised Code, that 85107
are not directed to the Health Care Services Administration Fund 85108
(Fund 5U3) pursuant to section 5111.94 of the Revised Code shall 85109
also be deposited into Fund 5P5. 85110

Section 58.08. ODJFS FUNDS 85111

AGENCY FUND GROUP 85112

The Agency Fund Group shall be used to hold revenues until 85113
the appropriate fund is determined or until they are directed to 85114
the appropriate governmental agency other than the Department of 85115
Job and Family Services. If it is determined that additional 85116
appropriation authority is necessary, such amounts are hereby 85117
appropriated. 85118

HOLDING ACCOUNT REDISTRIBUTION GROUP 85119

The foregoing appropriation items 600-643, Refunds and Audit 85120
Settlements, and 600-644, Forgery Collections, Holding Account 85121
Redistribution Fund Group, shall be used to hold revenues until 85122
they are directed to the appropriate accounts or until they are 85123
refunded. If it is determined that additional appropriation 85124
authority is necessary, such amounts are hereby appropriated. 85125

Section 58.09. CONSOLIDATED FUNDING ALLOCATION FOR COUNTY 85126
DEPARTMENTS OF JOB AND FAMILY SERVICES 85127

Using the foregoing appropriation items 600-521, Family 85128
Stability Subsidy; 600-659, TANF/Title XX; 600-610, Food Stamps 85129
and State Administration; 600-410, TANF State; 600-689, TANF Block 85130
Grant; 600-620, Social Services Block Grant; 600-523, Children and 85131
Families Subsidy; 600-413, Child Care Match/Maintenance of Effort; 85132
600-617, Child Care Federal; 600-623, Health Care Federal; and 85133
600-614, Refugees Services, the Department of Job and Family 85134
Services may establish a single allocation for county departments 85135
of job and family services. The county department is not required 85136

to use all the money from one or more of the appropriation items 85137
listed in this paragraph for the purpose for which the specific 85138
appropriation item is made so long as the county department uses 85139
the money for a purpose for which at least one of the other of 85140
those appropriation items is made. The county department may not 85141
use the money in the allocation for a purpose other than a purpose 85142
any of those appropriation items are made. If the spending 85143
estimates used in establishing the single allocation are not 85144
realized and the county department uses money in one or more of 85145
those appropriation items in a manner for which federal financial 85146
participation is not available, the department shall use state 85147
funds available in one or more of those appropriation items to 85148
ensure that the county department receives the full amount of its 85149
allocation and complete a reconciliation at the end of the fiscal 85150
year to appropriately align cash draws with expenditures related 85151
to state and federal claims. 85152

To facilitate this reconciliation, before the thirty-first 85153
day of May of the current fiscal year and after the conclusion of 85154
the county reconciliation process for the previous fiscal year, 85155
the Director of Job and Family Services may request that the 85156
Director of Budget and Management transfer cash between the funds 85157
that make-up the consolidated allocation to the county departments 85158
of job and family services. 85159

Section 58.10. TRANSFER OF FUNDS 85160

The Department of Job and Family Services shall transfer, 85161
through intrastate transfer vouchers, cash from State Special 85162
Revenue Fund 4K1, ICF/MR Bed Assessments, to fund 4K8, Home and 85163
Community-Based Services, in the Ohio Department of Mental 85164
Retardation and Developmental Disabilities. The sum of the 85165
transfers shall equal \$12,000,000 in fiscal year 2004 and 85166
\$12,000,000 in fiscal year 2005. The transfer may occur on a 85167

quarterly basis or on a schedule developed and agreed to by both departments. 85168
85169

The Department of Job and Family Services shall transfer, 85170
through intrastate transfer vouchers, cash from the State Special 85171
Revenue Fund 4J5, Home and Community-Based Services for the Aged, 85172
to Fund 4J4, PASSPORT, in the Department of Aging. The sum of the 85173
transfers shall be \$33,268,052 in fiscal year 2004 and \$33,263,984 85174
in fiscal year 2005. The transfer may occur on a quarterly basis 85175
or on a schedule developed and agreed to by both departments. 85176

TRANSFERS OF IMD/DSH CASH 85177

The Department of Job and Family Services shall transfer, 85178
through intrastate transfer voucher, cash from fund 5C9, Medicaid 85179
Program Support, to the Department of Mental Health's Fund 4X5, 85180
OhioCare, in accordance with an interagency agreement which 85181
delegates authority from the Department of Job and Family Services 85182
to the Department of Mental Health to administer specified 85183
Medicaid services. 85184

Section 58.11. EMPLOYER SURCHARGE 85185

The surcharge and the interest on the surcharge amounts due 85186
for calendar years 1988, 1989, and 1990 as required by Am. Sub. 85187
H.B. 171 of the 117th General Assembly, Am. Sub. H.B. 111 of the 85188
118th General Assembly, and section 4141.251 of the Revised Code 85189
as it existed prior to Sub. H.B. 478 of the 122nd General 85190
Assembly, again shall be assessed and collected by, accounted for, 85191
and made available to the Department of Job and Family Services in 85192
the same manner as set forth in section 4141.251 of the Revised 85193
Code as it existed prior to Sub. H.B. 478 of the 122nd General 85194
Assembly, notwithstanding the repeal of the surcharge for calendar 85195
years after 1990, pursuant to Sub. H.B. 478 of the 122nd General 85196
Assembly, except that amounts received by the Director on or after 85197
July 1, 2001, shall be deposited into the special administrative 85198

fund established pursuant to section 4141.11 of the Revised Code. 85199

Section 58.12. FUNDING FOR HABILITATIVE SERVICES 85200

Notwithstanding any limitations contained in sections 5112.31 85201
and 5112.37 of the Revised Code, in each fiscal year, cash from 85202
State Special Revenue Fund 4K1, ICF/MR Bed Assessments, in excess 85203
of the amounts needed for transfers to Fund 4K8 may be used by the 85204
Department of Job and Family Services to cover costs of care 85205
provided to participants in a waiver with an ICF/MR level of care 85206
requirement administered by the Department of Job and Family 85207
Services. 85208

Section 58.13. FUNDING FOR INSTITUTIONAL FACILITY AUDITS AND 85209
THE OHIO ACCESS SUCCESS PROJECT 85210

Notwithstanding any limitations in sections 3721.51 and 85211
3721.56 of the Revised Code, in each fiscal year, cash from the 85212
State Special Revenue Fund 4J5, Home and Community-Based Services 85213
for the Aged, in excess of the amounts needed for the transfers 85214
may be used by the Department of Job and Family Services for the 85215
following purposes: (A) up to \$1.0 million in each fiscal year to 85216
fund the state share of audits of Medicaid cost reports filed with 85217
the Department of Job and Family Services by nursing facilities 85218
and intermediate care facilities for the mentally retarded; and 85219
(B) up to \$350,000 in fiscal year 2004 and up to \$350,000 in 85220
fiscal year 2005 to provide one-time transitional benefits under 85221
the Ohio Access Success Project that the Director of Job and 85222
Family Services may establish under section 5111.206 of the 85223
Revised Code. 85224

Section 58.14. REFUND OF SETS PENALTY 85225

The Department of Job and Family Services shall deposit any 85226
refunds for penalties that were paid directly or indirectly by the 85227

state for the Support Enforcement Tracking System (SETS) to Fund 85228
3V6, TANF Block Grant. 85229

Section 58.15. PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY 85230

The Director of Job and Family Services may submit to the 85231
United States Secretary of Health and Human Services a request to 85232
transfer the day-to-day administration of the Program of 85233
All-Inclusive Care for the Elderly, known as PACE, in accordance 85234
with 42 U.S.C. 1396u-4, to the Department of Aging. If the United 85235
States Secretary approves the transfer, the Directors of Job and 85236
Family Services and Aging may enter into an interagency agreement 85237
under section 5111.86 of the Revised Code to transfer 85238
responsibility for the day-to-day administration of PACE from the 85239
Department of Job and Family Services to the Department of Aging. 85240
The interagency agreement is subject to the approval of the 85241
Director of Budget and Management and shall include an estimated 85242
cost of services to be provided under PACE and an estimated cost 85243
for the administrative duties assigned by the agreement to the 85244
Department of Aging. 85245

If the Directors of Job and Family Services and Aging enter 85246
into the interagency agreement, the Director of Budget and 85247
Management shall reduce the amount in appropriation item 600-525, 85248
Health Care/Medicaid, by the estimated costs of PACE. If the 85249
Director of Budget and Management makes the reduction, the state 85250
and federal share of the estimated costs of PACE services and 85251
administration is hereby appropriated to the Department of Aging. 85252
The Director of Budget and Management shall establish a new 85253
appropriation item for the appropriation. 85254

Section 58.18. APPROPRIATIONS FROM FUND 3V0 85255

Upon the request of the Department of Job and Family 85256
Services, the Director of Budget and Management may increase 85257

appropriations in either appropriation item 600-662, WIA Ohio 85258
Option #7, Fund 3V0 or in appropriation item 600-688, Workforce 85259
Investment Act, Fund 3V0, with a corresponding decrease in the 85260
other appropriation item supported by Fund 3V0 to allow counties 85261
that administer the Workforce Investment Act as a conventional 85262
county to administer the Act as an Ohio Option county or to allow 85263
counties that administer the Workforce Investment Act as an Ohio 85264
Option county to administer the Act as a conventional county. 85265

JOBS FOR OHIO GRADUATES PROGRAM 85266

Pursuant to an interagency agreement entered into between the 85267
Department of Job and Family Services and the Department of 85268
Education, \$1,750,000 from Workforce Investment Act funds (Fund 85269
3V0), reserved for statewide workforce investment activities, in 85270
fiscal year 2004 and fiscal year 2005, shall be used to support 85271
the Jobs for Ohio Graduates programs administered by the 85272
Department of Education. 85273

Section 58.19. FEDERAL UNEMPLOYMENT PROGRAMS 85274

There is hereby appropriated out of funds made available to 85275
the state under section 903(d) of the Social Security Act, as 85276
amended, \$53,700,000 for fiscal year 2004 and \$47,300,000 for 85277
fiscal year 2005. Upon the request of the Director of Job and 85278
Family Services, the Director of Budget and Management shall 85279
increase the appropriation for fiscal year 2004 by the amount 85280
remaining unspent from the fiscal year 2003 appropriation and 85281
shall increase the appropriation for fiscal year 2005 by the 85282
amount remaining unspent from the fiscal year 2004 appropriation. 85283
The appropriation is to be used under the direction of the 85284
Department of Job and Family Services to pay for administrative 85285
activities for the Unemployment Insurance Program, employment 85286
services, and other allowable expenditures under section 903(d) of 85287
the Social Security Act, as amended. 85288

The amounts obligated pursuant to this section shall not exceed at any time the amount by which the aggregate of the amounts transferred to the account of the state pursuant to section 903(d) of the Social Security Act, as amended, exceeds the aggregate of the amounts obligated for administration and paid out for benefits and required by law to be charged against the amounts transferred to the account of the state.

Of the appropriation item 600-678, Federal Unemployment Programs, in Section 63 of Am. Sub. H.B. 94 of the 124th General Assembly, as amended, up to \$18,000,000 in fiscal year 2004 and up to \$18,000,000 in fiscal year 2005 shall be used by the Department of Job and Family Services to reimburse the General Revenue Fund, through state intrastate transfer vouchers, for expenses incurred on or after the effective date of this section from the General Revenue Fund for the aforementioned programs as reported to the federal government as allowable expenditures.

Section 58.20. MEDICAID PAYMENT TO CHILDREN'S HOSPITALS

As used in this section, "children's hospital" has the same meaning as in section 3702.51 of the Revised Code.

For fiscal years 2004 and 2005, the Medicaid payment to children's hospitals shall include the adjustment for inflation provided for by paragraph (G) of rule 5101:3-2-074 of the Administrative Code as that paragraph existed on December 30, 2002.

The Department of Job and Family Services shall pay to each children's hospital participating in the Medicaid program an amount equal to the difference between (1) the amount the hospital would have been paid under rule 5101:3-2-074 of the Administrative Code for the period beginning January 1, 2003, and ending May 31, 2003, if the amendment to paragraph (G) of that rule that went

into effect on December 31, 2002, had not gone into effect and (2) 85319
the amount that the hospital was paid under that rule for that 85320
period. 85321

Section 58.20a. MEDICAID PAYMENTS FOR OUTPATIENT HOSPITAL 85322
SERVICES 85323

As used in this section, "hospital" does not include a 85324
children's hospital as defined in the section of this act titled 85325
MEDICAID PAYMENT TO CHILDREN'S HOSPITALS. 85326

The Department of Job and Family Services shall increase the 85327
total amount the Department pays all hospitals under the Medicaid 85328
Program for outpatient services provided during the period 85329
beginning July 1, 2003, and ending June 30, 2004, to the maximum 85330
extent possible using \$9,811,136 from the foregoing appropriation 85331
item 600-525, Health Care/Medicaid. The Department of Job and 85332
Family Services shall also increase the total amount the 85333
Department pays all hospitals under the Medicaid Program for 85334
outpatient services provided during the period beginning July 1, 85335
2004, and ending June 30, 2005, to the maximum extent possible 85336
using \$9,811,136 from the foregoing appropriation item 600-525, 85337
Health Care/Medicaid. The Department shall make the increase in 85338
accordance with an inflation adjustment factor for outpatient 85339
hospital services established in rules the Director of Job and 85340
Family Services shall adopt in accordance with Chapter 119. of the 85341
Revised Code. 85342

Section 58.21. CHILD CARE 85343

(A) Notwithstanding any other provision of law, the Director 85344
of Job and Family Services shall not reduce the initial and 85345
continued eligibility level for publicly funded child care below 85346
one hundred fifty per cent of the federal poverty line during 85347
fiscal years 2004 and 2005. 85348

(B) Notwithstanding division (B) of section 5104.39 of the Revised Code, the Director of Job and Family Services shall not, during fiscal years 2004 and 2005, disenroll publicly funded child care program participants who have incomes at or below 165 per cent of the federal poverty line and do not otherwise cease to qualify for the program, if one of the following applies:

(1) The family enrolled in the program before June 9, 2003;

(2) The family enrolled in the program when the family's income was at or below 150 per cent of the federal poverty line.

Section 58.25. MEDICAID COVERAGE OF DENTAL SERVICES

For fiscal years 2004 and 2005, the Medicaid program shall continue to cover dental services in at least the amount, duration, and scope that it does on the effective date of this section under rules governing Medicaid coverage of dental services adopted under section 5111.02 of the Revised Code.

Section 58.28. WELFARE DIVERSION PROGRAMS

Of the foregoing appropriation item 600-521, Family Stability Subsidy, prior to county distribution, \$1,250,000 in each fiscal year shall be used to support specific welfare diversion programs. In each fiscal year, Accountability and Credibility Together (ACT) shall receive \$1,000,000 of the \$1,250,000 to continue its welfare diversion program. In each fiscal year, \$250,000 of the \$1,250,000 shall be used to establish a welfare diversion demonstration project in Butler County. The demonstration project shall be administered by the Butler County United Way.

Section 58.29. OHIO COMMISSION TO REFORM MEDICAID

There is hereby established the Ohio Commission to Reform Medicaid, which shall consist of nine members: three appointed by

the Governor, three by the Speaker of the House of 85377
Representatives, and three by the President of the Senate. 85378
Appointments shall be made not later than ninety days after the 85379
effective date of this section. All members shall serve at the 85380
pleasure of the appointing authority. Members shall serve without 85381
compensation. Vacancies shall be filled in the manner of original 85382
appointments. 85383

The Commission shall conduct a complete review of the state 85384
Medicaid program and shall make recommendations for comprehensive 85385
reform and cost containment. The Commission shall submit a report 85386
of its findings and recommendations to the Governor, Speaker, and 85387
Senate President not later than January 1, 2005. 85388

The Commission may hire a staff director and additional 85389
employees to provide technical support. 85390

The Director of Job and Family Services shall, on behalf of 85391
the Commission, seek federal financial participation for the 85392
administrative costs of the Commission. 85393

Section 58.30. Of the foregoing appropriation item 600-416, 85394
Computer Projects, \$500,000 in each fiscal year shall be used by 85395
the Department of Job and Family Services for costs associated 85396
with staff, purchased services, equipment, and maintenance of the 85397
Statewide Automated Child Welfare Information System (SACWIS). 85398
These earmarked dollars are intended to supplement appropriations 85399
in appropriation item 600-423, Office of Children and Families, 85400
that are used for SACWIS. These earmarked dollars shall be in 85401
addition to any other amounts that the Department plans to spend 85402
on SACWIS. The Department shall plan its spending on SACWIS from 85403
appropriation item 600-416, Computer Projects, without regard to 85404
this earmark. 85405

Section 58.31. MEDICAID REIMBURSEMENT RATES FOR NURSING 85406

FACILITIES	85407
(A) As used in this section:	85408
(1) "Change of operator," "entering operator," and "exiting operator," have the same meaning as in section 5111.65 of the Revised Code.	85409 85410 85411
(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.	85412 85413 85414 85415 85416 85417 85418 85419 85420
(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.	85421 85422 85423 85424 85425 85426 85427 85428 85429 85430 85431 85432 85433 85434 85435
(4) "Provider" and "provider agreement" have the same meaning as in section 5111.20 of the Revised Code.	85436 85437

(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:

(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;

(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;

(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;

(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;

(5) If one or more Medicaid certified beds are added to the nursing facility 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 nursing facility on June 30, 2003, increased in accordance 85469
with division (C) of this section; 85470

(6) If one or more Medicaid certified beds are added to the 85471
nursing facility after July 1, 2003, and before July 1, 2004, the 85472
provider's rate for the added beds shall be the same as the 85473
provider's rate for the Medicaid certified beds that are in the 85474
nursing facility on the day before the new beds are added. 85475

(C) For the purpose of divisions (B)(1), (2), and (5) of this 85476
section and in accordance with rules the Director of Job and 85477
Family Services shall adopt in accordance with Chapter 119. of the 85478
Revised Code, the Department of Job and Family Services shall 85479
increase the Medicaid reimbursement rate for nursing facility 85480
services provided to a Medicaid recipient during the period 85481
beginning July 1, 2003, and ending June 30, 2004, as follows: 85482

(1) To the maximum extent possible using \$16,489,281 from the 85483
foregoing appropriation item 600-525, Health Care/Medicaid. 85484

(2) By forty-five cents per Medicaid day using \$11,763,298 85485
from the foregoing appropriation item 600-608, Medicaid-Nursing 85486
Facilities, and \$16,809,201 from the foregoing appropriation item 85487
600-623, Health Care Federal; 85488

(3) To the maximum extent possible using the funds specified 85489
in division (C)(2) of this section that remain after the increase 85490
is made under that division. 85491

(D) Notwithstanding Chapter 5111. of the Revised Code or any 85492
other state law to the contrary and subject to division (F) of 85493
this section, the Medicaid reimbursement rate for nursing facility 85494
services provided to a Medicaid recipient during the period 85495
beginning July 1, 2004, and ending June 30, 2005, shall be as 85496
follows: 85497

(1) If the provider has a valid provider agreement regarding 85498
the nursing facility on June 30, 2004, the provider's rate for the 85499

nursing facility shall be the same as the provider's rate for the 85500
nursing facility in effect on June 30, 2004, increased in 85501
accordance with division (E) of this section; 85502

(2) If the nursing facility undergoes a change of operator on 85503
July 1, 2004, the entering operator's rate for the nursing 85504
facility shall be the same as the exiting operator's rate for the 85505
nursing facility that is in effect on June 30, 2004, increased in 85506
accordance with division (E) of this section; 85507

(3) If the nursing facility undergoes a change of operator 85508
after July 1, 2004, the entering operator's rate for the nursing 85509
facility shall be the same as the exiting operator's rate for the 85510
nursing facility that is in effect on the day before the effective 85511
date of the entering operator's provider agreement; 85512

(4) If the nursing facility both obtains initial 85513
certification as a nursing facility from the Director of Health 85514
and begins participation in the Medicaid program after June 30, 85515
2004, the provider's rate for the nursing facility shall be the 85516
median of all rates paid to nursing facilities on July 1, 2004; 85517

(5) If one or more Medicaid certified beds are added to the 85518
nursing facility on July 1, 2004, the provider's rate for the 85519
added beds shall be the same as the provider's rate that is in 85520
effect on June 30, 2004, for the Medicaid certified beds that are 85521
in the nursing facility on June 30, 2004, increased in accordance 85522
with division (E) of this section; 85523

(6) If one or more Medicaid certified beds are added to the 85524
nursing facility after July 1, 2004, the provider's rate for the 85525
added beds shall be the same as the provider's rate for the 85526
Medicaid certified beds that are in the nursing facility on the 85527
day before the new beds are added. 85528

(E) For the purpose of divisions (D)(1), (2), and (5) of this 85529
section and in accordance with rules the Director of Job and 85530

Family Services shall adopt in accordance with Chapter 119. of the 85531
Revised Code, the Department of Job and Family Services shall 85532
increase the Medicaid reimbursement rate for nursing facility 85533
services provided to a Medicaid recipient during the period 85534
beginning July 1, 2004, and ending June 30, 2005, as follows: 85535

(1) To the maximum extent possible using \$93,591,290 from the 85536
foregoing appropriation item 600-525, Health Care/Medicaid. 85537

(2) By twenty cents per Medicaid day using \$20,912,529 from 85538
the foregoing appropriation item 600-608, Medicaid-Nursing 85539
Facilities, and \$29,883,024 from the foregoing appropriation item 85540
600-623, Health Care Federal; 85541

(3) To the maximum extent possible using the funds specified 85542
in division (E)(2) of this section that remain after the increase 85543
is made under that division. 85544

(F) A nursing facility's reimbursement rate for services 85545
provided to a Medicaid recipient during any part of the period 85546
beginning July 1, 2003, and ending June 30, 2005, shall be 85547
adjusted to reflect each audit adjustment made to each cost report 85548
used to establish the June 30, 2003, rate on which the nursing 85549
facility's reimbursement rate for services provided during any 85550
part of the period beginning July 1, 2003, and ending June 30, 85551
2005, is based. This division does not affect a nursing facility's 85552
reimbursement rate determined under division (B)(4) or (D)(4) of 85553
this section. 85554

Section 58.32. MEDICAID REIMBURSEMENT RATES FOR ICFs/MR 85555

(A) As used in this section: 85556

(1) "Change of operator," "entering operator," and "exiting 85557
operator" have the same meaning as in section 5111.65 of the 85558
Revised Code. 85559

(2) "Intermediate care facility for the mentally retarded" 85560

means an intermediate care facility for the mentally retarded 85561
certified as in compliance with applicable standards for the 85562
Medicaid program by the Director of Health in accordance with 85563
Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 85564
U.S.C. 1396, as amended, and participates in the Medicaid program 85565
established under Chapter 5111. of the Revised Code, except that 85566
it does not include an intermediate care facility for the mentally 85567
retarded that is operated by the Department of Mental Retardation 85568
and Developmental Disabilities and has its Medicaid reimbursement 85569
rate computed in accordance with section 5111.291 of the Revised 85570
Code. 85571

(3) "Medicaid day" means all days during which a resident who 85572
is a Medicaid recipient occupies a bed in an intermediate care 85573
facility for the mentally retarded that is included in the 85574
facility's certified capacity under Title XIX of the "Social 85575
Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended. 85576
Therapeutic or hospital leave days for which payment would be made 85577
under section 5111.33 of the Revised Code if not for this section 85578
are considered Medicaid days proportionate to the percentage of 85579
the intermediate care facility for the mentally retarded's per 85580
resident per day rate paid for those days. 85581

(4) "Provider" and "provider agreement" have the same meaning 85582
as in section 5111.20 of the Revised Code. 85583

(B) Notwithstanding Chapter 5111. of the Revised Code or any 85584
other state law to the contrary and subject to division (F) of 85585
this section, the Medicaid reimbursement rate for intermediate 85586
care facility services for the mentally retarded provided to a 85587
Medicaid recipient during the period beginning July 1, 2003, and 85588
ending June 30, 2004, shall be as follows: 85589

(1) If the provider has a valid provider agreement regarding 85590
the intermediate care facility for the mentally retarded on June 85591
30, 2003, the provider's rate for the facility shall be the same 85592

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, 2003, and before 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 facility on the day before the new beds are added. 85624
85625

(C) For the purpose of divisions (B)(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 intermediate care facility services for the mentally retarded provided to a Medicaid recipient during the period beginning July 1, 2003, and ending June 30, 2004, to the maximum extent possible using \$2,516,128 from the foregoing appropriation item 600-525, Health Care/Medicaid. However, no intermediate care facility for the mentally retarded's Medicaid reimbursement rate for that period shall exceed one hundred two per cent of its rate on June 30, 2003. 85626
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(D) 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 intermediate care facility services for the mentally retarded provided to a Medicaid recipient during the period beginning July 1, 2004, and ending June 30, 2005, shall be as follows: 85639
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(1) If the provider has a valid provider agreement regarding the intermediate care facility for the mentally retarded on June 30, 2004, the provider's rate for the facility shall be the same as the provider's rate for the facility in effect on June 30, 2004, increased in accordance with division (E) of this section; 85645
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(2) If the intermediate care facility for the mentally retarded undergoes a change of operator on 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 June 30, 2004, increased in accordance with division (E) of this section; 85650
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(3) If the intermediate care facility for the mentally retarded undergoes a change of operator after 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, 2004, 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, 2004;

(5) If one or more Medicaid certified beds are added to the intermediate care facility for the mentally retarded 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 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 intermediate care facility for the mentally retarded 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 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 intermediate care facility services for the mentally retarded provided to a Medicaid recipient during the period beginning July 1, 2004, and ending

June 30, 2005, to the maximum extent possible using \$11,153,895 85687
from the foregoing appropriation item 600-525, Health 85688
Care/Medicaid. However, no intermediate care facility for the 85689
mentally retarded's Medicaid reimbursement rate for that period 85690
shall exceed one hundred two per cent of its rate on June 30, 85691
2004. 85692

(F) The reimbursement rate of an intermediate care facility 85693
for the mentally retarded for services provided to a Medicaid 85694
recipient during any part of the period beginning July 1, 2003, 85695
and ending June 30, 2005, shall be adjusted to reflect each audit 85696
adjustment made to each cost report used to establish the June 30, 85697
2003, rate on which the facility's reimbursement rate for services 85698
provided during any part of the period beginning July 1, 2003, and 85699
ending June 30, 2005, is based. This division does not affect the 85700
reimbursement rate of an intermediate care facility for the 85701
mentally retarded determined under division (B)(4) or (D)(4) of 85702
this section. 85703

Section 58.33. DISABILITY ASSISTANCE TRANSITION 85704

(A) Subject to the provisions of Chapter 5115. of the Revised 85705
Code, as amended, enacted, and repealed by this act, the 85706
Disability Financial Assistance Program constitutes a continuation 85707
of the financial assistance component of the Disability Assistance 85708
Program established under Chapter 5115. of the Revised Code, as it 85709
existed prior to the effective date of this section, and the 85710
Disability Medical Assistance Program constitutes a continuation 85711
of the medical assistance component of the Disability Assistance 85712
Program. 85713

Any business commenced but not completed on behalf of the 85714
Disability Assistance Program shall be completed in the same 85715
manner, and with the same effect, on behalf of the Disability 85716
Financial Assistance Program and the Disability Medical Assistance 85717

Program. 85718

Except as provided in divisions (B) and (C) of this section, 85719
all rules, orders, and determinations regarding the Disability 85720
Assistance Program continue in effect as rules, orders, and 85721
determinations regarding the Disability Financial Assistance 85722
Program and the Disability Medical Assistance Program, until 85723
modified or rescinded. 85724

Wherever the Disability Assistance Program is referred to in 85725
any law, contract, or other document, the reference shall be 85726
deemed to refer to the Disability Financial Assistance Program or 85727
the Disability Medical Assistance Program, whichever is 85728
appropriate. 85729

(B) Notwithstanding any determination through administrative 85730
or judicial order or otherwise, a person who was receiving 85731
financial assistance under the Disability Assistance Program prior 85732
to the effective date of this section ceases to be eligible for 85733
continued financial assistance under the Disability Financial 85734
Assistance Program on the effective date of this section, unless 85735
one of the following is the case: 85736

(1) The person was receiving the assistance on the basis of 85737
being age 60 or older or on the basis of being unable to do any 85738
substantial or gainful activity by reason of a medically 85739
determinable physical or mental impairment that can be expected to 85740
result in death or has lasted or can be expected to last for not 85741
less than nine months. 85742

(2) The person was receiving the assistance by meeting other 85743
eligibility requirements but applies for Disability Financial 85744
Assistance pursuant to section 5115.05 of the Revised Code, as 85745
amended by this act, and receives a determination of eligibility 85746
by meeting the requirements specified in section 5115.01 of the 85747
Revised Code, as amended by this act. 85748

(C) Notwithstanding the provisions of section 5115.10 of the Revised Code, as amended by this act, that limit eligibility for disability medical assistance to persons determined to be medication dependent, both of the following apply:

(1) The Director of Job and Family Services may adopt rules in accordance with section 111.15 of the Revised Code providing for and governing temporary provision of disability medical assistance to persons who were recipients of medical assistance under the Disability Assistance Program prior to the effective date of this section.

(2) A person's eligibility for disability medical assistance may continue pursuant to the rules adopted under division (C)(1) of this section until the state or county department of job and family services conducts a redetermination of the person's eligibility in accordance with the requirement that recipients be medication dependent, unless the person otherwise becomes ineligible for disability medical assistance.

Section 58.34. Of the foregoing appropriation item 600-689, TANF Block Grant, \$57,170,000 in fiscal year 2004 shall be used for the Head Start Program pursuant to an interagency agreement entered into by Department of Job and Family Services and the Department of Education under division (A)(2) of section 5101.801 of the Revised Code. Of that amount, \$5,000,000 shall be used to increase the number of Head Start slots in fiscal year 2004.

Of the foregoing appropriation item 600-689, TANF Block Grant, \$110,184,000 in fiscal year 2005 shall be used for the Head Start Plus Program pursuant to an interagency agreement entered into by Department of Job and Family Services and the Department 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. 85780

Section 58.35. STUDY OF MEDICAID COVERAGE FOR BREAST AND 85781
CERVICAL CANCER TREATMENT 85782

(A) The Department of Job and Family Services shall conduct a 85783
study of the feasibility of expanding the Medicaid coverage 85784
provided under section 5111.0110 of the Revised Code pursuant to 85785
the "Breast and Cervical Cancer Prevention and Treatment Act of 85786
2000," 114 Stat. 1381, 42 U.S.C. 1396a, as amended. In particular, 85787
the Department shall study the extension of coverage to women who 85788
receive breast and cervical cancer screenings that are not 85789
directly paid for with federal funds obtained under Title XV of 85790
the "Public Health Service Act," 104 Stat. 409 (1990), 42 U.S.C., 85791
as amended. The study of this extension shall include 85792
consideration of both of the following options, as specified by 85793
the federal Centers for Medicare and Medicaid Services: 85794

(1) Coverage of women who have been screened under a Title 85795
XV-funded Centers for Disease Control and Prevention Breast and 85796
Cervical Cancer Early Detection Program in which their particular 85797
clinical services were not paid for with Title XV funds, but the 85798
services were rendered by a provider or an entity funded at least 85799
in part with Title XV funds, and the services were within the 85800
scope of a grant, sub-grant, or contract under the breast and 85801
cervical cancer early detection program and the Title XV grantee 85802
has elected to include such screening activities by that provider 85803
or entity as screening activities pursuant to Title XV; 85804

(2) Coverage of women who have been screened by any other 85805
provider or entity and the Title XV grantee has elected to include 85806
screening activities by that provider or entity as screening 85807
activities pursuant to Title XV. 85808

(B) Not later than October 1, 2003, the Department shall 85809
complete its study and prepare a report of its findings and 85810

recommendations. The Department shall submit a copy of its report 85811
to the President of the Senate, Speaker of the House of 85812
Representatives, and Director of Budget and Management. Copies of 85813
the report shall be made available to the public on request. 85814

Section 58.36. Pursuant to 7 U.S.C. 2015(o)(4), the 85815
Department of Job and Family Services shall request that the 85816
United States Secretary of Agriculture waive the applicability of 85817
the work requirement of 7 U.S.C. 2015(o)(2) during fiscal years 85818
2004 and 2005 to food stamp benefit recipients who reside in a 85819
county of this state that the Department determines has had an 85820
unemployment rate of over 10 per cent for each of the four months 85821
before the month in which the waiver is in effect for the county. 85822
The Department shall make monthly determinations of which counties 85823
the waiver shall be in effect in. No individual may be exempted 85824
from the work requirements for more than a total of nine months 85825
beginning July 1, 2003, and ending June 30, 2005. 85826

The Department shall report to the Speaker and Minority 85827
Leader of the House of Representatives and President and Minority 85828
Leader of the Senate on receipt or rejection of the waiver sought 85829
under this section. 85830

Section 59. JCO JUDICIAL CONFERENCE OF OHIO 85831

General Revenue Fund 85832

GRF 018-321 Operating Expenses	\$	962,000	\$	957,000	85833
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TOTAL GRF General Revenue Fund	\$	962,000	\$	957,000	85834
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General Services Fund Group 85835

403 018-601 Ohio Jury Instructions	\$	200,000	\$	200,000	85836
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TOTAL GSF General Services Fund	\$	200,000	\$	200,000	85837
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Group

TOTAL ALL BUDGET FUND GROUPS	\$	1,162,000	\$	1,157,000	85838
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STATE COUNCIL OF UNIFORM STATE LAWS 85839

Notwithstanding section 105.26 of the Revised Code, of the 85840
foregoing appropriation item 018-321, Operating Expenses, up to 85841
\$63,000 in fiscal year 2004 and up to \$66,000 in fiscal year 2005 85842
may be used to pay the expenses of the State Council of Uniform 85843
State Laws, including membership dues to the National Conference 85844
of Commissioners on Uniform State Laws. 85845

OHIO JURY INSTRUCTIONS FUND 85846

The Ohio Jury Instructions Fund (Fund 403) shall consist of 85847
grants, royalties, dues, conference fees, bequests, devises, and 85848
other gifts received for the purpose of supporting costs incurred 85849
by the Judicial Conference of Ohio in dispensing educational and 85850
informational data to the state's judicial system. Fund 403 shall 85851
be used by the Judicial Conference of Ohio to pay expenses 85852
incurred in dispensing educational and informational data to the 85853
state's judicial system. All moneys accruing to Fund 403 in excess 85854
of \$200,000 in fiscal year 2004 and in excess of \$200,000 in 85855
fiscal year 2005 are hereby appropriated for the purposes 85856
authorized. 85857

No money in the Ohio Jury Instructions Fund shall be 85858
transferred to any other fund by the Director of Budget and 85859
Management or the Controlling Board. 85860

Section 60. JSC THE JUDICIARY/SUPREME COURT 85861

General Revenue Fund 85862

GRF 005-321	Operating Expenses -	\$	113,636,659	\$	118,401,294	85863
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Judiciary/Supreme
Court

GRF 005-401	State Criminal	\$	346,194	\$	356,371	85864
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Sentencing Council

GRF 005-406	Law-Related Education	\$	209,836	\$	216,131	85865
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TOTAL GRF	General Revenue Fund	\$	114,192,689	\$	118,973,796	85866
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General Services Fund Group				85867
672 005-601 Continuing Judicial	\$	126,000	\$ 120,000	85868
Education				
TOTAL GSF General Services Fund	\$	126,000	\$ 120,000	85869
Group				
Federal Special Revenue Fund Group				85870
3J0 005-603 Federal Grants	\$	1,030,061	\$ 1,030,061	85871
TOTAL FED Federal Special Revenue	\$	1,030,061	\$ 1,030,061	85872
Fund Group				
State Special Revenue Fund Group				85873
4C8 005-605 Attorney Registration	\$	2,332,733	\$ 2,495,171	85874
5T8 005-609 Grants and Awards	\$	33,296	\$ 33,296	85875
6A8 005-606 Supreme Court	\$	1,230,514	\$ 1,267,428	85876
Admissions				
643 005-607 Commission on	\$	568,788	\$ 587,210	85877
Continuing Legal				
Education				
TOTAL SSR State Special Revenue	\$	4,165,331	\$ 4,383,105	85878
Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	119,514,081	\$ 124,506,962	85879
LAW-RELATED EDUCATION				85880
The foregoing appropriation item 005-406, Law-Related				85881
Education, shall be distributed directly to the Ohio Center for				85882
Law-Related Education for the purposes of providing continuing				85883
citizenship education activities to primary and secondary				85884
students, expanding delinquency prevention programs, increasing				85885
activities for at-risk youth, and accessing additional public and				85886
private money for new programs.				85887
CONTINUING JUDICIAL EDUCATION				85888
The Continuing Judicial Education Fund (Fund 672) shall				85889
consist of fees paid by judges and court personnel for attending				85890

continuing education courses and other gifts and grants received 85891
for the purpose of continuing judicial education. The foregoing 85892
appropriation item 005-601, Continuing Judicial Education, shall 85893
be used to pay expenses for continuing education courses for 85894
judges and court personnel. If it is determined by the 85895
Administrative Director of the Supreme Court that additional 85896
appropriations are necessary, the amounts are hereby appropriated. 85897

No money in the Continuing Judicial Education Fund shall be 85898
transferred to any other fund by the Director of Budget and 85899
Management or the Controlling Board. Interest earned on moneys in 85900
the Continuing Judicial Education Fund shall be credited to the 85901
fund. 85902

FEDERAL GRANTS 85903

The Federal Grants Fund (Fund 3J0) shall consist of grants 85904
and other moneys awarded to the Supreme Court (The Judiciary) by 85905
the United States Government or other entities that receive the 85906
moneys directly from the United States Government and distribute 85907
those moneys to the Supreme Court (The Judiciary). The foregoing 85908
appropriation item 005-603, Federal Grants, shall be used in a 85909
manner consistent with the purpose of the grant or award. If it is 85910
determined by the Administrative Director of the Supreme Court 85911
that additional appropriations are necessary, the amounts are 85912
hereby appropriated. 85913

No money in the Federal Grants Fund shall be transferred to 85914
any other fund by the Director of Budget and Management or the 85915
Controlling Board. However, interest earned on moneys in the 85916
Federal Grants Fund shall be credited or transferred to the 85917
General Revenue Fund. 85918

ATTORNEY REGISTRATION 85919

In addition to funding other activities considered 85920
appropriate by the Supreme Court, the foregoing appropriation item 85921

005-605, Attorney Registration, may be used to compensate 85922
employees and fund the appropriate activities of the following 85923
offices established by the Supreme Court pursuant to the Rules for 85924
the Government of the Bar of Ohio: the Office of Disciplinary 85925
Counsel, the Board of Commissioners on Grievances and Discipline, 85926
the Clients' Security Fund, the Board of Commissioners on the 85927
Unauthorized Practice of Law, and the Office of Attorney 85928
Registration. If it is determined by the Administrative Director 85929
of the Supreme Court that additional appropriations are necessary, 85930
the amounts are hereby appropriated. 85931

No moneys in the Attorney Registration Fund shall be 85932
transferred to any other fund by the Director of Budget and 85933
Management or the Controlling Board. Interest earned on moneys in 85934
the Attorney Registration Fund shall be credited to the fund. 85935

GRANTS AND AWARDS 85936

The Grants and Awards Fund (Fund 5T8) shall consist of grants 85937
and other moneys awarded to the Supreme Court (The Judiciary) by 85938
the State Justice Institute, the Office of Criminal Justice 85939
Services, or other entities. The foregoing appropriation item 85940
005-609, Grants and Awards, shall be used in a manner consistent 85941
with the purpose of the grant or award. If it is determined by the 85942
Administrative Director of the Supreme Court that additional 85943
appropriations are necessary, the amounts are hereby appropriated. 85944

No moneys in the Grants and Awards Fund shall be transferred 85945
to any other fund by the Director of Budget and Management or the 85946
Controlling Board. However, interest earned on moneys in the 85947
Grants and Awards Fund shall be credited or transferred to the 85948
General Revenue Fund. 85949

SUPREME COURT ADMISSIONS 85950

The foregoing appropriation item 005-606, Supreme Court 85951
Admissions, shall be used to compensate Supreme Court employees 85952

who are primarily responsible for administering the attorney 85953
admissions program, pursuant to the Rules for the Government of 85954
the Bar of Ohio, and to fund any other activities considered 85955
appropriate by the court. Moneys shall be deposited into the 85956
Supreme Court Admissions Fund (Fund 6A8) pursuant to the Supreme 85957
Court Rules for the Government of the Bar of Ohio. If it is 85958
determined by the Administrative Director of the Supreme Court 85959
that additional appropriations are necessary, the amounts are 85960
hereby appropriated. 85961

No moneys in the Supreme Court Admissions Fund shall be 85962
transferred to any other fund by the Director of Budget and 85963
Management or the Controlling Board. Interest earned on moneys in 85964
the Supreme Court Admissions Fund shall be credited to the fund. 85965

CONTINUING LEGAL EDUCATION 85966

The foregoing appropriation item 005-607, Commission on 85967
Continuing Legal Education, shall be used to compensate employees 85968
of the Commission on Continuing Legal Education, established 85969
pursuant to the Supreme Court Rules for the Government of the Bar 85970
of Ohio, and to fund other activities of the commission considered 85971
appropriate by the court. If it is determined by the 85972
Administrative Director of the Supreme Court that additional 85973
appropriations are necessary, the amounts are hereby appropriated. 85974

No moneys in the Continuing Legal Education Fund shall be 85975
transferred to any other fund by the Director of Budget and 85976
Management or the Controlling Board. Interest earned on moneys in 85977
the Continuing Legal Education Fund shall be credited to the fund. 85978

Section 61. LEC LAKE ERIE COMMISSION 85979

State Special Revenue Fund Group 85980

4C0 780-601 Lake Erie Protection \$ 1,070,975 \$ 1,070,975 85981
Fund

5D8 780-602 Lake Erie Resources	\$	689,004	\$	689,004	85982
Fund					
TOTAL SSR State Special Revenue					85983
Fund Group	\$	1,759,979	\$	1,759,979	85984
TOTAL ALL BUDGET FUND GROUPS	\$	1,759,979	\$	1,759,979	85985
CASH TRANSFER					
					85986
Not later than the thirtieth day of November of each fiscal					85987
year, the Executive Director of the Ohio Lake Erie Office, with					85988
the approval of the Lake Erie Commission, shall certify to the					85989
Director of Budget and Management the cash balance in the Lake					85990
Erie Resources Fund (Fund 5D8) in excess of amounts needed to meet					85991
operating expenses of the Lake Erie Office. The Ohio Lake Erie					85992
Office may request the Director of Budget and Management to					85993
transfer up to the certified amount from the Lake Erie Resources					85994
Fund (Fund 5D8) to the Lake Erie Protection Fund (Fund 4C0). The					85995
Director of Budget and Management may transfer the requested					85996
amount, or the Director may transfer a different amount up to the					85997
certified amount. Cash transferred shall be used for the purposes					85998
described in division (A) of section 1506.23 of the Revised Code.					85999
The amount transferred by the director is appropriated to the					86000
foregoing appropriation item 780-601, Lake Erie Protection Fund,					86001
which shall be increased by the amount transferred.					86002
Section 62. LRS LEGAL RIGHTS SERVICE					
					86003
General Revenue Fund					
					86004
GRF 054-100 Personal Services	\$	193,514	\$	193,514	86005
GRF 054-200 Maintenance	\$	33,938	\$	33,938	86006
GRF 054-300 Equipment	\$	1,856	\$	1,856	86007
GRF 054-401 Ombudsman	\$	291,247	\$	291,247	86008
TOTAL GRF General Revenue Fund	\$	520,555	\$	520,555	86009
General Services Fund Group					
					86010
416 054-601 Gifts and Donations	\$	1,352	\$	1,352	86011

Sub. H. B. No. 95
As Reported by the Senate Finance and Financial Institutions Committee

5M0 054-610	Settlements	\$	75,000	\$	75,000	86012
TOTAL GSF General Services						86013
Fund Group		\$	76,352	\$	76,352	86014
Federal Special Revenue Fund Group						86015
3B8 054-603	Protection and Advocacy - Mentally Ill	\$	1,018,279	\$	1,018,279	86016
3N3 054-606	Protection and Advocacy - Individual Rights	\$	507,648	\$	507,648	86017
3N9 054-607	Assistive Technology	\$	50,000	\$	50,000	86018
3R9 054-604	Family Support Collaborative	\$	242,500	\$	242,500	86019
3T2 054-609	Client Assistance Program	\$	404,807	\$	404,807	86020
3X1 054-611	Protection and Advocacy for Beneficiaries of Social Security	\$	187,784	\$	187,784	86021
3Z6 054-612	Traumatic Brain Injury	\$	50,000	\$	50,000	86022
305 054-602	Protection and Advocacy - Developmentally Disabled	\$	1,280,363	\$	1,280,363	86023
TOTAL FED Federal Special Revenue						86024
Fund Group		\$	3,741,381	\$	3,741,381	86025
TOTAL ALL BUDGET FUND GROUPS						86026
 Section 63. JLE JOINT LEGISLATIVE ETHICS COMMITTEE						86028
General Revenue Fund						86029
GRF 028-321	Legislative Ethics Committee	\$	550,000	\$	550,000	86030

TOTAL GRF General Revenue Fund	\$	550,000	\$	550,000	86031
TOTAL ALL BUDGET FUND GROUPS	\$	550,000	\$	550,000	86032

TRANSFER OF FUNDS TO GRF 86033

On July 1, 2003, or as soon thereafter as possible, the 86034
 Director of Budget and Management shall transfer 50 per cent of 86035
 the cash balance in the Joint Legislative Ethics Committee Fund 86036
 (Fund 4G7) to the General Revenue Fund. On July 1, 2004, or as 86037
 soon thereafter as possible, the Director of Budget and Management 86038
 shall transfer all of the remaining cash balance in the Joint 86039
 Legislative Ethics Committee Fund (Fund 4G7) to the General 86040
 Revenue Fund. 86041

Section 64. LSC LEGISLATIVE SERVICE COMMISSION 86042

General Revenue Fund 86043

GRF 035-321 Operating Expenses	\$	14,065,000	\$	14,770,000	86044
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GRF 035-402 Legislative Interns	\$	975,000	\$	990,000	86045
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GRF 035-404 Legislative Office of Education Oversight	\$	1,205,000	\$	1,256,427	86046
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GRF 035-405 Correctional Institution Inspection Committee	\$	200,000	\$	300,000	86047
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GRF 035-406 ATMS Replacement Project	\$	20,000	\$	20,000	86048
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GRF 035-407 Legislative Task Force on Redistricting	\$	100,000	\$	0	86049
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GRF 035-409 National Associations	\$	430,000	\$	441,000	86050
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GRF 035-410 Legislative Information Systems	\$	3,624,200	\$	3,624,200	86051
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TOTAL GRF General Revenue Fund	\$	20,619,200	\$	21,401,627	86052
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General Services Fund Group 86053

4F6 035-603 Legislative Budget Services	\$	149,350	\$	152,337	86054
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410 035-601	Sale of Publications	\$	25,000	\$	25,000	86055
TOTAL GSF General Services						86056
Fund Group		\$	174,350	\$	177,337	86057
TOTAL ALL BUDGET FUND GROUPS						86058
ATMS REPLACEMENT PROJECT						86059
Of the foregoing appropriation item 035-406, ATMS Replacement						86060
Project, any amounts not used for the ATMS project may be used to						86061
pay the operating expenses of the Legislative Service Commission.						86062
 Section 65. LIB STATE LIBRARY BOARD						86063
General Revenue Fund						86064
GRF 350-321	Operating Expenses	\$	6,700,721	\$	6,700,721	86065
GRF 350-400	Ohio Public Library	\$	0	\$	5,000,000	86066
Information Network						
GRF 350-401	Ohioana Rental	\$	124,816	\$	124,816	86067
Payments						
GRF 350-501	Cincinnati Public	\$	584,414	\$	569,803	86068
Library						
GRF 350-502	Regional Library	\$	1,194,374	\$	1,194,374	86069
Systems						
GRF 350-503	Cleveland Public	\$	879,042	\$	857,066	86070
Library						
TOTAL GRF General Revenue Fund						86071
General Services Fund Group						86072
139 350-602	Intra-Agency Service	\$	9,000	\$	9,000	86073
Charges						
4S4 350-604	OPLIN Technology	\$	6,450,000	\$	1,000,000	86074
459 350-602	Interlibrary Service	\$	2,759,661	\$	2,809,661	86075
Charges						
TOTAL GSF General Services						86076
Fund Group		\$	9,218,661	\$	3,818,661	86077

Federal Special Revenue Fund Group				86078
313 350-601 LSTA Federal	\$	5,541,647	\$ 5,541,647	86079
TOTAL FED Federal Special Revenue				86080
Fund Group	\$	5,541,647	\$ 5,541,647	86081
TOTAL ALL BUDGET FUND GROUPS	\$	24,243,675	\$ 23,807,088	86082
OHIOANA RENTAL PAYMENTS				86083
The foregoing appropriation item 350-401, Ohioana Rental				86084
Payments, shall be used to pay the rental expenses of the Martha				86085
Kinney Cooper Ohioana Library Association pursuant to section				86086
3375.61 of the Revised Code.				86087
CINCINNATI PUBLIC LIBRARY				86088
The foregoing appropriation item 350-501, Cincinnati Public				86089
Library, shall be used for the Talking Book program, which assists				86090
the blind and disabled.				86091
REGIONAL LIBRARY SYSTEMS				86092
The foregoing appropriation item 350-502, Regional Library				86093
Systems, shall be used to support regional library systems				86094
eligible for funding under section 3375.90 of the Revised Code.				86095
CLEVELAND PUBLIC LIBRARY				86096
The foregoing appropriation item 350-503, Cleveland Public				86097
Library, shall be used for the Talking Book program, which assists				86098
the blind and disabled.				86099
OHIO PUBLIC LIBRARY INFORMATION NETWORK				86100
The foregoing appropriation items 350-604, OPLIN Technology,				86101
and, in fiscal year 2005, 350-400, Ohio Public Library Information				86102
Network, shall be used for an information telecommunications				86103
network linking public libraries in the state and such others as				86104
may be certified as participants by the Ohio Public Library				86105
Information Network Board.				86106

The Ohio Public Library Information Network Board shall 86107
consist of eleven members appointed by the State Library Board 86108
from among the staff of public libraries and past and present 86109
members of boards of trustees of public libraries, based on the 86110
recommendations of the Ohio library community. The Ohio Public 86111
Library Information Network Board, in consultation with the State 86112
Library, shall develop a plan of operations for the network. The 86113
board may make decisions regarding use of the foregoing OPLIN 86114
appropriation items 350-604 and may receive and expend grants to 86115
carry out the operations of the network in accordance with state 86116
law and the authority to appoint and fix the compensation of a 86117
director and necessary staff. The State Library shall be the 86118
fiscal agent for the network and shall have fiscal accountability 86119
for the expenditure of funds. The Ohio Public Library Information 86120
Network Board members shall be reimbursed for actual travel and 86121
necessary expenses incurred in carrying out their 86122
responsibilities. 86123

In order to limit access to obscene and illegal materials 86124
through internet use at Ohio Public Library Information Network 86125
(OPLIN) terminals, local libraries with OPLIN computer terminals 86126
shall adopt policies that control access to obscene and illegal 86127
materials. These policies may include use of technological systems 86128
to select or block certain internet access. The OPLIN shall 86129
condition provision of its funds, goods, and services on 86130
compliance with these policies. The OPLIN Board shall also adopt 86131
and communicate specific recommendations to local libraries on 86132
methods to control such improper usage. These methods may include 86133
each library implementing a written policy controlling such 86134
improper use of library terminals and requirements for parental 86135
involvement or written authorization for juvenile internet usage. 86136

The OPLIN Board shall research and assist or advise local 86137
libraries with regard to emerging technologies and methods that 86138

may be effective means to control access to obscene and illegal 86139
materials. The OPLIN Executive Director shall biannually provide 86140
written reports to the Governor, the Speaker and Minority Leader 86141
of the House of Representatives, and the President and Minority 86142
Leader of the Senate on any steps being taken by OPLIN and public 86143
libraries in the state to limit and control such improper usage as 86144
well as information on technological, legal, and law enforcement 86145
trends nationally and internationally affecting this area of 86146
public access and service. 86147

The Ohio Public Library Information Network, InfOhio, and 86148
OhioLink shall, to the extent feasible, coordinate and cooperate 86149
in their purchase or other acquisition of the use of electronic 86150
databases for their respective users and shall contribute funds in 86151
an equitable manner to such effort. 86152

TRANSFER TO OPLIN TECHNOLOGY FUND 86153

Notwithstanding sections 5747.03 and 5747.47 of the Revised 86154
Code and any other provision of law to the contrary, in accordance 86155
with a schedule established by the Director of Budget and 86156
Management, the Director of Budget and Management shall transfer 86157
up to \$5,000,000 in fiscal year 2004 from the Library and Local 86158
Government Support Fund (Fund 065) to the OPLIN Technology Fund 86159
(Fund 4S4). 86160

Section 66. LCO LIQUOR CONTROL COMMISSION 86161

Liquor Control Fund Group 86162

043 970-321 Operating Expenses	\$	779,886	\$	794,387	86163
TOTAL LCF Liquor Control Fund Group	\$	779,886	\$	794,387	86164
TOTAL ALL BUDGET FUND GROUPS	\$	779,886	\$	794,387	86165

COMPUTER EQUIPMENT 86166

Of the foregoing appropriation item 970-321, Operating 86167
Expenses, \$27,700 in fiscal year 2004 and \$4,500 in fiscal year 86168

2005 shall be used for computer equipment. 86169

Section 67. LOT STATE LOTTERY COMMISSION 86170

State Lottery Fund Group 86171

044 950-100 Personal Services \$ 25,114,200 \$ 25,133,314 86172

044 950-200 Maintenance \$ 20,100,168 \$ 20,120,268 86173

044 950-300 Equipment \$ 3,067,250 \$ 3,113,259 86174

044 950-402 Game and Advertising \$ 68,683,000 \$ 68,683,000 86175

Contracts

044 950-500 Problem Gambling \$ 335,000 \$ 335,000 86176

Subsidy

044 950-601 Prizes, Bonuses, and \$ 166,173,455 \$ 166,173,455 86177

Commissions

871 950-602 Annuity Prizes \$ 162,228,451 \$ 162,185,260 86178

TOTAL SLF State Lottery Fund 86179

Group \$ 445,701,524 \$ 445,743,556 86180

TOTAL ALL BUDGET FUND GROUPS \$ 445,701,524 \$ 445,743,556 86181

OPERATING EXPENSES 86182

The Controlling Board may, at the request of the State 86183

Lottery Commission, authorize additional appropriations for 86184

operating expenses of the State Lottery Commission from the State 86185

Lottery Fund up to a maximum of 15 per cent of anticipated total 86186

revenue accruing from the sale of lottery tickets. 86187

PRIZES, BONUSSES, AND COMMISSIONS 86188

Any amounts, in addition to the amounts appropriated in 86189

appropriation item 950-601, Prizes, Bonuses, and Commissions, that 86190

are determined by the Director of the State Lottery Commission to 86191

be necessary to fund prizes, bonuses, and commissions are hereby 86192

appropriated. 86193

ANNUITY PRIZES 86194

With the approval of the Office of Budget and Management, the 86195

State Lottery Commission shall transfer cash from the State 86196
Lottery Fund Group (Fund 044) to the Deferred Prizes Trust Fund 86197
(Fund 871) in an amount sufficient to fund deferred prizes. The 86198
Treasurer of State, from time to time, shall credit the Deferred 86199
Prizes Trust Fund (Fund 871) the pro rata share of interest earned 86200
by the Treasurer of State on invested balances. 86201

Any amounts, in addition to the amounts appropriated in 86202
appropriation item 950-602, Annuity Prizes, that are determined by 86203
the Director of the State Lottery Commission to be necessary to 86204
fund deferred prizes and interest earnings are hereby 86205
appropriated. 86206

TRANSFERS TO THE LOTTERY PROFITS EDUCATION FUND 86207

The Ohio Lottery Commission shall transfer an amount greater 86208
than or equal to \$637,900,000 in fiscal year 2004 and \$637,900,000 86209
in fiscal year 2005 to the Lottery Profits Education Fund. 86210
Transfers from the Commission to the Lottery Profits Education 86211
Fund shall represent the estimated net income from operations for 86212
the Commission in fiscal year 2004 or fiscal year 2005. Transfers 86213
by the Commission to the Lottery Profits Education Fund shall be 86214
administered in accordance with and pursuant to the Revised Code. 86215
The unencumbered and unallotted balances as of June 30, 2003, in 86216
the Unclaimed Prize Fund (Fund 872), are hereby transferred to the 86217
State Lottery Fund Group (Fund 044). 86218

Section 68. MED STATE MEDICAL BOARD 86219

General Services Fund Group 86220
5C6 883-609 State Medical Board \$ 7,098,956 \$ 7,199,935 86221
Operating
TOTAL GSF General Services 86222
Fund Group \$ 7,098,956 \$ 7,199,935 86223
TOTAL ALL BUDGET FUND GROUPS \$ 7,098,956 \$ 7,199,935 86224

Section 69. DMH DEPARTMENT OF MENTAL HEALTH				86226
Division of General Administration Intragovernmental Service Fund				86227
Group				86228
151 235-601 General Administration	\$ 85,181,973	\$ 85,181,973		86229
TOTAL ISF Intragovernmental				86230
Service Fund Group	\$ 85,181,973	\$ 85,181,973		86231
Division of Mental Health--				86232
Psychiatric Services to Correctional Facilities				86233
General Revenue Fund				86234
GRF 332-401 Forensic Services	\$ 4,338,858	\$ 4,338,858		86235
TOTAL GRF General Revenue Fund	\$ 4,338,858	\$ 4,338,858		86236
TOTAL ALL BUDGET FUND GROUPS	\$ 89,520,831	\$ 89,520,831		86237
FORENSIC SERVICES				86238
The foregoing appropriation item 322-401, Forensic Services,				86239
shall be used to provide psychiatric services to courts of common				86240
pleas. The appropriation shall be allocated through community				86241
mental health boards to certified community agencies and shall be				86242
distributed according to the criteria delineated in rule				86243
5122:4-1-01 of the Administrative Code. These community forensic				86244
funds may also be used to provide forensic training to community				86245
mental health boards and to forensic psychiatry residency programs				86246
in hospitals operated by the Department of Mental Health and to				86247
provide evaluations of patients of forensic status in facilities				86248
operated by the Department of Mental Health prior to conditional				86249
release to the community.				86250
In addition, appropriation item 332-401, Forensic Services,				86251
may be used to support projects involving mental health, substance				86252
abuse, courts, and law enforcement to identify and develop				86253
appropriate alternative services to institutionalization for				86254
nonviolent mentally ill offenders, and to provide linkage to				86255

community services for severely mentally disabled offenders				86256
released from institutions operated by the Department of				86257
Rehabilitation and Correction. Funds may also be utilized to				86258
provide forensic monitoring and tracking in addition to community				86259
programs serving persons of forensic status on conditional release				86260
or probation.				86261
Division of Mental Health--				86262
Administration and Statewide Programs				86263
General Revenue Fund				86264
GRF 333-321 Central Administration	\$	22,808,798	\$ 24,178,778	86265
GRF 333-402 Resident Trainees	\$	1,364,919	\$ 1,364,919	86266
GRF 333-403 Pre-Admission	\$	650,135	\$ 650,135	86267
Screening Expenses				
GRF 333-415 Lease-Rental Payments	\$	25,935,650	\$ 23,206,750	86268
GRF 333-416 Research Program	\$	1,001,551	\$ 1,001,551	86269
Evaluation				
TOTAL GRF General Revenue Fund	\$	51,761,053	\$ 50,402,133	86270
General Services Fund Group				86271
149 333-609 Central Office Rotary	\$	1,087,454	\$ 1,103,578	86272
- Operating				
TOTAL General Services Fund Group	\$	1,087,454	\$ 1,103,578	86273
Federal Special Revenue Fund Group				86274
3A7 333-612 Social Services Block	\$	25,000	\$ 0	86275
Grant				
3A8 333-613 Federal Grant -	\$	57,470	\$ 57,984	86276
Administration				
3A9 333-614 Mental Health Block	\$	827,363	\$ 835,636	86277
Grant				
3B1 333-635 Community Medicaid	\$	4,126,430	\$ 4,145,222	86278
Expansion				
324 333-605 Medicaid/Medicare	\$	523,761	\$ 514,923	86279
TOTAL Federal Special Revenue				86280

Fund Group	\$	5,560,024	\$	5,553,765	86281
State Special Revenue Fund Group					86282
4X5 333-607 Behavioral Health	\$	2,913,327	\$	3,000,634	86283
Medicaid Services					
485 333-632 Mental Health	\$	134,233	\$	134,233	86284
Operating					
5M2 333-602 PWLC Campus	\$	200,000	\$	200,000	86285
Improvement					
TOTAL State Special Revenue					86286
Fund Group	\$	3,247,560	\$	3,334,867	86287
TOTAL ALL BUDGET FUND GROUPS	\$	61,656,091	\$	60,394,343	86288

RESIDENCY TRAINEESHIP PROGRAMS 86289

The foregoing appropriation item 333-402, Resident Trainees, 86290
shall be used to fund training agreements entered into by the 86291
Department of Mental Health for the development of curricula and 86292
the provision of training programs to support public mental health 86293
services. 86294

PRE-ADMISSION SCREENING EXPENSES 86295

The foregoing appropriation item 333-403, Pre-Admission 86296
Screening Expenses, shall be used to pay for costs to ensure that 86297
uniform statewide methods for pre-admission screening are in place 86298
to perform assessments for persons in need of mental health 86299
services or for whom institutional placement in a hospital or in 86300
another inpatient facility is sought. Pre-admission screening 86301
includes the following activities: pre-admission assessment, 86302
consideration of continued stay requests, discharge planning and 86303
referral, and adjudication of appeals and grievance procedures. 86304

LEASE-RENTAL PAYMENTS 86305

The foregoing appropriation item 333-415, Lease-Rental 86306
Payments, shall be used to meet all payments at the times they are 86307
required to be made during the period from July 1, 2003, to June 86308

30, 2005, by the Department of Mental Health pursuant to leases 86309
and agreements made under section 154.20 of the Revised Code, but 86310
limited to the aggregate amount of \$49,142,400. Nothing in this 86311
act shall be deemed to contravene the obligation of the state to 86312
pay, without necessity for further appropriation, from the sources 86313
pledged thereto, the bond service charges on obligations issued 86314
pursuant to section 154.20 of the Revised Code. 86315

Section 69.01. DIVISION OF MENTAL HEALTH - HOSPITALS 86316

General Revenue Fund 86317

GRF 334-408 Community and Hospital \$ 380,249,629 \$ 390,506,082 86318
Mental Health Services

GRF 334-506 Court Costs \$ 976,652 \$ 976,652 86319

TOTAL GRF General Revenue Fund \$ 381,226,281 \$ 391,482,734 86320

General Services Fund Group 86321

149 334-609 Hospital Rotary - \$ 22,908,053 \$ 24,408,053 86322
Operating Expenses

150 334-620 Special Education \$ 120,930 \$ 120,930 86323

TOTAL GSF General Services 86324

Fund Group \$ 23,028,983 \$ 24,528,983 86325

Federal Special Revenue Fund Group 86326

3B0 334-617 Elementary and \$ 248,644 \$ 251,866 86327
Secondary Education
Act

3B1 334-635 Hospital Medicaid \$ 2,000,000 \$ 2,000,000 86328
Expansion

324 334-605 Medicaid/Medicare \$ 10,484,944 \$ 10,916,925 86329

TOTAL FED Federal Special Revenue 86330

Fund Group \$ 12,733,588 \$ 13,168,791 86331

State Special Revenue Fund Group 86332

485 334-632 Mental Health \$ 2,387,253 \$ 2,476,297 86333
Operating

5L2	334-619	Health	\$	26,000	\$	0	86334
		Foundation/Greater Cincinnati					
692	334-636	Community Mental	\$	100,000	\$	100,000	86335
		Health Board Risk Fund					
TOTAL SSR State Special Revenue							86336
Fund Group			\$	2,513,253	\$	2,576,297	86337
TOTAL ALL BUDGET FUND GROUPS							86338
COMMUNITY MENTAL HEALTH BOARD RISK FUND							86339
The foregoing appropriation item 334-636, Community Mental							86340
Health Board Risk Fund, shall be used to make payments pursuant to							86341
section 5119.62 of the Revised Code.							86342
Section 69.02. DIVISION OF MENTAL HEALTH - COMMUNITY SUPPORT							86343
SERVICES							86344
General Revenue Fund							86345
GRF	335-419	Community Medication	\$	7,711,092	\$	7,959,798	86346
		Subsidy					
GRF	335-505	Local MH Systems of	\$	89,687,868	\$	89,687,868	86347
		Care					
TOTAL GRF General Revenue Fund							86348
General Services Fund Group							86349
4P9	335-604	Community Mental	\$	200,000	\$	200,000	86350
		Health Projects					
TOTAL GSF General Services							86351
Fund Group			\$	200,000	\$	200,000	86352
Federal Special Revenue Fund Group							86353
3A7	335-612	Social Services Block	\$	9,314,108	\$	9,314,108	86354
		Grant					
3A8	335-613	Federal Grant -	\$	1,717,040	\$	1,717,040	86355
		Community Mental					

	Health Board Subsidy			
3A9	335-614	Mental Health Block	\$ 16,887,218	\$ 17,056,090 86356
	Grant			
3B1	335-635	Community Medicaid	\$ 220,472,136	\$ 237,766,721 86357
	Expansion			
TOTAL FED	Federal	Special Revenue	\$ 248,390,502	\$ 265,853,959 86358
Fund Group				
State Special Revenue Fund Group				86359
632	335-616	Community Capital	\$ 250,000	\$ 250,000 86360
	Replacement			
TOTAL SSR	State	Special Revenue	\$ 250,000	\$ 250,000 86361
Fund Group				
TOTAL ALL BUDGET FUND GROUPS				\$ 346,239,462 \$ 363,951,625 86362
DEPARTMENT TOTAL				86363
GENERAL REVENUE FUND				\$ 534,725,152 \$ 543,871,391 86364
DEPARTMENT TOTAL				86365
GENERAL SERVICES FUND GROUP				\$ 24,316,437 \$ 25,832,561 86366
DEPARTMENT TOTAL				86367
FEDERAL SPECIAL REVENUE				86368
FUND GROUP				\$ 266,684,114 \$ 284,576,515 86369
DEPARTMENT TOTAL				86370
STATE SPECIAL REVENUE FUND GROUP				\$ 6,010,813 \$ 6,161,164 86371
DEPARTMENT TOTAL				86372
INTRAGOVERNMENTAL FUND GROUP				\$ 85,181,973 \$ 85,181,973 86373
TOTAL DEPARTMENT OF MENTAL HEALTH				\$ 916,918,489 \$ 945,623,604 86374

Section 69.03. COMMUNITY MEDICATION SUBSIDY 86376

The foregoing appropriation item 335-419, Community Medication Subsidy, shall be used to provide subsidized support for psychotropic medication needs of indigent citizens in the community to reduce unnecessary hospitalization because of lack of medication and to provide subsidized support for methadone costs.

LOCAL MENTAL HEALTH SYSTEMS OF CARE	86382
The foregoing appropriation item 335-505, Local Mental Health Systems of Care, shall be used for mental health services provided by community mental health boards in accordance with a community mental health plan submitted pursuant to section 340.03 of the Revised Code and as approved by the Department of Mental Health.	86383 86384 86385 86386 86387
Of the foregoing appropriation, not less than \$34,818,917 in fiscal year 2004 and not less than \$34,818,917 in fiscal year 2005 shall be distributed by the Department of Mental Health on a per capita basis to community mental health boards.	86388 86389 86390 86391
Of the foregoing appropriation, \$100,000 in each fiscal year shall be used to fund family and consumer education and support.	86392 86393
BEHAVIORAL HEALTH MEDICAID SERVICES	86394
The Department of Mental Health shall administer specified Medicaid Services as delegated by the Department of Job and Family Services in an interagency agreement. The foregoing appropriation item 333-607, Behavioral Health Medicaid Services, may be used to make payments for free-standing psychiatric hospital inpatient services as defined in an interagency agreement with the Department of Job and Family Services.	86395 86396 86397 86398 86399 86400 86401
Section 70. DMR DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES	86402 86403
Section 70.01. GENERAL ADMINISTRATION AND STATEWIDE SERVICES	86404
General Revenue Fund	86405
GRF 320-321 Central Administration \$ 9,174,390 \$ 9,357,878	86406
GRF 320-412 Protective Services \$ 1,911,471 \$ 2,008,330	86407
GRF 320-415 Lease-Rental Payments \$ 25,935,650 \$ 23,206,750	86408
TOTAL GRF General Revenue Fund \$ 37,021,511 \$ 34,572,958	86409
General Services Fund Group	86410

4B5 320-640 Conference/Training	\$	400,000	\$	400,000	86411
TOTAL GSF General Services					86412
Fund Group	\$	400,000	\$	400,000	86413
Federal Special Revenue Fund Group					86414
3A4 320-605 Administrative Support	\$	12,492,892	\$	12,492,892	86415
3A5 320-613 DD Council Operating	\$	861,000	\$	861,000	86416
Expenses					86417
325 320-634 Protective Services	\$	100,000	\$	100,000	86418
TOTAL FED Federal Special Revenue					86419
Fund Group	\$	13,453,892	\$	13,453,892	86420
State Special Revenue Fund Group					86421
5S2 590-622 Medicaid	\$	2,969,552	\$	2,969,552	86422
Administration &					
Oversight					
TOTAL SSR State Special Revenue					86423
Fund Group	\$	2,969,552	\$	2,969,552	86424
TOTAL ALL GENERAL ADMINISTRATION					86425
AND STATEWIDE SERVICES					86426
BUDGET FUND GROUPS	\$	53,844,955	\$	51,396,402	86427
LEASE-RENTAL PAYMENTS					86428

The foregoing appropriation item 320-415, Lease-Rental
 Payments, shall be used to meet all payments at the times they are
 required to be made during the period from July 1, 2003, to June
 30, 2005, by the Department of Mental Retardation and
 Developmental Disabilities pursuant to leases and agreements made
 under section 154.20 of the Revised Code, but limited to the
 aggregate amount of \$49,142,400. Nothing in this act shall be
 deemed to contravene the obligation of the state to pay, without
 necessity for further appropriation, from the sources pledged
 thereto, the bond service charges on obligations issued pursuant
 to section 154.20 of the Revised Code.

Section 70.02. COMMUNITY SERVICES				86440
General Revenue Fund				86441
GRF 322-405	State Use Program	\$ 268,792	\$ 273,510	86442
GRF 322-413	Residential and	\$ 8,439,337	\$ 8,450,787	86443
Support Services				
GRF 322-416	Waiver State Match	\$ 95,695,198	\$ 100,019,747	86444
GRF 322-417	Supported Living	\$ 43,179,715	\$ 43,179,715	86445
GRF 322-451	Family Support	\$ 6,975,870	\$ 6,975,870	86446
Services				
GRF 322-452	Service and Support	\$ 8,849,724	\$ 8,849,724	86447
Administration				
GRF 322-501	County Boards	\$ 31,795,691	\$ 31,795,691	86448
Subsidies				
GRF 322-503	Tax Equity	\$ 14,000,000	\$ 15,000,000	86449
TOTAL GRF	General Revenue Fund	\$ 209,204,327	\$ 214,545,044	86450
General Services Fund Group				86451
4J6 322-645	Intersystem Services	\$ 3,300,000	\$ 3,300,000	86452
for Children				
4U4 322-606	Community MR and DD	\$ 300,000	\$ 300,000	86453
Trust				
4V1 322-611	Program Support	\$ 610,000	\$ 625,000	86454
488 322-603	Residential Services	\$ 1,000,000	\$ 1,000,000	86455
Refund				
TOTAL GSF	General Services			86456
Fund Group		\$ 5,210,000	\$ 5,225,000	86457
Federal Special Revenue Fund Group				86458
3A4 322-605	Community Program	\$ 1,000,000	\$ 1,000,000	86459
Support				
3A4 322-610	Community Residential	\$ 500,000	\$ 500,000	86460
Support				
3A5 322-613	DD Council Grants	\$ 3,130,000	\$ 3,130,000	86461

3G6	322-639	Medicaid Waiver	\$	344,068,714	\$	373,772,814	86462
3M7	322-650	CAFS Medicaid	\$	254,739,737	\$	267,668,087	86463
325	322-608	Federal Grants -	\$	2,023,587	\$	1,833,815	86464
		Operating Expenses					86465
325	322-612	Social Service Block	\$	10,319,346	\$	10,330,830	86466
		Grant					86467
325	322-617	Education Grants -	\$	75,500	\$	75,500	86468
		Operating					86469
TOTAL FED Federal Special Revenue							86470
Fund Group			\$	615,856,884	\$	658,311,046	86471
State Special Revenue Fund Group							86472
4K8	322-604	Waiver - Match	\$	12,000,000	\$	12,000,000	86473
5H0	322-619	Medicaid Repayment	\$	25,000	\$	25,000	86474
TOTAL SSR State Special Revenue							86475
Fund Group			\$	12,025,000	\$	12,025,000	86476
TOTAL ALL COMMUNITY SERVICES							86477
BUDGET FUND GROUPS			\$	842,296,211	\$	890,106,090	86478
RESIDENTIAL AND SUPPORT SERVICES							86479
The Department of Mental Retardation and Developmental							86480
Disabilities may designate a portion of appropriation item							86481
322-413, Residential and Support Services, for the following:							86482
(A) Sermak Class Services used to implement the requirements							86483
of the agreement settling the consent decree in <i>Sermak v. Manuel</i> ,							86484
Case No. c-2-80-220, United States District Court for the Southern							86485
District of Ohio, Eastern Division;							86486
(B) Medicaid-reimbursed programs other than home and							86487
community-based waiver services, in an amount not to exceed							86488
\$1,000,000 in each fiscal year, that enable persons with mental							86489
retardation and developmental disabilities to live in the							86490
community.							86491
WAIVER STATE MATCH							86492

The purposes for which the foregoing appropriation item 86493
322-416, Waiver State Match, shall be used include the following: 86494

(A) Home and community-based waiver services pursuant to 86495
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 86496
U.S.C. 301, as amended. 86497

(B) Services contracted by county boards of mental 86498
retardation and developmental disabilities. 86499

(C) To pay the nonfederal share of the cost of one or more 86500
new intermediate care facility for the mentally retarded certified 86501
beds in a county where the county board of mental retardation and 86502
developmental disabilities does not initiate or support the 86503
development or certification of such beds, if the director of 86504
mental retardation and developmental disabilities is required by 86505
this act to transfer to the director of job and family services 86506
funds to pay such nonfederal share. 86507

The Department of Mental Retardation and Developmental 86508
Disabilities may designate a portion of appropriation item 86509
322-416, Waiver State Match, to county boards of mental 86510
retardation and developmental disabilities that have greater need 86511
for various residential and support services due to a low 86512
percentage of residential and support services development in 86513
comparison to the number of individuals with mental retardation or 86514
developmental disabilities in the county. 86515

Of the foregoing appropriation item 322-416, Waiver State 86516
Match, \$9,850,000 in each year of the biennium shall be 86517
distributed by the Department to county boards of mental 86518
retardation and developmental disabilities to support existing 86519
residential facilities waiver and individual options waiver 86520
related to Medicaid activities provided for in the component of a 86521
county board's plan developed under division (A)(2) of section 86522
5126.054 of the Revised Code and approved under section 5123.046 86523

of the Revised Code. Up to \$3,000,000 of these funds in each 86524
fiscal year may be used to implement day-to-day program management 86525
services under division (A)(2) of section 5126.054 of the Revised 86526
Code. Up to \$4,200,000 in each fiscal year may be used to 86527
implement the program and health and welfare requirements of 86528
division (A)(2) of section 5126.054 of the Revised Code. 86529

In fiscal years 2004 and 2005 not less than \$2,650,000 of 86530
these funds shall be used to recruit and retain, under division 86531
(A)(2) of section 5126.054 of the Revised Code, the direct care 86532
staff necessary to implement the services included in an 86533
individualized service plan in a manner that ensures the health 86534
and welfare of the individuals being served. 86535

The methodology utilized by the department to determine each 86536
residential facilities waiver and individual options provider's 86537
allocation of such funds in fiscal year 2003 shall be used for 86538
allocation purposes to such providers in fiscal years 2004 and 86539
2005, respectively. 86540

SUPPORTED LIVING 86541

The purposes for which the foregoing appropriation item 86542
322-417, Supported Living, shall be used include supported living 86543
services contracted by county boards of mental retardation and 86544
developmental disabilities in accordance with sections 5126.40 to 86545
5126.47 of the Revised Code and to pay the nonfederal share of the 86546
cost of one or more new intermediate care facility for the 86547
mentally retarded certified beds in a county where the county 86548
board of mental retardation and developmental disabilities does 86549
not initiate or support the development or certification of such 86550
beds, if the director of mental retardation and developmental 86551
disabilities is required by this act to transfer to the director 86552
of job and family services funds to pay such nonfederal share. 86553

OTHER RESIDENTIAL AND SUPPORT SERVICE PROGRAMS 86554

Notwithstanding Chapters 5123. and 5126. of the Revised Code, 86555
the Department of Mental Retardation and Developmental 86556
Disabilities may develop residential and support service programs 86557
funded by appropriation item 322-413, Residential and Support 86558
Services, appropriation item 322-416, Waiver State Match, or 86559
appropriation item 322-417, Supported Living, that enable persons 86560
with mental retardation and developmental disabilities to live in 86561
the community. Notwithstanding Chapter 5121. and section 5123.122 86562
of the Revised Code, the department may waive the support 86563
collection requirements of those statutes for persons in community 86564
programs developed by the department under this section. The 86565
department shall adopt rules under Chapter 119. of the Revised 86566
Code or may use existing rules for the implementation of these 86567
programs. 86568

FAMILY SUPPORT SERVICES 86569

Notwithstanding sections 5123.171, 5123.19, 5123.20, and 86570
5126.11 of the Revised Code, the Department of Mental Retardation 86571
and Developmental Disabilities may implement programs funded by 86572
appropriation item 322-451, Family Support Services, to provide 86573
assistance to persons with mental retardation or developmental 86574
disabilities and their families who are living in the community. 86575
The department shall adopt rules to implement these programs. The 86576
department may also use the foregoing appropriation item 322-451, 86577
Family Support Services, to pay the nonfederal share of the cost 86578
of one or more new intermediate care facility for the mentally 86579
retarded certified beds in a county where the county board of 86580
mental retardation and developmental disabilities initiates or 86581
supports the development or certification of such beds, if the 86582
director of mental retardation and developmental disabilities is 86583
required by this act to transfer to the director of job and family 86584
services funds to pay such nonfederal share. 86585

SERVICE AND SUPPORT ADMINISTRATION 86586

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.

The department may also use the foregoing appropriation item 86619
322-452, Service and Support Administration, to pay the nonfederal 86620
share of the cost of one or more new intermediate care facility 86621
for the mentally retarded certified beds in a county where the 86622
county board of mental retardation and developmental disabilities 86623
initiates or supports the development or certification of such 86624
beds, if the director of mental retardation and developmental 86625
disabilities is required by this act to transfer to the director 86626
of job and family services funds to pay such nonfederal share. 86627

STATE SUBSIDIES TO MR/DD BOARDS 86628

The foregoing appropriation item 322-501, County Boards 86629
Subsidies, shall be distributed to county boards of mental 86630
retardation and developmental disabilities pursuant to section 86631
5126.12 of the Revised Code to the limit of the lesser of the 86632
amount required by that section or the appropriation in 86633
appropriation item 322-501 prorated to all county boards of mental 86634
retardation and developmental disabilities. 86635

The department may also use the foregoing appropriation item 86636
322-501, County Boards Subsidies, to pay the nonfederal share of 86637
the cost of one or more new intermediate care facility for the 86638
mentally retarded certified beds in a county where the county 86639
board of mental retardation and developmental disabilities 86640
initiates or supports the development or certification of such 86641
beds, if the director of mental retardation and developmental 86642
disabilities is required by this act to transfer to the director 86643
of job and family services funds to pay such nonfederal share. 86644

TAX EQUITY 86645

The foregoing appropriation item 322-503, Tax Equity, shall 86646
be used to fund the tax equalization program created under section 86647
5126.18 of the Revised Code for county boards of mental 86648
retardation and developmental disabilities. 86649

INTERSYSTEM SERVICES FOR CHILDREN 86650

The foregoing appropriation item 322-645, Intersystem 86651
Services for Children, shall be used to support direct grants to 86652
county family and children first councils created under section 86653
121.37 of the Revised Code. The funds shall be used as partial 86654
support payment and reimbursement for locally coordinated 86655
treatment plans for multi-needs children that come to the 86656
attention of the Family and Children First Cabinet Council 86657
pursuant to section 121.37 of the Revised Code. The Department of 86658
Mental Retardation and Developmental Disabilities may use up to 86659
five per cent of this amount for administrative expenses 86660
associated with the distribution of funds to the county councils. 86661

WAIVER - MATCH 86662

The foregoing appropriation item 322-604, Waiver-Match (Fund 86663
4K8), shall be used as state matching funds for the home and 86664
community-based waivers. 86665

Section 70.03. DEVELOPMENTAL CENTER PROGRAM TO DEVELOP A 86666
MODEL BILLING FOR SERVICES RENDERED 86667

Developmental centers of the Department of Mental Retardation 86668
and Developmental Disabilities may provide services to persons 86669
with mental retardation or developmental disabilities living in 86670
the community or to providers of services to these persons. The 86671
department may develop a methodology for recovery of all costs 86672
associated with the provisions of these services. 86673

Section 70.04. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER 86674
PHARMACY PROGRAMS 86675

Beginning July 1, 2003, the Department of Mental Retardation 86676
and Developmental Disabilities shall pay the Department of Job and 86677
Family Services quarterly, through intrastate transfer voucher, 86678

the nonfederal share of Medicaid prescription drug claim costs for 86679
all developmental centers paid by the Department of Job and Family 86680
Services. 86681

Section 70.05. RESIDENTIAL FACILITIES 86682

General Revenue Fund 86683

GRF 323-321 Residential Facilities \$ 103,402,750 \$ 104,634,635 86684

Operations 86685

TOTAL GRF General Revenue Fund \$ 103,402,750 \$ 104,634,635 86686

General Services Fund Group 86687

152 323-609 Residential Facilities \$ 912,177 \$ 912,177 86688

Support 86689

TOTAL GSF General Services 86690

Fund Group \$ 912,177 \$ 912,177 86691

Federal Special Revenue Fund Group 86692

3A4 323-605 Residential Facilities \$ 128,736,729 \$ 128,831,708 86693

Reimbursement 86694

325 323-608 Federal Grants - \$ 571,381 \$ 582,809 86695

Subsidies 86696

325 323-617 Education Grants - \$ 425,000 \$ 425,000 86697

Residential Facilities 86698

TOTAL FED Federal Special Revenue 86699

Fund Group \$ 129,733,110 \$ 129,839,517 86700

State Special Revenue Fund Group 86701

489 323-632 Operating Expense \$ 12,125,628 \$ 12,125,628 86702

TOTAL SSR State Special Revenue 86703

Fund Group \$ 12,125,628 \$ 12,125,628 86704

TOTAL ALL RESIDENTIAL FACILITIES 86705

BUDGET FUND GROUPS \$ 246,173,665 \$ 247,511,957 86706

DEPARTMENT TOTAL 86707

GENERAL REVENUE FUND \$ 349,628,588 \$ 353,752,637 86708

DEPARTMENT TOTAL 86709

GENERAL SERVICES FUND GROUP	\$	6,522,177	\$	6,537,177	86710
DEPARTMENT TOTAL					86711
FEDERAL SPECIAL REVENUE FUND GROUP	\$	759,043,886	\$	801,604,455	86712
DEPARTMENT TOTAL					86713
STATE SPECIAL REVENUE FUND GROUP	\$	27,120,180	\$	27,120,180	86714
TOTAL DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES					86715
	\$	1,142,314,831	\$	1,189,014,449	86716
					86717

(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:

(1) One representative of the Governor appointed by the Governor;

(2) Two representatives of the Department of Mental Retardation and Developmental Disabilities appointed by the Director of Mental Retardation and Developmental Disabilities;

(3) Two representatives of the Department of Job and Family Services appointed by the Director of Job and Family Services;

(4) One representative of the Office of Budget and Management appointed by the Director of Budget and Management;

(5) One representative of The Arc of Ohio appointed by the organization's board of trustees;

(6) One representative of the Ohio Association of County Boards of Mental Retardation and Developmental Disabilities appointed by the association's board of trustees;

(7) One representative of the Ohio Superintendents of County Boards of Mental Retardation and Developmental Disabilities appointed by the organization's board of trustees;

(8) One representative of the Ohio Provider Resource

Association appointed by the association's board of trustees;	86740
(9) One representative of the Ohio Health Care Association appointed by the association's board of trustees;	86741 86742
(10) One representative of individuals with mental retardation or other developmental disability appointed by the Director of Mental Retardation and Developmental Disabilities.	86743 86744 86745
(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.	86746 86747 86748 86749 86750
(C) The committee shall meet at times determined by the chairperson to do all of the following:	86751 86752
(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;	86753 86754 86755 86756
(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;	86757 86758 86759 86760
(3) Establish effective means for resolving the issues and barriers, including advocating changes to state law, rules, or both.	86761 86762 86763
(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.	86764 86765 86766 86767 86768
Section 71. MIH COMMISSION ON MINORITY HEALTH	86769

General Revenue Fund				86770
GRF 149-321 Operating Expenses	\$	539,318	\$ 539,318	86771
GRF 149-501 Minority Health Grants	\$	751,478	\$ 751,478	86772
GRF 149-502 Lupus Program	\$	141,556	\$ 141,556	86773
TOTAL GRF General Revenue Fund	\$	1,432,352	\$ 1,432,352	86774
Federal Special Revenue Fund Group				86775
3J9 149-602 Federal Grants	\$	150,000	\$ 150,000	86776
TOTAL FED Federal Special Revenue				86777
Fund Group	\$	150,000	\$ 150,000	86778
State Special Revenue Fund Group				86779
4C2 149-601 Minority Health	\$	150,000	\$ 150,000	86780
Conference				
TOTAL SSR State Special Revenue				86781
Fund Group	\$	150,000	\$ 150,000	86782
TOTAL ALL BUDGET FUND GROUPS	\$	1,732,352	\$ 1,732,352	86783
LUPUS PROGRAM				86784
The foregoing appropriation item 149-502, Lupus Program,				86785
shall be used to provide grants for programs in patient, public,				86786
and professional education on the subject of systemic lupus				86787
erythematosus; to encourage and develop local centers on lupus				86788
information gathering and screening; and to provide outreach to				86789
minority women.				86790
Section 72. CRB MOTOR VEHICLE COLLISION REPAIR REGISTRATION				86791
BOARD				86792
General Service Fund Group				86793
5H9 865-609 Operating Expenses	\$	285,497	\$ 314,422	86794
TOTAL GSF General Services				86795
Fund Group	\$	285,497	\$ 314,422	86796
TOTAL ALL BUDGET FUND GROUPS	\$	285,497	\$ 314,422	86797

Section 73. DNR DEPARTMENT OF NATURAL RESOURCES			86799
General Revenue Fund			86800
GRF 725-404	Fountain Square Rental	\$ 1,093,300 \$	1,094,800 86801
	Payments - OBA		
GRF 725-407	Conservation Reserve	\$ 1,218,750 \$	1,218,750 86802
	Enhancement Program		
GRF 725-412	Reclamation Commission	\$ 57,934 \$	57,934 86803
GRF 725-413	OPFC Lease Rental	\$ 15,066,500 \$	17,709,500 86804
	Payments		
GRF 725-423	Stream and Ground	\$ 331,819 \$	331,819 86805
	Water Gauging		
GRF 725-425	Wildlife License	\$ 816,319 \$	976,319 86806
	Reimbursement		
GRF 725-456	Canal Lands	\$ 332,859 \$	332,859 86807
GRF 725-502	Soil and Water	\$ 11,182,024 \$	11,475,507 86808
	Districts		
GRF 725-903	Natural Resources	\$ 23,808,300 \$	26,914,300 86809
	General Obligation		
	Debt Service		
GRF 727-321	Division of Forestry	\$ 9,068,735 \$	9,068,735 86810
GRF 728-321	Division of Geological	\$ 1,731,456 \$	1,731,456 86811
	Survey		
GRF 729-321	Office of Information	\$ 440,895 \$	440,895 86812
	Technology		
GRF 730-321	Division of Parks and	\$ 34,232,205 \$	37,061,493 86813
	Recreation		
GRF 731-321	Office of Coastal	\$ 248,679 \$	259,707 86814
	Management		
GRF 733-321	Division of Water	\$ 3,355,830 \$	3,237,619 86815
GRF 736-321	Division of	\$ 3,410,852 \$	3,436,918 86816
	Engineering		
GRF 737-321	Division of Soil and	\$ 4,215,288 \$	4,234,788 86817

		Water					
GRF 738-321	Division of Real Estate and Land Management	\$	2,322,031	\$	2,331,781		86818
GRF 741-321	Division of Natural Areas and Preserves	\$	3,104,405	\$	3,104,405		86819
GRF 744-321	Division of Mineral Resources Management	\$	3,439,744	\$	3,495,967		86820
TOTAL GRF	General Revenue Fund	\$	119,477,925	\$	128,515,552		86821
	General Services Fund Group						86822
155 725-601	Departmental Projects	\$	2,645,479	\$	2,831,337		86823
157 725-651	Central Support Indirect	\$	8,272,102	\$	8,423,094		86824
161 725-635	Parks Facilities Maintenance	\$	2,063,124	\$	2,576,240		86825
204 725-687	Information Services	\$	3,384,275	\$	3,476,627		86826
206 725-689	REALM Support Services	\$	475,000	\$	475,000		86827
207 725-690	Real Estate Services	\$	54,000	\$	54,000		86828
223 725-665	Law Enforcement Administration	\$	969,825	\$	976,225		86829
4D5 725-618	Recycled Materials	\$	50,000	\$	50,000		86830
4S9 725-622	NatureWorks Personnel	\$	908,516	\$	983,103		86831
4X8 725-662	Water Resources Council	\$	282,524	\$	282,524		86832
430 725-671	Canal Lands	\$	1,119,834	\$	1,059,056		86833
508 725-684	Natural Resources Publications	\$	209,364	\$	215,626		86834
510 725-631	Maintenance - state-owned residences	\$	255,905	\$	260,849		86835
516 725-620	Water Management	\$	3,663,849	\$	2,342,814		86836
635 725-664	Fountain Square Facilities Management	\$	3,104,199	\$	3,104,199		86837
697 725-670	Submerged Lands	\$	507,099	\$	542,011		86838

TOTAL GSF General Services				86839
Fund Group	\$	27,965,095	\$ 27,652,705	86840
Federal Special Revenue Fund Group				86841
3B3 725-640 Federal Forest	\$	140,000	\$ 150,000	86842
Pass-Thru				
3B4 725-641 Federal Flood	\$	280,000	\$ 285,000	86843
Pass-Thru				
3B5 725-645 Federal Abandoned Mine	\$	11,922,845	\$ 11,843,866	86844
Lands				
3B6 725-653 Federal Land and Water	\$	4,900,000	\$ 5,000,000	86845
Conservation Grants				
3B7 725-654 Reclamation -	\$	2,179,870	\$ 2,168,413	86846
Regulatory				
3P0 725-630 Natural Areas and	\$	718,876	\$ 552,480	86847
Preserves - Federal				
3P1 725-632 Geological Survey -	\$	470,780	\$ 479,653	86848
Federal				
3P2 725-642 Oil and Gas-Federal	\$	224,537	\$ 232,964	86849
3P3 725-650 Coastal Management -	\$	2,357,000	\$ 2,357,000	86850
Federal				
3P4 725-660 Water - Federal	\$	300,000	\$ 242,000	86851
3R5 725-673 Acid Mine Drainage	\$	792,028	\$ 837,223	86852
Abatement/Treatment				
3Z5 725-657 REALM-Federal	\$	1,578,871	\$ 1,578,871	86853
328 725-603 Forestry Federal	\$	1,530,561	\$ 1,484,531	86854
332 725-669 Federal Mine Safety	\$	247,364	\$ 258,103	86855
Grant				
TOTAL FED Federal Special Revenue				86856
Fund Group	\$	27,642,732	\$ 27,470,104	86857
State Special Revenue Fund Group				86858
4J2 725-628 Injection Well Review	\$	98,468	\$ 81,188	86859
4M7 725-631 Wildfire Suppression	\$	100,000	\$ 100,000	86860

4U6	725-668	Scenic Rivers Protection	\$	561,000	\$	617,100	86861
5B3	725-674	Mining Regulation	\$	35,000	\$	35,000	86862
5K1	725-626	Urban Forestry Grant	\$	400,000	\$	400,000	86863
5P2	725-634	Wildlife Boater Angler Administration	\$	1,500,000	\$	1,500,000	86864
509	725-602	State Forest	\$	982,970	\$	1,127,117	86865
511	725-646	Ohio Geologic Mapping	\$	983,274	\$	985,940	86866
512	725-605	State Parks Operations	\$	29,915,146	\$	29,915,146	86867
514	725-606	Lake Erie Shoreline	\$	1,027,093	\$	936,254	86868
518	725-643	Oil and Gas Permit Fees	\$	2,205,651	\$	2,399,580	86869
518	725-677	Oil and Gas Well Plugging	\$	1,000,000	\$	1,000,000	86870
521	725-627	Off-Road Vehicle Trails	\$	118,490	\$	123,490	86871
522	725-656	Natural Areas Checkoff Funds	\$	2,046,737	\$	1,550,670	86872
526	725-610	Strip Mining Administration Fees	\$	1,449,459	\$	1,449,459	86873
527	725-637	Surface Mining Administration	\$	2,793,938	\$	2,693,938	86874
529	725-639	Unreclaimed Land Fund	\$	1,841,589	\$	1,971,037	86875
531	725-648	Reclamation Forfeiture	\$	2,393,762	\$	2,374,087	86876
532	725-644	Litter Control and Recycling	\$	12,544,686	\$	12,544,686	86877
586	725-633	Scrap Tire Program	\$	1,000,000	\$	1,000,000	86878
615	725-661	Dam Safety	\$	286,045	\$	408,223	86879
TOTAL SSR State Special Revenue							86880
Fund Group			\$	63,283,308	\$	63,212,915	86881
Clean Ohio Fund Group							86882
061	725-405	Clean Ohio Operating	\$	155,000	\$	155,000	86883
TOTAL CLR Clean Ohio Fund Group			\$	155,000	\$	155,000	86884

Wildlife Fund Group				86885
015 740-401 Division of Wildlife Conservation	\$	46,427,945	\$ 46,814,691	86886
815 725-636 Cooperative Management Projects	\$	120,449	\$ 120,449	86887
816 725-649 Wetlands Habitat	\$	966,885	\$ 966,885	86888
817 725-655 Wildlife Conservation Checkoff Fund	\$	5,000,000	\$ 5,000,000	86889
818 725-629 Cooperative Fisheries Research	\$	988,582	\$ 988,582	86890
819 725-685 Ohio River Management	\$	128,584	\$ 128,584	86891
TOTAL WLF Wildlife Fund Group	\$	53,632,445	\$ 54,019,191	86892
Waterways Safety Fund Group				86893
086 725-414 Waterways Improvement	\$	3,813,051	\$ 4,140,186	86894
086 725-418 Buoy Placement	\$	42,182	\$ 42,182	86895
086 725-501 Waterway Safety Grants	\$	137,867	\$ 137,867	86896
086 725-506 Watercraft Marine Patrol	\$	576,153	\$ 576,153	86897
086 725-513 Watercraft Educational Grants	\$	366,643	\$ 366,643	86898
086 739-401 Division of Watercraft	\$	19,420,712	\$ 18,718,847	86899
TOTAL WSF Waterways Safety Fund Group	\$	24,356,608	\$ 23,981,878	86901
Holding Account Redistribution Fund Group				86902
R17 725-659 Performance Cash Bond Refunds	\$	226,500	\$ 226,500	86903
R43 725-624 Forestry	\$	800,000	\$ 800,000	86904
TOTAL 090 Holding Account Redistribution Fund Group	\$	1,026,500	\$ 1,026,500	86905
Accrued Leave Liability Fund Group				86907
4M8 725-675 FOP Contract	\$	20,844	\$ 20,844	86908
TOTAL ALF Accrued Leave				86909

Liability Fund Group	\$	20,844	\$	20,844	86910
TOTAL ALL BUDGET FUND GROUPS	\$	317,560,457	\$	326,054,689	86911

Section 73.01. FOUNTAIN SQUARE 86913

The foregoing appropriation item 725-404, Fountain Square 86914
Rental Payments - OBA, shall be used by the Department of Natural 86915
Resources to meet all payments required to be made to the Ohio 86916
Building Authority during the period from July 1, 2003, to June 86917
30, 2005, pursuant to leases and agreements with the Ohio Building 86918
Authority under section 152.241 of the Revised Code, but limited 86919
to the aggregate amount of \$2,188,100. 86920

The Director of Natural Resources, using intrastate transfer 86921
vouchers, shall make payments to the General Revenue Fund from 86922
funds other than the General Revenue Fund to reimburse the General 86923
Revenue Fund for the other funds' shares of the lease rental 86924
payments to the Ohio Building Authority. The transfers from the 86925
non-General Revenue funds shall be made within 10 days of the 86926
payment to the Ohio Building Authority for the actual amounts 86927
necessary to fulfill the leases and agreements pursuant to section 86928
152.241 of the Revised Code. 86929

The foregoing appropriation item 725-664, Fountain Square 86930
Facilities Management (Fund 635), shall be used for payment of 86931
repairs, renovation, utilities, property management, and building 86932
maintenance expenses for the Fountain Square Complex. Cash 86933
transferred by intrastate transfer vouchers from various 86934
department funds and rental income received by the Department of 86935
Natural Resources shall be deposited into the Fountain Square 86936
Facilities Management Fund (Fund 635). 86937

LEASE RENTAL PAYMENTS 86938

The foregoing appropriation item 725-413, OPFC Lease Rental 86939
Payments, shall be used to meet all payments at the times they are 86940

required to be made during the period from July 1, 2003, to June 30, 2005, by the Department of Natural Resources pursuant to leases and agreements made under section 154.22 of the Revised Code, but limited to the aggregate amount of \$32,776,000. Nothing in this act shall be deemed to contravene the obligation of the state to pay, without necessity for further appropriation, from the sources pledged thereto, the bond service charges on obligations issued pursuant to section 154.22 of the Revised Code.

NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 725-903, Natural Resources General Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made pursuant to sections 151.01 and 151.05 of the Revised Code during the period from July 1, 2003, to June 30, 2005. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by an intrastate transfer voucher.

Section 73.02. WILDLIFE LICENSE REIMBURSEMENT

Notwithstanding the limits of the transfer from the General Revenue Fund to the Wildlife Fund, as adopted in section 1533.15 of the Revised Code, up to the amount available in appropriation item 725-425, Wildlife License Reimbursement, may be transferred from the General Revenue Fund to the Wildlife Fund (Fund 015). Pursuant to the certification of the Director of Budget and Management of the amount of foregone revenue in accordance with section 1533.15 of the Revised Code, the foregoing appropriation item in the General Revenue Fund, appropriation item 725-425, Wildlife License Reimbursement, shall be used to reimburse the Wildlife Fund (Fund 015) for the cost of hunting and fishing licenses and permits issued after June 30, 1990, to individuals who are exempted under the Revised Code from license, permit, and

stamp fees.	86972
CANAL LANDS	86973
The foregoing appropriation item 725-456, Canal Lands, shall	86974
be used to transfer funds to the Canal Lands Fund (Fund 430) to	86975
provide operating expenses for the State Canal Lands Program. The	86976
transfer shall be made using an intrastate transfer voucher and	86977
shall be subject to the approval of the Director of Budget and	86978
Management.	86979
SOIL AND WATER DISTRICTS	86980
In addition to state payments to soil and water conservation	86981
districts authorized by section 1515.10 of the Revised Code, the	86982
Department of Natural Resources may pay to any soil and water	86983
conservation district, from authority in appropriation item	86984
725-502, Soil and Water Districts, an annual amount not to exceed	86985
\$30,000, upon receipt of a request and justification from the	86986
district and approval by the Ohio Soil and Water Conservation	86987
Commission. The county auditor shall credit the payments to the	86988
special fund established under section 1515.10 of the Revised Code	86989
for the local soil and water conservation district. Moneys	86990
received by each district shall be expended for the purposes of	86991
the district.	86992
Of the foregoing appropriation item 725-502, Soil and Water	86993
Districts, \$120,000 shall be earmarked in fiscal year 2004 for the	86994
Franklin County Soil and Water District.	86995
Of the foregoing appropriation item 725-502, Soil and Water	86996
Districts, \$175,000 shall be earmarked in fiscal year 2004 for the	86997
Indian Lake Watershed.	86998
Of the foregoing appropriation item 725-502, Soil and Water	86999
Districts, \$50,000 shall be earmarked for the Rush Creek Watershed	87000
in each fiscal year.	87001

Of the foregoing appropriation item 725-502, Soil and Water 87002
Districts, \$28,000 shall be earmarked for the Conservation Action 87003
Program in each fiscal year. 87004

Of the foregoing appropriation item 725-502, Soil and Water 87005
Districts, \$150,000 each fiscal year shall be earmarked for the 87006
Muskingum Conservancy District. 87007

Of the foregoing appropriation item 725-502, Soil and Water 87008
Districts, \$120,000 each fiscal year shall be earmarked for the 87009
relocation of Route 30. 87010

FUND CONSOLIDATION 87011

On July 15, 2003, or as soon thereafter as possible, the 87012
Director of Budget and Management shall transfer the cash balance 87013
as certified by the Director of Natural Resources from the Coastal 87014
Management-Federal Fund (Fund 3P3) to the REALM-Federal Fund (Fund 87015
3Z5). The Director shall cancel any remaining outstanding 87016
encumbrances against appropriation item 725-650, Coastal 87017
Management-Federal, that are associated with the REALM federal 87018
programs and reestablish them against appropriation item 725-657, 87019
REALM-Federal. The amounts of any encumbrances canceled and 87020
reestablished are hereby appropriated. 87021

LAW ENFORCEMENT ADMINISTRATION 87022

On or after July 1, 2003, but not later than July 15, 2003, 87023
the Director of Budget and Management shall transfer \$969,825 from 87024
the Central Support Indirect Fund (Fund 157) to the Law 87025
Enforcement Administration Fund (Fund 223). On or after July 1, 87026
2004, but not later than July 15, 2004, the Director of Budget and 87027
Management shall transfer \$976,225 from the Central Support 87028
Indirect Fund (Fund 157) to the Law Enforcement Administration 87029
Fund (Fund 223). 87030

OIL AND GAS WELL PLUGGING 87031

The foregoing appropriation item 725-677, Oil and Gas Well 87032
Plugging, shall be used exclusively for the purposes of plugging 87033
wells and to properly restore the land surface of idle and orphan 87034
oil and gas wells pursuant to section 1509.071 of the Revised 87035
Code. No funds from the appropriation item shall be used for 87036
salaries, maintenance, equipment, or other administrative 87037
purposes, except for those costs directly attributed to the 87038
plugging of an idle or orphan well. Appropriation authority from 87039
this appropriation item shall not be transferred to any other fund 87040
or line item. 87041

CLEAN OHIO OPERATING EXPENSES 87042

The foregoing appropriation item 725-405, Clean Ohio 87043
Operating, shall be used by the Department of Natural Resources in 87044
administering section 1519.05 of the Revised Code. 87045

DIVISION OF SOIL AND WATER 87046

Of the foregoing appropriation item 737-321, Division of Soil 87047
and Water, \$220,000 in each fiscal year shall be earmarked for the 87048
Water Quality Laboratory located at Heidelberg College. 87049

WATERCRAFT MARINE PATROL 87050

Of the foregoing appropriation item 739-401, Division of 87051
Watercraft, not more than \$200,000 in each fiscal year shall be 87052
expended for the purchase of equipment for marine patrols 87053
qualifying for funding from the Department of Natural Resources 87054
pursuant to section 1547.67 of the Revised Code. Proposals for 87055
equipment shall accompany the submission of documentation for 87056
receipt of a marine patrol subsidy pursuant to section 1547.67 of 87057
the Revised Code and shall be loaned to eligible marine patrols 87058
pursuant to a cooperative agreement between the Department of 87059
Natural Resources and the eligible marine patrol. 87060

ELIMINATION OF CIVILIAN CONSERVATION CORPS 87061

Upon the closure of the Division of Civilian Conservation, 87062
the Director of Natural Resources, not later than June 30, 2004, 87063
shall distribute, allocate, salvage, or transfer all assets, 87064
equipment, supplies, and cash balances of the Division of Civilian 87065
Conservation to other operating divisions of the Department of 87066
Natural Resources as determined by the director. The director 87067
shall maintain a record of such disposition of all assets. 87068

The director shall maintain balances within the Civilian 87069
Conservation Corps Fund to pay all outstanding obligations, 87070
including unemployment and other costs associated with the orderly 87071
closure of the Division of Civilian Conservation. All amounts 87072
necessary for the orderly closure are hereby appropriated. 87073

PROHIBITION AGAINST ENTRANCE FEES FOR STATE PARKS AND NATURE 87074
PRESERVES 87075

During the biennium that includes fiscal years 2004 and 2005, 87076
the Department of Natural Resources shall not charge a fee for the 87077
privilege of entering a state park or a nature preserve, as 87078
"nature preserve" is defined in section 1517.01 of the Revised 87079
Code. 87080

Section 74. NUR STATE BOARD OF NURSING 87081

General Services Fund Group				87082	
4K9 884-609 Operating Expenses	\$	5,232,776	\$	5,257,576	87083
5P8 884-601 Nursing Special Issues	\$	5,000	\$	5,000	87084
TOTAL GSF General Services					87085
Fund Group	\$	5,237,776	\$	5,262,576	87086
TOTAL ALL BUDGET FUND GROUPS	\$	5,237,776	\$	5,262,576	87087

NURSING SPECIAL ISSUES 87088

The foregoing appropriation item 884-601, Nursing Special 87089
Issues (Fund 5P8), shall be used to pay the costs the Board of 87090
Nursing incurs in implementing section 4723.062 of the Revised 87091

Code.				87092
Section 75. OLA OHIOANA LIBRARY ASSOCIATION				87093
General Revenue Fund				87094
GRF 355-501 Library Subsidy	\$	215,036	\$ 215,036	87095
TOTAL GRF General Revenue Fund	\$	215,036	\$ 215,036	87096
TOTAL ALL BUDGET FUND GROUPS	\$	215,036	\$ 215,036	87097
Section 76. ODB OHIO OPTICAL DISPENSERS BOARD				87099
General Services Fund Group				87100
4K9 894-609 Operating Expenses	\$	307,096	\$ 312,656	87101
TOTAL GSF General Services				87102
Fund Group	\$	307,096	\$ 312,656	87103
TOTAL ALL BUDGET FUND GROUPS	\$	307,096	\$ 312,656	87104
Section 77. OPT STATE BOARD OF OPTOMETRY				87106
General Services Fund Group				87107
4K9 885-609 Operating Expenses	\$	306,140	\$ 324,391	87108
TOTAL GSF General Services				87109
Fund Group	\$	306,140	\$ 324,391	87110
TOTAL ALL BUDGET FUND GROUPS	\$	306,140	\$ 324,391	87111
Section 78. OPP STATE BOARD OF ORTHOTICS, PROSTHETICS, AND				87113
PEDORTHICS				87114
General Services Fund Group				87115
4K9 973-609 Operating Expenses	\$	100,206	\$ 102,395	87116
TOTAL GSF General Services				87117
Fund Group	\$	100,206	\$ 102,395	87118
TOTAL ALL BUDGET FUND GROUPS	\$	100,206	\$ 102,395	87119
Section 80. PBR STATE PERSONNEL BOARD OF REVIEW				87120
General Revenue Fund				87121

GRF 124-321 Operating	\$	1,029,430	\$	1,077,170	87122
TOTAL GRF General Revenue Fund	\$	1,029,430	\$	1,077,170	87123
General Services Fund Group					87124
636 124-601 Transcript and Other	\$	25,000	\$	25,000	87125
TOTAL GSF General Services					87126
Fund Group	\$	25,000	\$	25,000	87127
TOTAL ALL BUDGET FUND GROUPS	\$	1,054,430	\$	1,102,170	87128

TRANSCRIPT AND OTHER 87129

The foregoing appropriation item 124-601, Transcript and 87130
 Other, may be used to defray the costs of producing an 87131
 administrative record. 87132

Section 81. PRX STATE BOARD OF PHARMACY 87133

General Services Fund Group					87134
4A5 887-605 Drug Law Enforcement	\$	72,900	\$	75,550	87135
4K9 887-609 Operating Expenses	\$	4,733,987	\$	4,914,594	87136
TOTAL GSF General Services					87137
Fund Group	\$	4,806,887	\$	4,990,144	87138
TOTAL ALL BUDGET FUND GROUPS	\$	4,806,887	\$	4,990,144	87139

Section 82. PSY STATE BOARD OF PSYCHOLOGY 87141

General Services Fund Group					87142
4K9 882-609 Operating Expenses	\$	564,544	\$	561,525	87143
TOTAL GSF General Services					87144
Fund Group	\$	564,544	\$	561,525	87145
TOTAL ALL BUDGET FUND GROUPS	\$	564,544	\$	561,525	87146

Section 83. PUB OHIO PUBLIC DEFENDER COMMISSION 87148

General Revenue Fund					87149
GRF 019-321 Public Defender	\$	1,430,057	\$	1,351,494	87150
Administration					

GRF 019-401	State Legal Defense Services	\$	5,974,780	\$	5,943,572	87151
GRF 019-403	Multi-County: State Share	\$	917,668	\$	930,894	87152
GRF 019-404	Trumbull County - State Share	\$	299,546	\$	308,450	87153
GRF 019-405	Training Account	\$	33,323	\$	33,323	87154
GRF 019-501	County Reimbursement - Non-Capital Cases	\$	30,567,240	\$	32,630,070	87155
GRF 019-503	County Reimbursement - Capital Cases	\$	693,000	\$	726,000	87156
TOTAL GRF	General Revenue Fund	\$	39,915,614	\$	41,923,803	87157
	General Services Fund Group					87158
101 019-602	Inmate Legal Assistance	\$	52,698	\$	53,086	87159
406 019-603	Training and Publications	\$	16,000	\$	16,000	87160
407 019-604	County Representation	\$	255,789	\$	259,139	87161
408 019-605	Client Payments	\$	285,533	\$	285,533	87162
TOTAL GSF	General Services Fund Group	\$	610,020	\$	613,758	87163 87164
	Federal Special Revenue Fund Group					87165
3S8 019-608	Federal Representation	\$	351,428	\$	355,950	87166
TOTAL FED	Federal Special Revenue Fund Group	\$	351,428	\$	355,950	87167 87168
	State Special Revenue Fund Group					87169
4C7 019-601	Multi-County: County Share	\$	1,923,780	\$	1,991,506	87170
4X7 019-610	Trumbull County - County Share	\$	624,841	\$	658,764	87171
574 019-606	Legal Services Corporation	\$	14,305,700	\$	14,305,800	87172

TOTAL SSR State Special Revenue				87173	
Fund Group	\$	16,854,321	\$	16,956,070	87174
TOTAL ALL BUDGET FUND GROUPS	\$	57,731,383	\$	59,849,581	87175
JUVENILE REPRESENTATION				87176	
Of the foregoing appropriation item 019-401, State Legal				87177	
Defense Services, at least \$250,000 in each fiscal year shall be				87178	
used to provide legal services and assistance to juveniles.				87179	
INDIGENT DEFENSE OFFICE				87180	
The foregoing appropriation items 019-404, Trumbull County -				87181	
State Share, and 019-610, Trumbull County - County Share, shall be				87182	
used to support an indigent defense office for Trumbull County.				87183	
MULTI-COUNTY OFFICE				87184	
The foregoing appropriation items 019-403, Multi-County:				87185	
State Share, and 019-601, Multi-County: County Share, shall be				87186	
used to support the Office of the Ohio Public Defender's				87187	
Multi-County Branch Office Program.				87188	
TRAINING ACCOUNT				87189	
The foregoing appropriation item 019-405, Training Account,				87190	
shall be used by the Ohio Public Defender to provide legal				87191	
training programs at no cost for private appointed counsel who				87192	
represent at least one indigent defendant at no cost and for state				87193	
and county public defenders and attorneys who contract with the				87194	
Ohio Public Defender to provide indigent defense services.				87195	
FEDERAL REPRESENTATION				87196	
The foregoing appropriation item 019-608, Federal				87197	
Representation, shall be used to receive reimbursements from the				87198	
federal courts when the Ohio Public Defender provides				87199	
representation in federal court cases and to support				87200	
representation in such cases.				87201	

Section 84. DHS DEPARTMENT OF PUBLIC SAFETY				87202
General Revenue Fund				87203
GRF 763-403	Operating Expenses -	\$ 4,058,188	\$ 4,058,188	87204
	EMA			
GRF 763-507	Individual and	\$ 48,750	\$ 48,750	87205
	Households Grants			
GRF 768-413	Grants-Volunteer Fire	\$ 647,953	\$ 647,953	87206
	Departments			
GRF 769-321	Food Stamp Trafficking	\$ 800,000	\$ 800,000	87207
	Enforcement Operations			
TOTAL GRF	General Revenue Fund	\$ 5,554,891	\$ 5,554,891	87208
General Services Fund				87209
224 768-658	Small Government Fire	\$ 250,000	\$ 250,000	87210
	Departments			
TOTAL GSF	General Services Fund	\$ 250,000	\$ 250,000	87211
State Special Revenue Fund				87212
5B9 766-632	PI & Security Guard	\$ 404,166	\$ 1,188,716	87213
	Provider			
5Y1 768-620	Fireworks Training and	\$ 10,976	\$ 10,976	87214
	Education			
5Y2 768-635	Fire Marshal	\$ 7,855,076	\$ 11,787,994	87215
TOTAL SSR	State Special Revenue	\$ 8,270,218	\$ 12,987,686	87216
Fund Group				
TOTAL ALL BUDGET FUND GROUPS		\$ 14,075,109	\$ 18,792,577	87217
OHIO TASK FORCE ONE - URBAN SEARCH AND RESCUE UNIT				87218
Of the foregoing appropriation item 763-403, Operating				87219
Expenses - EMA, \$200,000 in each fiscal year shall be used to fund				87220
the Ohio Task Force One - Urban Search and Rescue Unit and other				87221
urban search and rescue programs around the state to create a				87222
stronger search and rescue capability statewide.				87223

INDIVIDUAL AND HOUSEHOLDS GRANTS STATE MATCH 87224

The foregoing appropriation item 763-507, Individual and 87225
Households Grants, shall be used to fund the state share of costs 87226
to provide grants to individuals and households in cases of 87227
disaster. 87228

GRANTS-VOLUNTEER FIRE DEPARTMENTS 87229

The foregoing appropriation item 768-402, Grants-Volunteer 87230
Fire Departments, shall be used to make annual grants to volunteer 87231
fire departments of up to \$10,000 or up to \$25,000 if the 87232
volunteer fire department provides service for an area affected by 87233
a natural disaster. Beginning October 1, 2003, the grant program 87234
shall be administered by the Fire Marshal under the Department of 87235
Public Safety. The Fire Marshal shall adopt rules necessary for 87236
the administration and operation of the grant program. 87237

SMALL GOVERNMENT FIRE DEPARTMENTS 87238

After October 1, 2003, upon the request of the Director of 87239
Public Safety, the Director of Budget and Management shall 87240
transfer \$250,000 cash in each fiscal year from the State Fire 87241
Marshal Fund (Fund 5Y2) within the State Special Revenue Fund 87242
Group to the Small Government Fire Departments Fund (Fund 224) 87243
within the General Services Fund Group. 87244

Notwithstanding section 3737.17 of the Revised Code, the 87245
foregoing appropriation item 768-658, Small Government Fire 87246
Departments, may be used to provide loans to private fire 87247
departments. 87248

FIRE MARSHAL FUND 87249

On October 1, 2003, the State Fire Marshal Fund (Fund 546) 87250
shall be transferred from the Department of Commerce to the 87251
Department of Public Safety. At the request of the Director of 87252
Commerce, the Director of Budget and Management may cancel 87253

encumbrances in these funds from the Department of Commerce's 87254
appropriation item 800-610, Fire Marshal, and reestablish such 87255
encumbrances or parts of encumbrances in fiscal year 2004 for the 87256
same purpose and to the same vendor in the Department of Public 87257
Safety's appropriation item 768-635, Fire Marshal. The Director of 87258
Budget and Management shall reduce the appropriation balances in 87259
fiscal year 2003 by the amount of encumbrances canceled in the 87260
funds. As determined by the Director of Budget and Management, the 87261
appropriation authority necessary to reestablish such encumbrances 87262
or parts of encumbrances in fiscal year 2004 for the Department of 87263
Public Safety is hereby appropriated. On July 31, 2003, or as soon 87264
as possible thereafter, the Director of Budget and Management 87265
shall transfer \$1,800,000 cash from the Fire Marshal Fund (Fund 87266
546) to the Department of Commerce, Division of Administration 87267
Fund (Fund 163, 800-620). 87268

FIREWORKS TRAINING AND EDUCATION FUND 87269

On October 1, 2003, the Fireworks Training & Education Fund 87270
(Fund 4L5) shall be transferred from the Department of Commerce to 87271
the Department of Public Safety. At the request of the Director of 87272
Commerce, the Director of Budget and Management may cancel 87273
encumbrances in these funds from the Department of Commerce's 87274
appropriation item 800-609, Fire Marshal, and reestablish such 87275
encumbrances or parts of encumbrances in fiscal year 2004 for the 87276
same purpose and to the same vendor in the Department of Public 87277
Safety's appropriation item 768-620, Fireworks Training and 87278
Education. The Director of Budget and Management shall reduce the 87279
appropriation balances in fiscal year 2003 by the amount of 87280
encumbrances canceled in the funds. As determined by the Director 87281
of Budget and Management, the appropriation authority necessary to 87282
reestablish such encumbrances or parts of encumbrances in fiscal 87283
year 2004 for the Department of Public Safety is hereby 87284
appropriated. 87285

GRANTS-VOLUNTEER FIRE DEPARTMENTS FUND 87286

On October 1, 2003, the Grants- Volunteer Fire Departments 87287
Fund (Fund GRF) shall be transferred from the Department of 87288
Commerce to the Department of Public Safety. At the request of the 87289
Director of Commerce, the Director of Budget and Management may 87290
cancel encumbrances in these funds from the Department of 87291
Commerce's appropriation item 800-402, Grants- Volunteer Fire 87292
Departments, and reestablish such encumbrances or parts of 87293
encumbrances in fiscal year 2004 for the same purpose and to the 87294
same vendor in the Department of Public Safety's appropriation 87295
item 768-402, Grants-Volunteer Fire Departments. The Director of 87296
Budget and Management shall reduce the appropriation balances in 87297
fiscal year 2003 by the amount of encumbrances canceled in the 87298
funds. As determined by the Director of Budget and Management, the 87299
appropriation authority necessary to reestablish such encumbrances 87300
or parts of encumbrances in fiscal year 2004 for the Department of 87301
Public Safety is hereby appropriated. 87302

SMALL GOVERNMENT FIRE DEPARTMENTS FUND 87303

On October 1, 2003, the Small Government Fire Departments 87304
Fund (Fund 5F1) shall be transferred from the Department of 87305
Commerce to the Department of Public Safety. At the request of the 87306
Director of Commerce, the Director of Budget and Management may 87307
cancel encumbrances in these funds from the Department of 87308
Commerce's appropriation item 800-635, Small Government Fire 87309
Departments, and reestablish such encumbrances or parts of 87310
encumbrances in fiscal year 2004 for the same purpose and to the 87311
same vendor in the Department of Public Safety's appropriation 87312
item 768-658, Small Government Fire Departments. The Director of 87313
Budget and Management shall reduce the appropriation balances in 87314
fiscal year 2003 by the amount of encumbrances canceled in the 87315
funds. As determined by the Director of Budget and Management, the 87316
appropriation authority necessary to reestablish such encumbrances 87317

or parts of encumbrances in fiscal year 2004 for the Department of 87318
Public Safety is hereby appropriated. 87319

FIRE MARSHAL TRANSFER FROM COMMERCE TO PUBLIC SAFETY 87320

Notwithstanding any provision of law to the contrary, the 87321
Director of Budget and Management is authorized to take the 87322
actions described in this section. This section applies to budget 87323
changes made necessary by administrative reorganization, program 87324
transfers, the creation of new funds, and the consolidation of 87325
funds as authorized by this act. The Director of Budget and 87326
Management may make any transfers of cash balances between funds. 87327
At the request of the Office of Budget and Management, the 87328
administering agency head shall certify to the Director the amount 87329
of an estimate of the amount of the cash balance to be transferred 87330
to the receiving fund. The Director may transfer the estimated 87331
amount or the estimate of the amount when needed to make payments. 87332
Not more than thirty days after certifying the estimated amount 87333
the administering agency head shall certify the final amount to 87334
the Director. The Director shall transfer the difference between 87335
any estimated amount previously transferred and the certified 87336
final amount. 87337

Any fiscal year 2003 and 2004 unencumbered or unallotted 87338
appropriation balances may be transferred to the appropriate line 87339
item to be used for the same purposes, as determined by the 87340
Director of Budget and Management. 87341

On October 1, 2003, or the first day of the first pay period 87342
commencing after the effective date of this section, whichever is 87343
later, the licensing and enforcement functions of the Department 87344
of Commerce, Division of State Fire Marshal conducted pursuant to 87345
Chapter 3737. of the Revised Code and the assets, real estate 87346
liabilities, any capital spending authority related thereto, 87347
equipment, and records, regardless of form or medium, relating to 87348
those functions are transferred to the Department of Public 87349

Safety. The Department of Public Safety thereupon assumes these 87350
functions. 87351

Any business commenced but not completed by the Director or 87352
Department of Commerce, Division of State Fire Marshal pursuant to 87353
Chapter 3737. of the Revised Code on the effective date of this 87354
section relating to the functions transferred under this section 87355
shall be completed by the Director or Department of Public Safety 87356
in the same manner, and with the same effect, as if completed by 87357
the Director or Department of Commerce, Division of State Fire 87358
Marshal. No validation, cure, right, privilege, remedy, 87359
obligation, or liability is lost or impaired by reason of the 87360
transfer of functions required by this section and shall be 87361
administered by the Department of Public Safety. All of the rules, 87362
orders, and determinations enacted or adopted by the Department of 87363
Commerce, Division of State Fire Marshal relating to the transfer 87364
of these functions continue in effect as rules, orders, and 87365
determinations of the Department of Public Safety until modified 87366
or rescinded by the Department of Public Safety. If necessary to 87367
ensure the integrity of the numbering of the Administrative Code, 87368
the Director of the Legislative Service Commission shall renumber 87369
the rules of the Department of Commerce, Division of State Fire 87370
Marshal enacted or adopted pursuant to Chapter 3737. of the 87371
Revised Code to reflect their transfer to the Department of Public 87372
Safety. 87373

Subject to the lay-off provisions of sections 124.321 to 87374
124.328 of the Revised Code, all employees of the Department of 87375
Commerce, Division of State Fire Marshal who perform functions 87376
pursuant to Chapter 3737. of the Revised Code that are transferred 87377
under this section are transferred to the Department of Public 87378
Safety. The vehicles and equipment assigned to such employees are 87379
also transferred to the Department of Public Safety. 87380

Whenever the Director or the Department of Commerce, or the 87381

Superintendent or the Division of State Fire Marshal is referred 87382
to in any law, contract, or other document relating to the 87383
functions transferred under this section, the reference shall be 87384
deemed to refer to the Director or Department of Public Safety, 87385
whichever is appropriate. 87386

No action or proceeding pending and no license or 87387
registration issued as of the effective date of this section is 87388
affected by the transfer, and shall be recognized, prosecuted, or 87389
defended in the name of the Director of the Department of Public 87390
Safety. In all such actions, the Director or Department of Public 87391
Safety, upon application to the court, shall be substituted as a 87392
party. 87393

PI & SECURITY GUARD PROVIDER FUND 87394

On January 1, 2004, the PI & Security Guard Provider Fund 87395
(Fund 5B9) shall be transferred from the Department of Commerce to 87396
the Department of Public Safety. At the request of the Director of 87397
Commerce, the Director of Budget and Management may cancel 87398
encumbrances in these funds from the Department of Commerce's 87399
appropriation item 800-632, PI & Security Guard Provider, and 87400
reestablish such encumbrances or parts of encumbrances in fiscal 87401
year 2004 for the same purpose and to the same vendor in the 87402
Department of Public Safety's appropriation item 766-632, PI & 87403
Security Guard Provider. The Director of Budget and Management 87404
shall reduce the appropriation balances in fiscal year 2003 by the 87405
amount of encumbrances cancelled in the funds. As determined by 87406
the Director of Budget and Management, the appropriation authority 87407
necessary to reestablish such encumbrances or parts of 87408
encumbrances in fiscal year 2004 for the Department of Public 87409
Safety is hereby appropriated. 87410

PI & SECURITY GUARD TRANSFER FROM COMMERCE TO PUBLIC SAFETY 87411

Notwithstanding any provision of law to the contrary, the 87412

Director of Budget and Management is authorized to take the 87413
actions described in this section. This section applies to budget 87414
changes made necessary by administrative reorganization, program 87415
transfers, the creation of new funds, and the consolidation of 87416
funds as authorized by this act. The Director of Budget and 87417
Management may make any transfers of cash balances between funds. 87418
At the request of the Office of Budget and Management, the 87419
administering agency head shall certify to the Director the amount 87420
or an estimate of the amount of the cash balance to be transferred 87421
to the receiving fund. The Director may transfer the amount or the 87422
estimate of the amount when needed to make payments. Not more than 87423
thirty days after certifying the estimated amount the 87424
administering agency head shall certify the final amount to the 87425
Director. The Director shall transfer the difference between any 87426
estimated amount previously transferred and the certified final 87427
amount. 87428

Any fiscal year 2003 and 2004 unencumbered or unallotted 87429
appropriation balances may be transferred to the appropriate 87430
appropriation item to be used for the same purposes, as determined 87431
by the Director of Budget and Management. 87432

On January 1, 2004, or the first day of the first pay period 87433
commencing after the effective date of this section, whichever is 87434
later, the licensing and enforcement functions of the Department 87435
of Commerce, Division of Real Estate and Professional Licensing 87436
conducted pursuant to Chapter 4749. of the Revised Code and the 87437
assets, liabilities, any capital spending authority related 87438
thereto, equipment, and records, regardless of form or medium, 87439
relating to those functions are transferred to the Department of 87440
Public Safety. The Department of Public Safety thereupon assumes 87441
these functions. 87442

Any business commenced but not completed by the Director or 87443
Department of Commerce, Division of Real Estate and Professional 87444

Licensing pursuant to Chapter 4749. of the Revised Code on the 87445
effective date of this section relating to the functions 87446
transferred under this section shall be completed by the Director 87447
or Department of Public Safety in the same manner, and with the 87448
same effect, as if completed by the Director or Department of 87449
Commerce, Division of Real Estate and Professional Licensing. No 87450
validation, cure, right, privilege, remedy, obligation, or 87451
liability is lost or impaired by reason of the transfer of 87452
functions required by this section and shall be administered by 87453
the Department of Public Safety. All of the rules, orders, and 87454
determinations enacted or adopted by the Department of Commerce, 87455
Division of Real Estate and Professional Licensing relating to the 87456
transfer of these functions continue in effect as rules, orders, 87457
and determinations of the Department of Public Safety until 87458
modified or rescinded by the Department of Public Safety. If 87459
necessary to ensure the integrity of the numbering of the 87460
Administrative Code, the Director of the Legislative Service 87461
Commission shall renumber the rules of the Department of Commerce, 87462
Division of Real Estate and Professional Licensing enacted or 87463
adopted pursuant to Chapter 4749. of the Revised Code to reflect 87464
their transfer to the Department of Public Safety. 87465

Subject to the layoff provisions of sections 124.321 to 87466
124.328 of the Revised Code, all employees of the Department of 87467
Commerce, Division of Real Estate and Professional Licensing who 87468
perform functions pursuant to Chapter 4749. of the Revised Code 87469
that are transferred under this section are transferred to the 87470
Department of Public Safety. The vehicles and equipment assigned 87471
to such employees are also transferred to the Department of Public 87472
Safety. 87473

Whenever the Director or the Department of Commerce, or the 87474
Superintendent or the Division of Real Estate and Professional 87475
Licensing is referred to in any law, contract, or other document 87476

relating to the functions transferred under this section, the 87477
reference shall be deemed to refer to the Director or Department 87478
of Public Safety, whichever is appropriate. 87479

No action or proceeding pending and no license or 87480
registration issued as of the effective date of this section is 87481
affected by the transfer, and shall be recognized, prosecuted, or 87482
defended in the name of the Director of the Department of Public 87483
Safety. In all such actions, the Director or Department of Public 87484
Safety, upon application to the court, shall be substituted as a 87485
party. 87486

Section 85. PUC PUBLIC UTILITIES COMMISSION OF OHIO 87487

General Services Fund Group 87488

5F6 870-622	Utility and Railroad	\$	30,622,222	\$	30,622,222	87489
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Regulation

5F6 870-624	NARUC/NRRI Subsidy	\$	167,233	\$	167,233	87490
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5F6 870-625	Motor Transportation	\$	5,361,239	\$	5,361,239	87491
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Regulation

558 870-602	Salvage and Exchange	\$	16,477	\$	4,000	87492
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TOTAL GSF General Services 87493

Fund Group		\$	36,167,171	\$	36,154,694	87494
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Federal Special Revenue Fund Group 87495

3V3 870-604	Commercial Vehicle	\$	870,000	\$	300,000	87496
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Information

Systems/Networks

333 870-601	Gas Pipeline Safety	\$	597,957	\$	597,957	87497
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350 870-608	Motor Carrier Safety	\$	7,027,712	\$	7,027,712	87498
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TOTAL FED Federal Special Revenue 87499

Fund Group		\$	8,495,669	\$	7,925,669	87500
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State Special Revenue Fund Group 87501

4A3 870-614	Grade Crossing	\$	1,349,757	\$	1,349,757	87502
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Protection

		Devices-State				
4L8	870-617	Pipeline Safety-State	\$	187,621	\$	187,621 87503
4S6	870-618	Hazardous Material	\$	899,325	\$	614,325 87504
		Registration				
4S6	870-621	Hazardous Materials	\$	373,346	\$	373,346 87505
		Base State				
		Registration				
4U8	870-620	Civil Forfeitures	\$	719,986	\$	434,986 87506
559	870-605	Public Utilities	\$	4,000	\$	4,000 87507
		Territorial				
		Administration				
560	870-607	Special Assessment	\$	100,000	\$	100,000 87508
561	870-606	Power Siting Board	\$	337,210	\$	337,210 87509
638	870-611	Biomass Energy Program	\$	40,000	\$	40,000 87510
661	870-612	Hazardous Materials	\$	900,000	\$	900,000 87511
		Transportation				
TOTAL SSR		State Special Revenue				87512
Fund Group			\$	4,911,245	\$	4,341,245 87513
Agency Fund Group						87514
4G4	870-616	Base State	\$	6,500,000	\$	6,500,000 87515
		Registration Program				
TOTAL AGY		Agency Fund Group	\$	6,500,000	\$	6,500,000 87516
TOTAL ALL BUDGET FUND GROUPS			\$	56,074,085	\$	54,921,608 87517
		COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS PROJECT				87518
		The Commercial Vehicle Information Systems and Networks Fund				87519
		is hereby created in the state treasury. The Commercial Vehicle				87520
		Information Systems and Networks Fund shall receive funding from				87521
		the United States Department of Transportation's Commercial				87522
		Vehicle Intelligent Transportation System Infrastructure				87523
		Deployment Program and shall be used to deploy the Ohio Commercial				87524
		Vehicle Information Systems and Networks Project and to expedite				87525
		and improve the safety of motor carrier operations through				87526

electronic exchange of data by means of on-highway electronic systems. 87527
 87528

Notwithstanding section 4905.80 of the Revised Code, up to 87529
 \$435,000 in fiscal year 2004 and \$150,000 in fiscal year 2005 of 87530
 the foregoing appropriation item 870-618, Hazardous Material 87531
 Registration, may be used to pay the state share of the 87532
 implementation of the Ohio Commercial Vehicle Information Systems 87533
 and Networks Project. 87534

Notwithstanding section 4923.12 of the Revised Code, up to 87535
 \$435,000 in fiscal year 2004 and \$150,000 in fiscal year 2005 of 87536
 the foregoing appropriation item 870-620, Civil Forfeitures, may 87537
 be used to pay the state share of the implementation of the Ohio 87538
 Commercial Vehicle Information Systems and Networks Project. 87539

Section 86. PWC PUBLIC WORKS COMMISSION 87540

General Revenue Fund 87541

GRF 150-904 Conservation General	\$	9,743,500	\$	11,235,700	87542
Obligation Debt					
Service					

GRF 150-907 State Capital	\$	156,974,400	\$	152,069,700	87543
Improvements					
General Obligation					
Debt Service					

TOTAL GRF General Revenue Fund	\$	166,717,900	\$	163,305,400	87545
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Clean Ohio Fund Group 87546

056 150-403 Clean Ohio Operating	\$	298,200	\$	304,400	87547
Expenses					

TOTAL 056 Clean Ohio Fund Group	\$	298,200	\$	304,400	87548
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TOTAL ALL BUDGET FUND GROUPS	\$	167,016,100	\$	163,609,800	87549
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CONSERVATION GENERAL OBLIGATION DEBT SERVICE 87550

The foregoing appropriation item 150-904, Conservation 87551

General Obligation Debt Service, shall be used to pay all debt 87552
service and related financing costs at the times they are required 87553
to be made pursuant to sections 151.01 and 151.09 of the Revised 87554
Code during the period from July 1, 2003, to June 30, 2005. The 87555
Office of the Sinking Fund or the Director of Budget and 87556
Management shall effectuate the required payments by an intrastate 87557
transfer voucher. 87558

STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE 87559

The foregoing appropriation item 150-907, State Capital 87560
Improvements General Obligation Debt Service, shall be used to pay 87561
all debt service and related financing costs at the times they are 87562
required to be made pursuant to sections 151.01 and 151.08 of the 87563
Revised Code during the period from July 1, 2003, to June 30, 87564
2005. The Office of the Sinking Fund or the Director of Budget and 87565
Management shall effectuate the required payments by an intrastate 87566
transfer voucher. 87567

CLEAN OHIO OPERATING EXPENSES 87568

The foregoing appropriation item 150-403, Clean Ohio 87569
Operating Expenses, shall be used by the Ohio Public Works 87570
Commission in administering sections 164.20 to 164.27 of the 87571
Revised Code. 87572

Section 87. RAC STATE RACING COMMISSION 87573

State Special Revenue Fund Group 87574

5C4 875-607 Simulcast Horse Racing \$ 19,730,799 \$ 19,476,952 87575

Purse

562 875-601 Thoroughbred Race Fund \$ 4,642,378 \$ 4,642,378 87576

563 875-602 Standardbred \$ 2,908,841 \$ 3,161,675 87577

Development Fund

564 875-603 Quarterhorse \$ 1,000 \$ 2,000 87578

Development Fund

565 875-604	Racing Commission	\$	4,485,777	\$	4,759,834	87579
	Operating					
	TOTAL SSR State Special Revenue					87580
	Fund Group	\$	31,768,795	\$	32,042,839	87581
	Holding Account Redistribution Fund Group					87582
R21 875-605	Bond Reimbursements	\$	212,900	\$	212,900	87583
	TOTAL 090 Holding Account					87584
	Redistribution					
	Fund Group	\$	212,900	\$	212,900	87585
	TOTAL ALL BUDGET FUND GROUPS	\$	31,981,695	\$	32,255,739	87586
	Section 88. BOR BOARD OF REGENTS					87588
	General Revenue Fund					87589
GRF 235-321	Operating Expenses	\$	3,286,284	\$	2,767,219	87590
GRF 235-401	Lease Rental Payments	\$	246,500,700	\$	216,836,400	87591
GRF 235-402	Sea Grants	\$	274,895	\$	274,895	87592
GRF 235-403	Math/Science Teaching	\$	1,757,614	\$	1,757,614	87593
	Improvement					
GRF 235-404	College Readiness	\$	4,152,603	\$	4,401,759	87594
	Initiatives					
GRF 235-406	Articulation and	\$	900,000	\$	900,000	87595
	Transfer					
GRF 235-408	Midwest Higher	\$	82,500	\$	82,500	87596
	Education Compact					
GRF 235-409	Information System	\$	1,185,879	\$	1,154,671	87597
GRF 235-414	State Grants and	\$	1,219,719	\$	1,211,373	87598
	Scholarship					
	Administration					
GRF 235-415	Jobs Challenge	\$	9,348,300	\$	9,348,300	87599
GRF 235-417	Ohio Learning Network	\$	3,413,046	\$	3,327,720	87600
GRF 235-418	Access Challenge	\$	62,068,622	\$	62,068,622	87601
GRF 235-420	Success Challenge	\$	48,113,077	\$	48,113,077	87602

GRF 235-428	Appalachian New Economy Partnership	\$ 1,279,893	\$ 1,247,895	87603
GRF 235-451	Eminent Scholars	\$ 0	\$ 1,462,500	87604
GRF 235-454	Research Challenge	\$ 18,330,000	\$ 18,330,000	87605
GRF 235-455	EnterpriseOhio Network	\$ 1,505,262	\$ 1,465,650	87606
GRF 235-474	Area Health Education Centers Program Support	\$ 1,822,226	\$ 1,776,670	87607
GRF 235-477	Access Improvement Projects	\$ 1,048,664	\$ 1,080,124	87608
GRF 235-501	State Share of Instruction	\$ 1,572,522,610	\$ 1,615,762,698	87609
GRF 235-502	Student Support Services	\$ 870,675	\$ 848,908	87610
GRF 235-503	Ohio Instructional Grants	\$ 111,966,343	\$ 115,325,333	87611
GRF 235-504	War Orphans Scholarships	\$ 4,672,321	\$ 4,672,321	87612
GRF 235-507	OhioLINK	\$ 7,028,392	\$ 7,028,392	87613
GRF 235-508	Air Force Institute of Technology	\$ 2,196,523	\$ 2,153,860	87614
GRF 235-509	Displaced Homemakers	\$ 204,865	\$ 199,743	87615
GRF 235-510	Ohio Supercomputer Center	\$ 4,208,472	\$ 4,103,260	87616
GRF 235-511	Cooperative Extension Service	\$ 25,644,863	\$ 25,644,863	87617
GRF 235-513	Ohio University Voinovich Center	\$ 311,977	\$ 305,178	87618
GRF 235-514	Central State Supplement	\$ 11,039,203	\$ 11,039,203	87619
GRF 235-515	Case Western Reserve University School of Medicine	\$ 3,403,612	\$ 3,312,271	87620

GRF 235-518	Capitol Scholarship Programs	\$	245,000	\$	245,000	87621
GRF 235-519	Family Practice	\$	5,581,258	\$	5,441,726	87622
GRF 235-520	Shawnee State Supplement	\$	2,082,289	\$	2,082,289	87623
GRF 235-521	The Ohio State University Glenn Institute	\$	311,977	\$	305,178	87624
GRF 235-524	Police and Fire Protection	\$	209,046	\$	203,819	87625
GRF 235-525	Geriatric Medicine	\$	820,696	\$	800,179	87626
GRF 235-526	Primary Care Residencies	\$	2,755,601	\$	2,686,710	87627
GRF 235-527	Ohio Aerospace Institute	\$	2,033,607	\$	1,982,767	87628
GRF 235-530	Academic Scholarships	\$	7,800,000	\$	7,800,000	87629
GRF 235-531	Student Choice Grants	\$	52,139,646	\$	52,139,646	87630
GRF 235-534	Student Workforce Development Grants	\$	2,437,500	\$	2,437,500	87631
GRF 235-535	Ohio Agricultural Research and Development Center	\$	35,830,188	\$	35,830,188	87632
GRF 235-536	The Ohio State University Clinical Teaching	\$	13,649,011	\$	13,649,011	87633
GRF 235-537	University of Cincinnati Clinical Teaching	\$	11,226,126	\$	11,226,126	87634
GRF 235-538	Medical College of Ohio at Toledo Clinical Teaching	\$	8,750,156	\$	8,750,156	87635
GRF 235-539	Wright State University Clinical	\$	4,250,997	\$	4,250,997	87636

	Teaching				
GRF 235-540	Ohio University	\$	4,109,568	\$	4,109,568 87637
	Clinical Teaching				
GRF 235-541	Northeastern Ohio	\$	4,226,686	\$	4,226,686 87638
	Universities College				
	of Medicine Clinical				
	Teaching				
GRF 235-543	Ohio College of	\$	426,631	\$	426,631 87639
	Podiatric Medicine				
	Clinical Subsidy				
GRF 235-547	School of	\$	1,458,022	\$	1,421,572 87640
	International Business				
GRF 235-549	Part-time Student	\$	14,036,622	\$	14,457,721 87641
	Instructional Grants				
GRF 235-552	Capital Component	\$	18,711,936	\$	18,711,936 87642
GRF 235-553	Dayton Area Graduate	\$	3,224,550	\$	3,143,937 87643
	Studies Institute				
GRF 235-554	Computer Science	\$	2,971,371	\$	2,897,086 87644
	Graduate Education				
GRF 235-555	Library Depositories	\$	1,775,467	\$	1,731,080 87645
GRF 235-556	Ohio Academic	\$	3,657,009	\$	3,803,289 87646
	Resources Network				
GRF 235-558	Long-term Care	\$	230,906	\$	225,134 87647
	Research				
GRF 235-561	Bowling Green State	\$	121,586	\$	118,546 87648
	University Canadian				
	Studies Center				
GRF 235-572	The Ohio State	\$	1,758,689	\$	1,714,723 87649
	University Clinic				
	Support				
GRF 235-583	Urban University	\$	5,899,236	\$	5,760,506 87650
	Programs				
GRF 235-585	Ohio University	\$	41,596	\$	40,556 87651

	Innovation Center				
GRF 235-587	Rural University	\$	1,305,510	\$	1,305,510 87652
	Projects				
GRF 235-588	Ohio Resource Center	\$	853,262	\$	853,262 87653
	for Mathematics,				
	Science, and Reading				
GRF 235-595	International Center	\$	137,352	\$	133,918 87654
	for Water Resources				
	Development				
GRF 235-596	Hazardous Materials	\$	339,647	\$	331,156 87655
	Program				
GRF 235-599	National Guard	\$	13,252,916	\$	14,578,208 87656
	Scholarship Program				
GRF 235-909	Higher Education	\$	97,668,000	\$	130,967,600 87657
	General Obligation				
	Debt Service				
TOTAL GRF	General Revenue Fund	\$	2,476,688,800	\$	2,528,792,936 87658
	General Services Fund Group				87659
220 235-614	Program Approval and	\$	400,000	\$	400,000 87660
	Reauthorization				
456 235-603	Sales and Services	\$	500,002	\$	500,003 87661
TOTAL GSF	General Services				87662
Fund Group		\$	900,002	\$	900,003 87663
	Federal Special Revenue Fund Group				87664
3H2 235-608	Human Services Project	\$	1,500,000	\$	1,500,000 87665
3N6 235-605	State Student	\$	2,196,680	\$	2,196,680 87666
	Incentive Grants				
3T0 235-610	National Health	\$	150,001	\$	150,001 87667
	Service Corps - Ohio				
	Loan Repayment				
312 235-609	Tech Prep	\$	183,850	\$	183,850 87668
312 235-611	Gear-up Grant	\$	1,478,245	\$	1,370,691 87669

312	235-612	Carl D. Perkins	\$	112,960	\$	112,960	87670
		Grant/Plan					
		Administration					
312	235-615	Professional	\$	523,129	\$	523,129	87671
		Development					
312	235-616	Workforce Investment	\$	850,000	\$	850,000	87672
		Act Administration					
312	235-631	Federal Grants	\$	3,444,949	\$	3,150,590	87673
		TOTAL FED Federal Special Revenue					87674
		Fund Group	\$	10,439,814	\$	10,037,901	87675
		State Special Revenue Fund Group					87676
4E8	235-602	Higher Educational	\$	20,000	\$	20,000	87677
		Facility Commission					
		Administration					
4P4	235-604	Physician Loan	\$	476,870	\$	476,870	87678
		Repayment					
649	235-607	The Ohio State	\$	760,000	\$	760,000	87679
		University					
		Highway/Transportation					
		Research					
682	235-606	Nursing Loan Program	\$	893,000	\$	893,000	87680
		TOTAL SSR State Special Revenue					87681
		Fund Group	\$	2,149,870	\$	2,149,870	87682
		TOTAL ALL BUDGET FUND GROUPS	\$	2,490,178,486	\$	2,541,880,710	87683

Section 88.01. OPERATING EXPENSES 87685

Of the foregoing appropriation item 235-321, Operating 87686
Expenses, up to \$500,000 shall be used in fiscal year 2004 to 87687
support the activities of the Commission on Higher Education and 87688
the Economy. The Commission shall recommend a strategy to improve 87689
the quality and efficiency of Ohio's higher education system to 87690
increase effectiveness, eliminate unnecessary duplication, broaden 87691

the use of technology, and determine how higher education can most 87692
effectively support the state's economy, best prepare Ohio 87693
students for Third Frontier jobs, and add to the quality of life 87694
for Ohio's citizens. The Commission shall also study the ten year 87695
plan for higher education in the context of curricula, the number 87696
of higher education institutions, and the number and types of 87697
higher education degrees in relation to the needs created through 87698
the Third Frontier and other high technology economic initiatives. 87699
The Director of Budget and Management may transfer any 87700
unencumbered fiscal year 2004 balance to fiscal year 2005 to 87701
support the activities of the Commission. 87702

LEASE RENTAL PAYMENTS 87703

The foregoing appropriation item 235-401, Lease Rental 87704
Payments, shall be used to meet all payments at the times they are 87705
required to be made during the period from July 1, 2003, to June 87706
30, 2005, by the Board of Regents pursuant to leases and 87707
agreements made under section 154.21 of the Revised Code, but 87708
limited to the aggregate amount of \$463,377,100. Nothing in this 87709
act shall be deemed to contravene the obligation of the state to 87710
pay, without necessity for further appropriation, from the sources 87711
pledged thereto, the bond service charges on obligations issued 87712
pursuant to section 154.21 of the Revised Code. 87713

SEA GRANTS 87714

The foregoing appropriation item 235-402, Sea Grants, shall 87715
be disbursed to the Ohio State University and shall be used to 87716
conduct research on fish in Lake Erie. 87717

MATHEMATICS AND SCIENCE TEACHING IMPROVEMENT 87718

Appropriation item 235-403, Math/Science Teaching 87719
Improvement, shall be used by the Board of Regents to support 87720
programs such as OSI - Discovery designed to raise the quality of 87721
mathematics and science teaching in primary and secondary 87722

education.	87723
Of the foregoing appropriation item 235-403, Math/Science Teaching Improvement, \$217,669 in each fiscal year shall be distributed to the Mathematics and Science Center in Lake County.	87724 87725 87726
Of the foregoing appropriation item 235-403, Math/Science Teaching Improvement, \$87,068 in fiscal year 2004 and \$87,067 in fiscal year 2005 shall be distributed to the Ohio Mathematics and Science Coalition.	87727 87728 87729 87730
COLLEGE READINESS INITIATIVES	87731
Appropriation item 235-404, College Readiness Initiatives, shall be used by the Board of Regents to support programs designed to improve the academic preparation and increase the number of students that enroll and succeed in higher education.	87732 87733 87734 87735
MIDWEST HIGHER EDUCATION COMPACT	87736
The foregoing appropriation item 235-408, Midwest Higher Education Compact, shall be distributed by the Board of Regents pursuant to section 3333.40 of the Revised Code.	87737 87738 87739
INFORMATION SYSTEM	87740
The foregoing appropriation item 235-409, Information System, shall be used by the Board of Regents to operate the higher education information data system known as the Higher Education Information System.	87741 87742 87743 87744
Section 88.02. JOBS CHALLENGE	87745
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	87746 87747 87748 87749 87750 87751

shall be distributed as performance grants to EnterpriseOhio 87752
Network campuses based upon each campus's documented performance 87753
according to criteria established by the Board of Regents for 87754
increasing training and related services to businesses, 87755
industries, and public sector organizations. 87756

Of the foregoing appropriation item 235-415, Jobs Challenge, 87757
\$2,819,345 in each fiscal year shall be allocated to the Targeted 87758
Industries Training Grant Program to attract, develop, and retain 87759
business and industry strategically important to the state's 87760
economy. 87761

Also, in each fiscal year, \$3,758,182 shall be allocated to 87762
the Higher Skills Incentives Program to promote and deliver 87763
coordinated, comprehensive training to local employers and to 87764
reward EnterpriseOhio Network campuses for increasing the amount 87765
of non-credit skill upgrading services provided to Ohio employers 87766
and employees. The funds shall be distributed to campuses in 87767
proportion to each campus's share of noncredit job-related 87768
training revenues received by all campuses for the previous fiscal 87769
year. It is the intent of the General Assembly that this Higher 87770
Skills Incentives component of the Jobs Challenge Program reward 87771
campus noncredit job-related training efforts in the same manner 87772
that the Research Challenge Program rewards campuses for their 87773
ability to obtain sponsored research revenues. 87774

OHIO LEARNING NETWORK 87775

Appropriation item 235-417, Ohio Learning Network, shall be 87776
used by the Board of Regents to support the continued 87777
implementation of the Ohio Learning Network, a statewide 87778
electronic collaborative effort designed to promote degree 87779
completion of students, workforce training of employees, and 87780
professional development through the use of advanced 87781
telecommunications and distance education initiatives. 87782

ACCESS CHALLENGE 87783

In each fiscal year, the foregoing appropriation item 87784
235-418, Access Challenge, shall be distributed to Ohio's 87785
state-assisted access colleges and universities. For the purposes 87786
of this allocation, "access campuses" includes state-assisted 87787
community colleges, state community colleges, technical colleges, 87788
Shawnee State University, Central State University, Cleveland 87789
State University, the regional campuses of state-assisted 87790
universities, and, where they are organizationally distinct and 87791
identifiable, the community-technical colleges located at the 87792
University of Cincinnati, Youngstown State University, and the 87793
University of Akron. 87794

The purpose of Access Challenge is to reduce the student 87795
share of costs for resident undergraduates enrolled in lower 87796
division undergraduate courses at Ohio's access campuses. The 87797
long-term goal is to make the student share of costs for these 87798
students equivalent to the student share of costs for resident 87799
undergraduate students enrolled throughout Ohio's public colleges 87800
and universities. Access Challenge appropriations shall be used in 87801
both years of the biennium to sustain, as much as possible, the 87802
tuition restraint or tuition reduction that was achieved with 87803
Access Challenge allocations in prior years. 87804

In fiscal year 2004, Access Challenge subsidies shall be 87805
distributed by the Board of Regents to eligible access campuses on 87806
the basis of the average of each campus's share of fiscal year 87807
2001 and 2002 all-terms subsidy-eligible General Studies FTEs. In 87808
fiscal year 2005, Access Challenge subsidies shall be distributed 87809
by the Board of Regents to eligible access campuses on the basis 87810
of the average of each campus's share of fiscal year 2002 and 2003 87811
all-terms subsidy-eligible General Studies FTEs. 87812

For the purposes of this calculation, Cleveland State 87813

University's enrollments shall be adjusted by the ratio of the sum 87814
of subsidy-eligible lower-division FTE student enrollments 87815
eligible for access funding to the sum of subsidy-eligible General 87816
Studies FTE student enrollments at Central State University and 87817
Shawnee State University, and for the following universities and 87818
their regional campuses: the Ohio State University, Ohio 87819
University, Kent State University, Bowling Green State University, 87820
Miami University, the University of Cincinnati, the University of 87821
Akron, and Wright State University. 87822

SUCCESS CHALLENGE 87823

The foregoing appropriation item 235-420, Success Challenge, 87824
shall be used by the Board of Regents to promote degree completion 87825
by students enrolled at a main campus of a state-assisted 87826
university. 87827

In each fiscal year, seventy per cent of the appropriations 87828
shall be distributed to state-assisted university main campuses in 87829
proportion to each campus's share of the total statewide 87830
bachelor's degrees granted by university main campuses to 87831
"at-risk" students. In fiscal years 2004 and 2005, an "at-risk" 87832
student means any undergraduate student who was eligible to 87833
receive an Ohio Instructional Grant during the past ten years. An 87834
eligible institution shall not receive its share of this 87835
distribution until it has submitted a plan that addresses how the 87836
subsidy will be used to better serve at-risk students and increase 87837
their likelihood of successful completion of a bachelor's degree 87838
program. The Board of Regents shall disseminate to all 87839
state-supported institutions of higher education all such plans 87840
submitted by institutions that received Success Challenge funds. 87841

In each fiscal year, thirty per cent of the appropriations 87842
shall be distributed to university main campuses in proportion to 87843
each campus's share of the total bachelor's degrees granted by 87844
university main campuses to undergraduate students who completed 87845

their bachelor's degrees in a "timely manner" in the previous 87846
fiscal year. For the purposes of this section, "timely manner" 87847
means the normal time it would take for a full-time degree-seeking 87848
undergraduate student to complete the student's degree. Generally, 87849
for such students pursuing a bachelor's degree, "timely manner" 87850
means four years. Exceptions to this general rule shall be 87851
permitted for students enrolled in programs specifically designed 87852
to be completed in a longer time period. The Board of Regents 87853
shall collect data to assess the timely completion statistics by 87854
university main campuses. 87855

APPALACHIAN NEW ECONOMY PARTNERSHIP 87856

The foregoing appropriation item 235-428, Appalachian New 87857
Economy Partnership, shall be distributed to Ohio University to 87858
continue a multi-campus and multi-agency coordinated effort to 87859
link Appalachia to the new economy. Ohio University shall use 87860
these funds to provide leadership in the development and 87861
implementation of initiatives in the areas of entrepreneurship, 87862
management, education, and technology. 87863

EMINENT SCHOLARS 87864

The foregoing appropriation item 235-451, Eminent Scholars, 87865
shall be used by the Ohio Board of Regents to establish an Ohio 87866
Eminent Scholars Program, the purpose of which is to invest 87867
educational resources to address problems that are of vital 87868
statewide significance while fostering the growth in eminence of 87869
Ohio's academic programs. Ohio Eminent Scholars endowed chairs 87870
will allow Ohio universities to recruit senior faculty members 87871
from outside Ohio who are nationally and internationally 87872
recognized scholars in areas of science and technology that 87873
provide the basic research platforms on which our technology and 87874
commercialization efforts are built. Endowment grants of 87875
approximately \$750,000 to state colleges and universities and 87876
nonprofit Ohio institutions of higher education holding 87877

certificates of authorization issued under section 1713.02 of the Revised Code to match endowment gifts from nonstate sources may be made in accordance with a plan established by the Ohio Board of Regents. Matching nonstate gifts in science and technology programs shall be \$750,000. The grants shall have as their purpose attracting and sustaining in Ohio scholar-leaders of national or international prominence; each will assist in accelerating state economic growth through research that provides an essential basic science platform for commercialization efforts. Such scholar-leaders shall, among their duties, share broadly the benefits and knowledge unique to their fields of scholarship to the betterment of Ohio and its people and collaborate with other state technology programs and program recipients.

RESEARCH CHALLENGE

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

state purposes, for strengthening research programs, for 87910
increasing the amount of external research funds, and shall 87911
include an evaluation process to provide results of the increased 87912
support. Each institutional plan for the investment of Research 87913
Challenge moneys shall report on existing, planned, and/or 87914
possible relationships with other State of Ohio science and 87915
technology programs and funding recipients in order to further 87916
ongoing statewide science and technology collaboration objectives. 87917
The Board of Regents shall submit a biennial report of progress to 87918
the General Assembly. 87919

ENTERPRISEOHIO NETWORK 87920

The foregoing appropriation item 235-455, EnterpriseOhio 87921
Network, shall be allocated by the Board of Regents to continue 87922
increasing the capabilities of the EnterpriseOhio Network to meet 87923
the ongoing training needs of Ohio employers. Funds shall support 87924
multicampus collaboration, best practice dissemination, and 87925
capacity building projects. The Regents Advisory Committee for 87926
Workforce Development, in its advisory role, shall advise in the 87927
development of plans and activities. 87928

Of the foregoing appropriation item 235-455, EnterpriseOhio 87929
Network, \$181,101 in fiscal year 2004 and \$176,334 in fiscal year 87930
2005 shall be used by the Dayton Business/Sinclair College Jobs 87931
Profiling Program. 87932

Section 88.03. AREA HEALTH EDUCATION CENTERS 87933

The foregoing appropriation item 235-474, Area Health 87934
Education Centers Program Support, shall be used by the Board of 87935
Regents to support the medical school regional area health 87936
education centers' educational programs for the continued support 87937
of medical and other health professions education and for support 87938
of the Area Health Education Center Program. 87939

Of the foregoing appropriation item 235-474, Area Health 87940
Education Centers Program Support, \$174,135 in fiscal year 2004 87941
and \$169,782 in fiscal year 2005 shall be disbursed to the Ohio 87942
University College of Osteopathic Medicine to operate a mobile 87943
health care unit to serve the southeastern area of the state. Of 87944
the foregoing appropriation item 235-474, Area Health Education 87945
Centers Program Support, \$130,601 in fiscal year 2004 and \$127,337 87946
in fiscal year 2005 shall be used to support the Ohio Valley 87947
Community Health Information Network (OVCHIN) project. 87948

ACCESS IMPROVEMENT PROJECTS 87949

The foregoing appropriation item 235-477, Access Improvement 87950
Projects, shall be used by the Board of Regents to support 87951
innovative statewide strategies to increase student access and 87952
retention for specialized populations, and to provide for pilot 87953
projects that will contribute to improving access to higher 87954
education by specialized populations. The funds may be used for 87955
projects that improve access for nonpublic secondary students. 87956

Of the foregoing appropriation item 235-477, Access 87957
Improvement Projects, \$798,684 in fiscal year 2004 and \$822,645 in 87958
fiscal year 2005 shall be distributed to the Ohio Appalachian 87959
Center for Higher Education at Shawnee State University. The board 87960
of directors of the center shall consist of the presidents of 87961
Shawnee State University, Ohio University, Belmont community 87962
College, Hocking Technical College, Jefferson Community College, 87963
Muskingum Area Technical College, Rio Grande Community College, 87964
Southern State Community College, and Washington State Community 87965
College; the dean of one of the Salem, Tuscarawas, and East 87966
Liverpool regional campuses of Kent State University, as 87967
designated by the president of Kent State University; and a 87968
representative of the Board of Regents designated by the 87969
Chancellor. 87970

Of the foregoing appropriation item 235-477, Access 87971
Improvement Projects, \$169,553 in fiscal year 2004 and \$174,640 in 87972
fiscal year 2005 shall be distributed to Miami University for the 87973
Student Achievement in Research and Scholarship (STARS) Program. 87974

Section 88.04. STATE SHARE OF INSTRUCTION 87975

As soon as practicable during each fiscal year of the 87976
2003-2005 biennium in accordance with instructions of the Board of 87977
Regents, each state-assisted institution of higher education shall 87978
report its actual enrollment to the Board of Regents. 87979

The Board of Regents shall establish procedures required by 87980
the system of formulas set out below and for the assignment of 87981
individual institutions to categories described in the formulas. 87982
The system of formulas establishes the manner in which aggregate 87983
expenditure requirements shall be determined for each of the three 87984
components of institutional operations. In addition to other 87985
adjustments and calculations described below, the subsidy 87986
entitlement of an institution shall be determined by subtracting 87987
from the institution's aggregate expenditure requirements income 87988
to be derived from the local contributions assumed in calculating 87989
the subsidy entitlements. The local contributions for purposes of 87990
determining subsidy support shall not limit the authority of the 87991
individual boards of trustees to establish fee levels. 87992

The General Studies and Technical models shall be adjusted by 87993
the Board of Regents so that the share of state subsidy earned by 87994
those models is not altered by changes in the overall local share. 87995
A lower-division fee differential shall be used to maintain the 87996
relationship that would have occurred between these models and the 87997
baccalaureate models had an assumed share of 37 per cent been 87998
funded. 87999

In defining the number of full-time equivalent (FTE) students 88000

for state subsidy purposes, the Board of Regents shall exclude all 88001
undergraduate students who are not residents of Ohio, except those 88002
charged in-state fees in accordance with reciprocity agreements 88003
made pursuant to section 3333.17 of the Revised Code or employer 88004
contracts entered into pursuant to section 3333.32 of the Revised 88005
Code. 88006

(A) AGGREGATE EXPENDITURE PER FULL-TIME EQUIVALENT STUDENT 88007

(1) INSTRUCTION AND SUPPORT SERVICES 88008

MODEL	FY 2004	FY 2005	
General Studies I	\$ 4,947	\$ 4,983	88010
General Studies II	\$ 5,323	\$ 5,336	88011
General Studies III	\$ 6,883	\$ 7,120	88012
Technical I	\$ 5,913	\$ 6,137	88013
Technical III	\$ 9,522	\$ 10,026	88014
Baccalaureate I	\$ 7,623	\$ 7,721	88015
Baccalaureate II	\$ 8,584	\$ 8,864	88016
Baccalaureate III	\$ 12,559	\$ 12,932	88017
Masters and Professional I	\$ 15,867	\$ 18,000	88018
Masters and Professional II	\$ 20,861	\$ 22,141	88019
Masters and Professional III	\$ 27,376	\$ 28,190	88020
Medical I	\$ 30,867	\$ 31,819	88021
Medical II	\$ 41,495	\$ 41,960	88022
MPD I	\$ 14,938	\$ 14,966	88023

(2) STUDENT SERVICES 88024

For this purpose, FTE counts shall be weighted to reflect 88025
differences among institutions in the numbers of students enrolled 88026
on a part-time basis. The student services subsidy per FTE shall 88027
be \$822 in fiscal year 2004 and \$903 in fiscal year 2005 for all 88028
models. 88029

(B) PLANT OPERATION AND MAINTENANCE (POM) 88030

(1) DETERMINATION OF THE SQUARE-FOOT-BASED POM SUBSIDY 88031

Space undergoing renovation shall be funded at the rate 88032
allowed for storage space. 88033

In the calculation of square footage for each campus, square 88034
footage shall be weighted to reflect differences in space 88035
utilization. 88036

The space inventories for each campus shall be those 88037
determined in the fiscal year 2003 state share of instruction 88038
calculation, adjusted for changes attributable to the construction 88039
or renovation of facilities for which state appropriations were 88040
made or local commitments were made prior to January 1, 1995. 88041

Only 50 per cent of the space permanently taken out of 88042
operation in fiscal year 2004 or fiscal year 2005 that is not 88043
otherwise replaced by a campus shall be deleted from the plant 88044
operation and maintenance space inventory. 88045

The square-foot-based plant operation and maintenance subsidy 88046
for each campus shall be determined as follows: 88047

(a) For each standard room type category shown below, the 88048
subsidy-eligible net assignable square feet (NASF) for each campus 88049
shall be multiplied by the following rates, and the amounts summed 88050
for each campus to determine the total gross square-foot-based POM 88051
expenditure requirement: 88052

	FY 2004	FY 2005	
Classrooms	\$5.80	\$6.04	88053
Laboratories	\$7.22	\$7.53	88054
Offices	\$5.80	\$6.04	88055
Audio Visual Data Processing	\$7.22	\$7.53	88056
Storage	\$2.57	\$2.68	88057
Circulation	\$7.31	\$7.62	88058
Other	\$5.80	\$6.04	88059

(b) The total gross square-foot POM expenditure requirement 88061
shall be allocated to models in proportion to FTE enrollments as 88062

reported in enrollment data for all models except Doctoral I and 88063
Doctoral II. 88064

(c) The amounts allocated to models in division (B)(1)(b) of 88065
this section shall be multiplied by the ratio of subsidy-eligible 88066
FTE students to total FTE students reported in each model, and the 88067
amounts summed for all models. To this total amount shall be added 88068
an amount to support roads and grounds expenditures to produce the 88069
total square-foot-based POM subsidy. 88070

(2) DETERMINATION OF THE ACTIVITY-BASED POM SUBSIDY 88071

(a) The number of subsidy-eligible FTE students in each model 88072
shall be multiplied by the following rates for each campus for 88073
each fiscal year. 88074

	FY 2004	FY 2005	88075
General Studies I	\$ 552	\$ 560	88076
General Studies II	\$ 696	\$ 705	88077
General Studies III	\$1,608	\$1,651	88078
Technical I	\$ 777	\$ 806	88079
Technical III	\$1,501	\$1,570	88080
Baccalaureate I	\$ 700	\$ 706	88081
Baccalaureate II	\$1,250	\$1,232	88082
Baccalaureate III	\$1,520	\$1,458	88083
Masters and Professional I	\$1,258	\$1,301	88084
Masters and Professional II	\$2,817	\$2,688	88085
Masters and Professional III	\$3,832	\$3,712	88086
Medical I	\$2,663	\$2,669	88087
Medical II	\$3,837	\$4,110	88088
MPD I	\$1,213	\$1,233	88089

(b) The sum of the products for each campus determined in 88090
division (B)(2)(a) of this section for all models except Doctoral 88091
I and Doctoral II for each fiscal year shall be weighted by a 88092
factor to reflect sponsored research activity and job 88093
training-related public services expenditures to determine the 88094

total activity-based POM subsidy.	88095
(C) CALCULATION OF CORE SUBSIDY ENTITLEMENTS AND ADJUSTMENTS	88096
(1) CALCULATION OF CORE SUBSIDY ENTITLEMENTS	88097
The calculation of the core subsidy entitlement shall consist	88098
of the following components:	88099
(a) For each campus and for each fiscal year, the core	88100
subsidy entitlement shall be determined by multiplying the amounts	88101
listed above in divisions (A)(1) and (2) and (B)(2) of this	88102
section less assumed local contributions, by (i) average	88103
subsidy-eligible FTEs for the two-year period ending in the prior	88104
year for all models except Doctoral I and Doctoral II; and (ii)	88105
average subsidy-eligible FTEs for the five-year period ending in	88106
the prior year for all models except Doctoral I and Doctoral II.	88107
(b) In calculating the core subsidy entitlements for Medical	88108
II models only, the Board of Regents shall use the following count	88109
of FTE students:	88110
(i) For those medical schools whose current year enrollment,	88111
including students repeating terms, is below the base enrollment,	88112
the Medical II FTE enrollment shall equal: 65 per cent of the base	88113
enrollment plus 35 per cent of the current year enrollment	88114
including students repeating terms, where the base enrollment is:	88115
The Ohio State University	1010 88116
University of Cincinnati	833 88117
Medical College of Ohio at Toledo	650 88118
Wright State University	433 88119
Ohio University	433 88120
Northeastern Ohio Universities College of	433 88121
Medicine	
(ii) For those medical schools whose current year enrollment,	88122
excluding students repeating terms, is equal to or greater than	88123
the base enrollment, the Medical II FTE enrollment shall equal the	88124

base enrollment plus the FTE for repeating students.	88125
(iii) Students repeating terms may be no more than five per cent of current year enrollment.	88126 88127
(c) The Board of Regents shall compute the sum of the two calculations listed in division (C)(1)(a) of this section and use the greater sum as the core subsidy entitlement.	88128 88129 88130
The POM subsidy for each campus shall equal the greater of the square-foot-based subsidy or the activity-based POM subsidy component of the core subsidy entitlement.	88131 88132 88133
(d) The state share of instruction provided for doctoral students shall be based on a fixed percentage of the total appropriation. In each fiscal year of the biennium not more than 10.34 per cent of the total state share of instruction shall be reserved to implement the recommendations of the Graduate Funding Commission. It is the intent of the General Assembly that the doctoral reserve not exceed 10.34 per cent of the total state share of instruction to implement the recommendations of the Graduate Funding Commission. The Board of Regents may reallocate up to two per cent in each fiscal year of the reserve among the state-assisted universities on the basis of a quality review as specified in the recommendations of the Graduate Funding Commission. No such reallocation shall occur unless the Board of Regents, in consultation with representatives of state-assisted universities, determines that sufficient funds are available for this purpose.	88134 88135 88136 88137 88138 88139 88140 88141 88142 88143 88144 88145 88146 88147 88148 88149
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	88150 88151 88152 88153 88154 88155

adjusted to reflect the effects of doctoral review and subsequent 88156
changes in Doctoral I equivalent enrollments. For the purposes of 88157
this calculation, Doctoral I equivalent FTEs shall equal the sum 88158
of Doctoral I FTEs plus 1.5 times the sum of Doctoral II FTEs. 88159

(2) ANNUAL STATE SHARE OF INSTRUCTION FUNDING GUARANTEE 88160

In addition to and after the other adjustment noted above, in 88161
fiscal years 2004 and 2005 each campus shall have its state share 88162
of instruction adjusted to the extent necessary to meet the 88163
following provisions: 88164

(a) If the total state share of instruction appropriation 88165
relative to the prior year is 102 per cent or greater, no campus 88166
shall receive a state share of instruction allocation that is less 88167
than 99 per cent of the prior year's state share of instruction 88168
amount; 88169

(b) If the total state share of instruction appropriation 88170
relative to the prior year is greater than 95 per cent but less 88171
than 102 per cent, no campus shall receive a state share of 88172
instruction allocation that is less than three percentage points 88173
below the percentage change in the total state share of 88174
instruction percentage change; 88175

(c) If the total share of instruction appropriation relative 88176
to the prior year is 95 per cent or less, no campus shall receive 88177
a state share of instruction allocation that is less than 2.5 88178
percentage points below the percentage change in the total state 88179
share of instruction percentage change. 88180

(3) CAPITAL COMPONENT DEDUCTION 88181

After all other adjustments have been made, state share of 88182
instruction earnings shall be reduced for each campus by the 88183
amount, if any, by which debt service charged in Am. H.B. No. 748 88184
of the 121st General Assembly, Am. Sub. H.B. No. 850 of the 122nd 88185
General Assembly, Am. H.B. No. 640 of the 123rd General Assembly, 88186

and H.B. No. 675 of the 124th General Assembly for that campus 88187
exceeds that campus's capital component earnings. The sum of the 88188
amounts deducted shall be transferred to appropriation item 88189
235-552, Capital Component, in each fiscal year. 88190

(D) REDUCTIONS IN EARNINGS 88191

If the total state share of instruction earnings in any 88192
fiscal year exceed the total appropriations available for such 88193
purposes, the Board of Regents shall proportionately reduce the 88194
state share of instruction earnings for all campuses by a uniform 88195
percentage so that the system wide sum equals available 88196
appropriations. 88197

(E) EXCEPTIONAL CIRCUMSTANCES 88198

Adjustments may be made to the state share of instruction 88199
payments and other subsidies distributed by the Board of Regents 88200
to state-assisted colleges and universities for exceptional 88201
circumstances. No adjustments for exceptional circumstances may be 88202
made without the recommendation of the Chancellor and the approval 88203
of the Controlling Board. 88204

(F) MID-YEAR APPROPRIATION REDUCTIONS TO THE STATE SHARE OF 88205
INSTRUCTION 88206

The standard provisions of the state share of instruction 88207
calculation as described in the preceding sections of temporary 88208
law shall apply to any reductions made to appropriation line item 88209
235-501, State Share of Instruction, before the Board of Regents 88210
has formally approved the final allocation of the state share of 88211
instruction funds for any fiscal year. 88212

Any reductions made to appropriation line item 235-501, State 88213
Share of Instruction, after the Board of Regents has formally 88214
approved the final allocation of the state share of instruction 88215
funds for any fiscal year, shall be uniformly applied to each 88216
campus in proportion to its share of the final allocation. 88217

(G) DISTRIBUTION OF STATE SHARE OF INSTRUCTION 88218

The state share of instruction payments to the institutions 88219
shall be in substantially equal monthly amounts during the fiscal 88220
year, unless otherwise determined by the Director of Budget and 88221
Management pursuant to section 126.09 of the Revised Code. 88222
Payments during the first six months of the fiscal year shall be 88223
based upon the state share of instruction appropriation estimates 88224
made for the various institutions of higher education according to 88225
Board of Regents enrollment estimates. Payments during the last 88226
six months of the fiscal year shall be distributed after approval 88227
of the Controlling Board upon the request of the Board of Regents. 88228

(H) LAW SCHOOL SUBSIDY 88229

The state share of instruction to state-supported 88230
universities for students enrolled in law schools in fiscal year 88231
2004 and fiscal year 2005 shall be calculated by using the number 88232
of subsidy-eligible FTE law school students funded by state 88233
subsidy in fiscal year 1995 or the actual number of 88234
subsidy-eligible FTE law school students at the institution in the 88235
fiscal year, whichever is less. 88236

Section 88.05. HIGHER EDUCATION - BOARD OF TRUSTEES 88237

Funds appropriated for instructional subsidies at colleges 88238
and universities may be used to provide such branch or other 88239
off-campus undergraduate courses of study and such master's degree 88240
courses of study as may be approved by the Board of Regents. 88241

In providing instructional and other services to students, 88242
boards of trustees of state-assisted institutions of higher 88243
education shall supplement state subsidies by income from charges 88244
to students. Each board shall establish the fees to be charged to 88245
all students, including an instructional fee for educational and 88246
associated operational support of the institution and a general 88247

fee for noninstructional services, including locally financed 88248
student services facilities used for the benefit of enrolled 88249
students. The instructional fee and the general fee shall 88250
encompass all charges for services assessed uniformly to all 88251
enrolled students. Each board may also establish special purpose 88252
fees, service charges, and fines as required; such special purpose 88253
fees and service charges shall be for services or benefits 88254
furnished individual students or specific categories of students 88255
and shall not be applied uniformly to all enrolled students. A 88256
tuition surcharge shall be paid by all students who are not 88257
residents of Ohio. 88258

The boards of trustees of individual state-assisted 88259
universities, university branch campuses, community colleges, 88260
state community colleges, and technical colleges shall limit 88261
in-state undergraduate instructional and general fee increases for 88262
an academic year over the amounts charged in the prior academic 88263
year to no more than six per cent. In addition to the six per cent 88264
main campus in-state undergraduate instructional and general fee 88265
increase limit established in this section, the Board of Trustees 88266
of The Ohio State University may authorize an additional 88267
university main campus in-state undergraduate instructional and 88268
general fee increase of three per cent for academic years 88269
2003-2004 and 2004-2005. Except for the board of trustees of the 88270
Ohio State University, the boards of trustees of individual 88271
state-assisted universities, university branch campuses, community 88272
colleges, state community colleges, and technical colleges shall 88273
not authorize combined instructional and general fee increases of 88274
more than six per cent in a single vote. The board of trustees of 88275
The Ohio State University shall not authorize combined 88276
instructional and general fee increases of more than nine per cent 88277
in a single vote. The boards of trustees of individual 88278
state-assisted universities, university branch campuses, community 88279
colleges, state community colleges, and technical colleges may 88280

authorize an additional three per cent increase in in-state 88281
undergraduate instructional and general fees in a separate vote. 88282
The additional increase shall only be used for providing 88283
scholarships to low-income students, to be known as Access 88284
Scholarship Grants, or for any other special purpose that the 88285
Board of Regents has approved. These fee increase limitations 88286
apply even if an institutional board of trustees has, prior to the 88287
effective date of this section, voted to assess a higher fee for 88288
the 2003-2004 academic year. These limitations shall not apply to 88289
increases required to comply with institutional covenants related 88290
to their obligations or to meet unfunded legal mandates or legally 88291
binding obligations incurred or commitments made prior to the 88292
effective date of this act with respect to which the institution 88293
had identified such fee increases as the source of funds. Any 88294
increase required by such covenants and any such mandates, 88295
obligations, or commitments shall be reported by the Board of 88296
Regents to the Controlling Board. These limitations may also be 88297
modified by the Board of Regents, with the approval of the 88298
Controlling Board, to respond to exceptional circumstances as 88299
identified by the Board of Regents. 88300

For purposes of calculating the instructional and general 88301
fees charged in the prior academic year in implementing the 88302
instructional and general fee increase limitations, the 88303
instructional and general fees during an academic year for any 88304
state-assisted institution of higher education on the quarter 88305
system that does not increase its instructional and general fees 88306
during the summer term shall be defined as the sum of the 88307
instructional and general fees charged to a full-time student in 88308
the fall, winter, and spring quarters. 88309

For purposes of calculating the instructional and general 88310
fees charged in the prior academic year in implementing the 88311
instructional and general fee increase limitations, the 88312

instructional and general fees during an academic year for any 88313
state-assisted institution of higher education on the quarter 88314
system that does increase its instructional and general fees 88315
during the summer term shall be defined as three-fourths of the 88316
sum of the instructional and general fees charged to a full-time 88317
student in the fall, winter, spring, and summer quarters. 88318

For purposes of calculating the instructional and general 88319
fees charged in the prior academic year in implementing the 88320
instructional and general fee increase limitations, the 88321
instructional and general fees during an academic year for any 88322
state-assisted institution of higher education on the semester 88323
system that does not increase its instructional and general fees 88324
during the summer term shall be defined as the sum of the 88325
instructional and general fees charged to a full-time student in 88326
the fall and spring semesters. 88327

For purposes of calculating the instructional and general 88328
fees charged in the prior academic year in implementing the 88329
instructional and general fee increase limitations, the 88330
instructional and general fees during an academic year for any 88331
state-assisted institution of higher education on the semester 88332
system that does increase its instructional and general fees 88333
during the summer term shall be defined as two-thirds of the sum 88334
of the instructional and general fees charged to a full-time 88335
student in the fall, spring, and summer semesters. 88336

The board of trustees of a state-assisted institution of 88337
higher education shall not authorize a waiver or nonpayment of 88338
instructional fees or general fees for any particular student or 88339
any class of students other than waivers specifically authorized 88340
by law or approved by the Chancellor. This prohibition is not 88341
intended to limit the authority of boards of trustees to provide 88342
for payments to students for services rendered the institution, 88343
nor to prohibit the budgeting of income for staff benefits or for 88344

student assistance in the form of payment of such instructional 88345
and general fees. Each state-assisted institution of higher 88346
education in its statement of charges to students shall separately 88347
identify the instructional fee, the general fee, the tuition 88348
charge, and the tuition surcharge. Fee charges to students for 88349
instruction shall not be considered to be a price of service but 88350
shall be considered to be an integral part of the state government 88351
financing program in support of higher educational opportunity for 88352
students. 88353

In providing the appropriations in support of instructional 88354
services at state-assisted institutions of higher education and 88355
the appropriations for other instruction it is the intent of the 88356
General Assembly that faculty members shall devote a proper and 88357
judicious part of their work week to the actual instruction of 88358
students. Total class credit hours of production per quarter per 88359
full-time faculty member is expected to meet the standards set 88360
forth in the budget data submitted by the Board of Regents. 88361

The authority of government vested by law in the boards of 88362
trustees of state-assisted institutions of higher education shall 88363
in fact be exercised by those boards. Boards of trustees may 88364
consult extensively with appropriate student and faculty groups. 88365
Administrative decisions about the utilization of available 88366
resources, about organizational structure, about disciplinary 88367
procedure, about the operation and staffing of all auxiliary 88368
facilities, and about administrative personnel shall be the 88369
exclusive prerogative of boards of trustees. Any delegation of 88370
authority by a board of trustees in other areas of responsibility 88371
shall be accompanied by appropriate standards of guidance 88372
concerning expected objectives in the exercise of such delegated 88373
authority and shall be accompanied by periodic review of the 88374
exercise of this delegated authority to the end that the public 88375
interest, in contrast to any institutional or special interest, 88376

shall be served. 88377

Section 88.06. STUDENT SUPPORT SERVICES 88378

The foregoing appropriation item 235-502, Student Support 88379
Services, shall be distributed by the Board of Regents to Ohio's 88380
state-assisted colleges and universities that incur 88381
disproportionate costs in the provision of support services to 88382
disabled students. 88383

OHIO INSTRUCTIONAL GRANTS 88384

Notwithstanding section 3333.12 of the Revised Code, in lieu 88385
of the tables in that section, instructional grants for all 88386
full-time students shall be made for fiscal year 2004 using the 88387
tables under this heading. 88388

The tables under this heading prescribe the maximum grant 88389
amounts covering two semesters, three quarters, or a comparable 88390
portion of one academic year. The grant amount for a full-time 88391
student enrolled in an eligible institution for a semester or 88392
quarter in addition to the portion of the academic year covered by 88393
a grant determined under these tables shall be a percentage of the 88394
maximum prescribed in the applicable table. The maximum grant for 88395
a fourth quarter shall be one-third of the maximum amount 88396
prescribed under the table. The maximum grant for a third semester 88397
shall be one-half of the maximum amount prescribed under the 88398
table. 88399

For a full-time student who is a dependent and enrolled in a 88400
nonprofit educational institution that is not a state-assisted 88401
institution and that has a certificate of authorization issued 88402
pursuant to Chapter 1713. of the Revised Code, the amount of the 88403
instructional grant for two semesters, three quarters, or a 88404
comparable portion of the academic year shall be determined in 88405
accordance with the following table: 88406

	Private Institution					88407
	Table of Grants					88408
	Maximum Grant \$5,466					88409
Gross Income	Number of Dependents					88410
	1	2	3	4	5 or more	88411
\$0 - \$15,000	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	88412
\$15,001 - \$16,000	4,920	5,466	5,466	5,466	5,466	88413
\$16,001 - \$17,000	4,362	4,920	5,466	5,466	5,466	88414
\$17,001 - \$18,000	3,828	4,362	4,920	5,466	5,466	88415
\$18,001 - \$19,000	3,288	3,828	4,362	4,920	5,466	88416
\$19,001 - \$22,000	2,736	3,288	3,828	4,362	4,920	88417
\$22,001 - \$25,000	2,178	2,736	3,288	3,828	4,362	88418
\$25,001 - \$28,000	1,626	2,178	2,736	3,288	3,828	88419
\$28,001 - \$31,000	1,344	1,626	2,178	2,736	3,288	88420
\$31,001 - \$32,000	1,080	1,344	1,626	2,178	2,736	88421
\$32,001 - \$33,000	984	1,080	1,344	1,626	2,178	88422
\$33,001 - \$34,000	888	984	1,080	1,344	1,626	88423
\$34,001 - \$35,000	444	888	984	1,080	1,344	88424
\$35,001 - \$36,000	--	444	888	984	1,080	88425
\$36,001 - \$37,000	--	--	444	888	984	88426
\$37,001 - \$38,000	--	--	--	444	888	88427
\$38,001 - \$39,000	--	--	--	--	444	88428

For a full-time student who is financially independent and 88429
enrolled in a nonprofit educational institution that is not a 88430
state-assisted institution and that has a certificate of 88431
authorization issued pursuant to Chapter 1713. of the Revised 88432
Code, the amount of the instructional grant for two semesters, 88433
three quarters, or a comparable portion of the academic year shall 88434
be determined in accordance with the following table: 88435

	Private Institution					88436
	Table of Grants					88437
	Maximum Grant \$5,466					88438

Gross Income	Number of Dependents						88439
	0	1	2	3	4	5 or more	88440
Under \$4,800	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	88441
\$4,801 - \$5,300	4,920	5,466	5,466	5,466	5,466	5,466	88442
\$5,301 - \$5,800	4,362	5,028	5,466	5,466	5,466	5,466	88443
\$5,801 - \$6,300	3,828	4,584	5,028	5,466	5,466	5,466	88444
\$6,301 - \$6,800	3,288	4,158	4,584	5,028	5,466	5,466	88445
\$6,801 - \$7,300	2,736	3,726	4,158	4,584	5,028	5,466	88446
\$7,301 - \$8,300	2,178	3,282	3,726	4,158	4,584	5,028	88447
\$8,301 - \$9,300	1,626	2,838	3,282	3,726	4,158	4,584	88448
\$9,301 - \$10,300	1,344	2,394	2,838	3,282	3,726	4,158	88449
\$10,301 - \$11,800	1,080	2,166	2,394	2,838	3,282	3,726	88450
\$11,801 - \$13,300	984	1,956	2,166	2,394	2,838	3,282	88451
\$13,301 - \$14,800	888	1,878	1,956	2,166	2,394	2,838	88452
\$14,801 - \$16,300	444	1,692	1,878	1,956	2,166	2,394	88453
\$16,301 - \$19,300	--	1,122	1,584	1,770	1,956	2,166	88454
\$19,301 - \$22,300	--	546	1,014	1,476	1,662	1,848	88455
\$22,301 - \$25,300	--	438	546	1,014	1,476	1,662	88456
\$25,301 - \$30,300	--	324	438	546	1,014	1,476	88457
\$30,301 - \$35,300	--	198	216	270	324	792	88458

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	88467
Table of Grants	88468
Maximum Grant \$4,632	88469
Gross Income	88470
Number of Dependents	

Under \$4,800	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	88502
\$4,801 - \$5,300	4,182	4,632	4,632	4,632	4,632	4,632	88503
\$5,301 - \$5,800	3,684	4,272	4,632	4,632	4,632	4,632	88504
\$5,801 - \$6,300	3,222	3,876	4,272	4,632	4,632	4,632	88505
\$6,301 - \$6,800	2,790	3,504	3,876	4,272	4,632	4,632	88506
\$6,801 - \$7,300	2,292	3,156	3,504	3,876	4,272	4,632	88507
\$7,301 - \$8,300	1,854	2,760	3,156	3,504	3,876	4,272	88508
\$8,301 - \$9,300	1,416	2,412	2,760	3,156	3,504	3,876	88509
\$9,301 - \$10,300	1,134	2,058	2,412	2,760	3,156	3,504	88510
\$10,301 - \$11,800	906	1,836	2,058	2,412	2,760	3,156	88511
\$11,801 - \$13,300	852	1,650	1,836	2,058	2,412	2,760	88512
\$13,301 - \$14,800	750	1,608	1,650	1,836	2,058	2,412	88513
\$14,801 - \$16,300	372	1,434	1,608	1,650	1,836	2,058	88514
\$16,301 - \$19,300	--	942	1,338	1,518	1,650	1,836	88515
\$19,301 - \$22,300	--	456	858	1,242	1,416	1,560	88516
\$22,301 - \$25,300	--	372	456	858	1,242	1,416	88517
\$25,301 - \$30,300	--	282	372	456	858	1,242	88518
\$30,301 - \$35,300	--	168	180	228	282	666	88519

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							88525
Table of Grants							88526
Maximum Grant \$2,190							88527
Gross Income	Number of Dependents						88528
	1	2	3	4	5 or more		88529
\$0 - \$15,000	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190		88530
\$15,001 - \$16,000	1,974	2,190	2,190	2,190	2,190		88531
\$16,001 - \$17,000	1,740	1,974	2,190	2,190	2,190		88532
\$17,001 - \$18,000	1,542	1,740	1,974	2,190	2,190		88533

\$18,001 - \$19,000	1,320	1,542	1,740	1,974	2,190	88534
\$19,001 - \$22,000	1,080	1,320	1,542	1,740	1,974	88535
\$22,001 - \$25,000	864	1,080	1,320	1,542	1,740	88536
\$25,001 - \$28,000	648	864	1,080	1,320	1,542	88537
\$28,001 - \$31,000	522	648	864	1,080	1,320	88538
\$31,001 - \$32,000	420	522	648	864	1,080	88539
\$32,001 - \$33,000	384	420	522	648	864	88540
\$33,001 - \$34,000	354	384	420	522	648	88541
\$34,001 - \$35,000	174	354	384	420	522	88542
\$35,001 - \$36,000	--	174	354	384	420	88543
\$36,001 - \$37,000	--	--	174	354	384	88544
\$37,001 - \$38,000	--	--	--	174	354	88545
\$38,001 - \$39,000	--	--	--	--	174	88546

For a full-time student who is financially independent and 88547
enrolled in a state-assisted educational institution, the amount 88548
of the instructional grant for two semesters, three quarters, or a 88549
comparable portion of the academic year shall be determined in 88550
accordance with the following table: 88551

Public Institution 88552

Table of Grants 88553

Maximum Grant \$2,190 88554

Gross Income Number of Dependents 88555

	0	1	2	3	4	5 or more	
Under \$4,800	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	88557
\$4,801 - \$5,300	1,974	2,190	2,190	2,190	2,190	2,190	88558
\$5,301 - \$5,800	1,740	2,016	2,190	2,190	2,190	2,190	88559
\$5,801 - \$6,300	1,542	1,830	2,016	2,190	2,190	2,190	88560
\$6,301 - \$6,800	1,320	1,674	1,830	2,016	2,190	2,190	88561
\$6,801 - \$7,300	1,080	1,494	1,674	1,830	2,016	2,190	88562
\$7,301 - \$8,300	864	1,302	1,494	1,674	1,830	2,016	88563
\$8,301 - \$9,300	648	1,128	1,302	1,494	1,674	1,830	88564
\$9,301 - \$10,300	522	954	1,128	1,302	1,494	1,674	88565

\$10,301 - \$11,800	420	858	954	1,128	1,302	1,494	88566
\$11,801 - \$13,300	384	774	858	954	1,128	1,302	88567
\$13,301 - \$14,800	354	744	774	858	954	1,128	88568
\$14,801 - \$16,300	174	678	744	774	858	954	88569
\$16,301 - \$19,300	--	450	630	702	774	858	88570
\$19,301 - \$22,300	--	216	402	594	654	732	88571
\$22,301 - \$25,300	--	174	216	402	594	654	88572
\$25,301 - \$30,300	--	132	174	216	402	594	88573
\$30,301 - \$35,300	--	78	84	102	132	312	88574

The foregoing appropriation item 235-503, Ohio Instructional Grants, shall be used to make the payments authorized by division (C) of section 3333.26 of the Revised Code to the institutions described in that division. In addition, this appropriation shall be used to reimburse the institutions described in division (B) of section 3333.26 of the Revised Code for the cost of the waivers required by that division.

The unencumbered balance of appropriation item 235-503, Ohio Instructional Grants, at the end of fiscal year 2004 shall be transferred to fiscal year 2005 for use under the same appropriation item. The amounts transferred are hereby appropriated.

WAR ORPHANS SCHOLARSHIPS

The foregoing appropriation item 235-504, War Orphans Scholarships, shall be used to reimburse state-assisted institutions of higher education for waivers of instructional fees and general fees provided by them, to provide grants to institutions that have received a certificate of authorization from the Ohio Board of Regents under Chapter 1713. of the Revised Code, in accordance with the provisions of section 5910.04 of the Revised Code, and to fund additional scholarship benefits provided by section 5910.032 of the Revised Code.

Section 88.07. AIR FORCE INSTITUTE OF TECHNOLOGY 88597

The foregoing appropriation item 235-508, Air Force Institute 88598
of Technology, shall be used to strengthen the research and 88599
educational linkages between the Wright Patterson Air Force Base 88600
and institutions of higher education in Ohio. Of the foregoing 88601
appropriation item 235-508, Air Force Institute of Technology, 88602
\$1,380,000 in fiscal year 2004 and \$1,380,000 in fiscal year 2005 88603
shall be used for research projects that connect the Air Force 88604
Research Laboratories with university partners. The institute 88605
shall provide annual reports to the Third Frontier Commission, 88606
that discuss existing, planned, or possible collaborations between 88607
programs and funding recipients related to technology, research 88608
development, commercialization, and support for Ohio's economic 88609
development. 88610

Of the foregoing appropriation item 235-508, Air Force 88611
Institute of Technology, \$500,000 in each fiscal year shall be 88612
used to match federal dollars to support the Wright Brothers 88613
Institute. Funds shall be used by the Wright Brothers Institute to 88614
create or expand Ohio-based technology and commercial development 88615
collaborations between industry, academia, and government in areas 88616
which include carbon nano-tube materials technology, genome-based 88617
biotechnology, knowledge-creation information technology, 88618
cognitive systems modeling and engineering, or other related 88619
projects as deemed appropriate by the institute. 88620

Of the foregoing appropriation item 235-508, Air Force 88621
Institute of Technology, \$316,523 in fiscal year 2004 and \$273,860 88622
in fiscal year 2005 shall be used to directly support 88623
collaborative research between academia, industry, and the Air 88624
Force for Wright Brothers Institute Nanomaterials and Advanced 88625
Data Management and Analysis. 88626

OHIO SUPERCOMPUTER CENTER 88627

The foregoing appropriation item 235-510, Ohio Supercomputer Center, shall be used by the Board of Regents to support the operation of the center, located at The Ohio State University, as a statewide resource available to Ohio research universities both public and private. It is also intended that the center be made accessible to private industry as appropriate. Policies of the center shall be established by a governance committee, representative of Ohio's research universities and private industry, to be appointed by the Chancellor of the Board of Regents and established for this purpose.

The Ohio Supercomputer Center shall report on expanding solutions-oriented, computational science services to industrial and other customers, including alignment programs and recipients, and develop a plan for a computational science initiative in collaboration with the Wright Centers of Innovation program and the Computer Science Graduate Studies Program.

COOPERATIVE EXTENSION SERVICE

The foregoing appropriation item 235-511, Cooperative Extension Service, shall be disbursed through the Board of Regents to The Ohio State University in monthly payments, unless otherwise determined by the Director of Budget and Management pursuant to section 126.09 of the Revised Code.

Of the foregoing appropriation item 235-511, Cooperative Extension Service, \$182,842 in fiscal year 2004 and \$178,271 in fiscal year 2005 shall be used for additional staffing for county agents for expanded 4-H activities. Of the foregoing appropriation item 235-511, Cooperative Extension Service, \$182,842 in fiscal year 2004 and \$178,271 in fiscal year 2005 shall be used by the Cooperative Extension Service, through the Enterprise Center for Economic Development in cooperation with other agencies, for a public-private effort to create and operate a small business

economic development program to enhance the development of 88659
alternatives to the growing of tobacco, and implement, through 88660
applied research and demonstration, the production and marketing 88661
of other high-value crops and value-added products. Of the 88662
foregoing appropriation item 235-511, Cooperative Extension 88663
Service, \$56,594 in fiscal year 2004 and \$55,179 in fiscal year 88664
2005 shall be used for farm labor mediation and education 88665
programs. Of the foregoing appropriation item 235-511, Cooperative 88666
Extension Service, \$187,195 in fiscal year 2004 and \$182,515 in 88667
fiscal year 2005 shall be used to support the Ohio State 88668
University Marion Enterprise Center. 88669

Of the foregoing appropriation item 235-511, Cooperative 88670
Extension Service, \$792,750 in fiscal year 2004 and \$772,931 in 88671
fiscal year 2005 shall be used to support the Ohio Watersheds 88672
Initiative. 88673

CENTRAL STATE SUPPLEMENT 88674

The foregoing appropriation item 235-514, Central State 88675
Supplement, shall be used by Central State University to keep 88676
undergraduate fees below the statewide average, consistent with 88677
its mission of service to many first-generation college students 88678
from groups historically underrepresented in higher education and 88679
from families with limited incomes. 88680

PERFORMANCE STANDARDS FOR MEDICAL EDUCATION 88681

The Board of Regents, in consultation with the state-assisted 88682
medical colleges, shall develop performance standards for medical 88683
education. Special emphasis in the standards shall be placed on 88684
attempting to ensure that at least 50 per cent of the aggregate 88685
number of students enrolled in state-assisted medical colleges 88686
continue to enter residency as primary care physicians. Primary 88687
care physicians are general family practice physicians, general 88688
internal medicine practitioners, and general pediatric care 88689

physicians. The Board of Regents shall monitor medical school 88690
performance in relation to their plans for reaching the 50 per 88691
cent systemwide standard for primary care physicians. 88692

Section 88.08. CASE WESTERN RESERVE UNIVERSITY SCHOOL OF 88693
MEDICINE 88694

The foregoing appropriation item 235-515, Case Western 88695
Reserve University School of Medicine, shall be disbursed to Case 88696
Western Reserve University through the Board of Regents in 88697
accordance with agreements entered into as provided for by section 88698
3333.10 of the Revised Code, provided that the state support per 88699
full-time medical student shall not exceed that provided to 88700
full-time medical students at state universities. 88701

FAMILY PRACTICE, GERIATRIC MEDICINE, AND PRIMARY CARE 88702
RESIDENCIES 88703

The Board of Regents shall develop plans consistent with 88704
existing criteria and guidelines as may be required for the 88705
distribution of appropriation items 235-519, Family Practice, 88706
235-525, Geriatric Medicine, and 235-526, Primary Care 88707
Residencies. 88708

SHAWNEE STATE SUPPLEMENT 88709

The foregoing appropriation item 235-520, Shawnee State 88710
Supplement, shall be used by Shawnee State University as detailed 88711
by both of the following: 88712

(A) To allow Shawnee State University to keep its 88713
undergraduate fees below the statewide average, consistent with 88714
its mission of service to an economically depressed Appalachian 88715
region; 88716

(B) To allow Shawnee State University to employ new faculty 88717
to develop and teach in new degree programs that meet the needs of 88718
Appalachians. 88719

POLICE AND FIRE PROTECTION 88720

The foregoing appropriation item 235-524, Police and Fire 88721
Protection, shall be used for police and fire services in the 88722
municipalities of Kent, Athens, Oxford, Fairborn, Bowling Green, 88723
Portsmouth, Xenia Township (Greene County), and Rootstown 88724
Township, that may be used to assist these local governments in 88725
providing police and fire protection for the central campus of the 88726
state-affiliated university located therein. Each participating 88727
municipality and township shall receive at least \$5,000 each year. 88728
Funds shall be distributed according to the methodology employed 88729
by the Board of Regents in the previous biennium. 88730

PRIMARY CARE RESIDENCIES 88731

The foregoing appropriation item 235-526, Primary Care 88732
Residencies, shall be distributed in each fiscal year of the 88733
biennium, based on whether or not the institution has submitted 88734
and gained approval for a plan. If the institution does not have 88735
an approved plan, it shall receive five per cent less funding per 88736
student than it would have received from its annual allocation. 88737
The remaining funding shall be distributed among those 88738
institutions that meet or exceed their targets. 88739

OHIO AEROSPACE INSTITUTE 88740

The foregoing appropriation item 235-527, Ohio Aerospace 88741
Institute, shall be distributed by the Board of Regents under 88742
section 3333.042 of the Revised Code. 88743

ACADEMIC SCHOLARSHIPS 88744

The foregoing appropriation item 235-530, Academic 88745
Scholarships, shall be used to provide academic scholarships to 88746
students under section 3333.22 of the Revised Code. 88747

STUDENT CHOICE GRANTS 88748

The foregoing appropriation item 235-531, Student Choice 88749

Grants, shall be used to support the Student Choice Grant Program 88750
created by section 3333.27 of the Revised Code. The unencumbered 88751
balance of appropriation item 235-531, Student Choice Grants, at 88752
the end of fiscal year 2004 shall be transferred to fiscal year 88753
2005 for use under the same appropriation item to maintain grant 88754
award amounts in fiscal year 2005 equal to the awards provided in 88755
fiscal year 2004. The amounts transferred are hereby appropriated. 88756

STUDENT WORKFORCE DEVELOPMENT GRANTS 88757

The foregoing appropriation item 235-534, Student Workforce 88758
Development Grants, shall be used to support the Student Workforce 88759
Development Grant Program. Of the appropriated funds available, 88760
the Board of Regents shall distribute grants to each eligible 88761
student in an academic year. The size of each grant award shall be 88762
determined by the Board of Regents based on the amount of funds 88763
available for the program. 88764

OHIO AGRICULTURAL RESEARCH AND DEVELOPMENT CENTER 88765

The foregoing appropriation item 235-535, Ohio Agricultural 88766
Research and Development Center, shall be disbursed through the 88767
Board of Regents to The Ohio State University in monthly payments, 88768
unless otherwise determined by the Director of Budget and 88769
Management pursuant to section 126.09 of the Revised Code. The 88770
Ohio Agricultural Research and Development Center shall not be 88771
required to remit payment to The Ohio State University during the 88772
2003-2005 biennium for cost reallocation assessments. The cost 88773
reallocation assessments include, but are not limited to, any 88774
assessment on state appropriations to the center. The Ohio 88775
Agricultural Research and Development Center, in conjunction with 88776
the Third Frontier Commission, shall provide for an independently 88777
evaluated self-study of research excellence and commercial 88778
relevance in a manner to be prescribed by the Third Frontier 88779
Commission. 88780

Of the foregoing appropriation item 235-535, Ohio 88781
Agricultural Research and Development Center, \$470,164 in fiscal 88782
year 2004 and \$458,410 in fiscal year 2005 shall be used to 88783
purchase equipment. 88784

Of the foregoing appropriation item 235-535, Ohio 88785
Agricultural Research and Development Center, \$827,141 in fiscal 88786
year 2004 and \$806,463 in fiscal year 2005 shall be distributed to 88787
the Piketon Agricultural Research and Extension Center. 88788

Of the foregoing appropriation item 235-535, Ohio 88789
Agricultural Research and Development Center, \$217,669 in fiscal 88790
year 2004 and \$212,227 in fiscal year 2005 shall be distributed to 88791
the Raspberry/Strawberry-Ellagic Acid Research program at the Ohio 88792
State University Medical College in cooperation with the Ohio 88793
State University College of Agriculture. 88794

Of the foregoing appropriation item 235-535, Ohio 88795
Agricultural Research and Development Center, \$43,534 in fiscal 88796
year 2004 and \$42,445 in fiscal year 2005 shall be used to support 88797
the Ohio Berry Administrator. 88798

Of the foregoing appropriation item 235-535, Ohio 88799
Agricultural Research and Development Center, \$87,067 in fiscal 88800
year 2004 and \$84,890 in fiscal year 2005 shall be used for the 88801
development of agricultural crops and products not currently in 88802
widespread production in Ohio, in order to increase the income and 88803
viability of family farmers. 88804

STATE UNIVERSITY CLINICAL TEACHING 88805

The foregoing appropriation items 235-536, The Ohio State 88806
University Clinical Teaching; 235-537, University of Cincinnati 88807
Clinical Teaching; 235-538, Medical College of Ohio at Toledo 88808
Clinical Teaching; 235-539, Wright State University Clinical 88809
Teaching; 235-540, Ohio University Clinical Teaching; and 235-541, 88810
Northeastern Ohio Universities College of Medicine Clinical 88811

Teaching, shall be distributed through the Board of Regents. 88812

Of the foregoing appropriation item 235-539, Wright State 88813
University Clinical Teaching, \$124,644 in each fiscal year of the 88814
biennium shall be for the use of Wright State University's Ellis 88815
Institute for Clinical Teaching Studies to operate the clinical 88816
facility to serve the Greater Dayton area. 88817

SCHOOL OF INTERNATIONAL BUSINESS 88818

Of the foregoing appropriation item 235-547, School of 88819
International Business, \$901,975 in fiscal year 2004 and \$879,426 88820
in fiscal year 2005 shall be used for the continued development 88821
and support of the School of International Business of the state 88822
universities of northeast Ohio. The money shall go to the 88823
University of Akron. These funds shall be used by the university 88824
to establish a School of International Business located at the 88825
University of Akron. It may confer with Kent State University, 88826
Youngstown State University, and Cleveland State University as to 88827
the curriculum and other matters regarding the school. 88828

Of the foregoing appropriation item 235-547, School of 88829
International Business, \$181,318 in fiscal year 2004 and \$176,785 88830
in fiscal year 2005 shall be used by the University of Toledo 88831
College of Business for expansion of its international business 88832
programs. 88833

Of the foregoing appropriation item 235-547, School of 88834
International Business, \$181,318 in fiscal year 2004 and \$176,785 88835
in fiscal year 2005 shall be used to support the Ohio State 88836
University BioMEMS program. 88837

PART-TIME STUDENT INSTRUCTIONAL GRANTS 88838

The foregoing appropriation item 235-549, Part-time Student 88839
Instructional Grants, shall be used to support a grant program for 88840
part-time undergraduate students who are Ohio residents and who 88841
are enrolled in degree granting programs. 88842

Eligibility for participation in the program shall include 88843
degree granting educational institutions that hold a certificate 88844
of registration from the State Board of Career Colleges and 88845
Schools, and nonprofit institutions that have a certificate of 88846
authorization issued pursuant to Chapter 1713. of the Revised 88847
Code, as well as state-assisted colleges and universities. Grants 88848
shall be given to students on the basis of need, as determined by 88849
the college, which, in making these determinations, shall give 88850
special consideration to single-parent heads-of-household and 88851
displaced homemakers who enroll in an educational degree program 88852
that prepares the individual for a career. In determining need, 88853
the college also shall consider the availability of educational 88854
assistance from a student's employer. It is the intent of the 88855
General Assembly that these grants not supplant such assistance. 88856

Section 88.09. CAPITAL COMPONENT 88857

The foregoing appropriation item 235-552, Capital Component, 88858
shall be used by the Board of Regents to implement the capital 88859
funding policy for state-assisted colleges and universities 88860
established in Am. H.B. No. 748 of the 121st General Assembly. 88861
Appropriations from this item shall be distributed to all campuses 88862
for which the estimated campus debt service attributable to new 88863
qualifying capital projects is less than the campus's 88864
formula-determined capital component allocation. Campus 88865
allocations shall be determined by subtracting the estimated 88866
campus debt service attributable to new qualifying capital 88867
projects from the campus's formula-determined capital component 88868
allocation. Moneys distributed from this appropriation item shall 88869
be restricted to capital-related purposes. 88870

Any campus for which the estimated campus debt service 88871
attributable to qualifying capital projects is greater than the 88872
campus's formula-determined capital component allocation shall 88873

have the difference subtracted from its State Share of Instruction 88874
allocation in each fiscal year. The sum of all such amounts shall 88875
be transferred from appropriation item 235-501, State Share of 88876
Instruction, to appropriation item 235-552, Capital Component. 88877

DAYTON AREA GRADUATE STUDIES INSTITUTE 88878

The foregoing appropriation item 235-553, Dayton Area 88879
Graduate Studies Institute, shall be used by the Board of Regents 88880
to support the Dayton Area Graduate Studies Institute, an 88881
engineering graduate consortium of three universities in the 88882
Dayton area: Wright State University, the University of Dayton, 88883
and the Air Force Institute of Technology, with the participation 88884
of the University of Cincinnati and The Ohio State University. 88885

Of the foregoing appropriation item 235-553, Dayton Area 88886
Graduate Studies Institute, \$497,666 in fiscal year 2004 and 88887
\$417,053 in fiscal year 2005 shall be used to directly support 88888
collaborative research between academia, industry, and the Air 88889
Force for Wright Brothers Institute Nanomaterials and Advanced 88890
Data Management and Analysis. 88891

COMPUTER SCIENCE GRADUATE EDUCATION 88892

The foregoing appropriation item 235-554, Computer Science 88893
Graduate Education, shall be used by the Board of Regents to 88894
support improvements in graduate programs in computer science at 88895
state-assisted universities. Up to \$174,135 in fiscal year 2004, 88896
and up to \$169,782 in fiscal year 2005, may be used to support 88897
collaborative efforts in graduate education in this program area. 88898
The collaborative program shall be coordinated by the Ohio 88899
Supercomputer Center. 88900

OHIO ACADEMIC RESOURCES NETWORK (OARNET) 88901

The foregoing appropriation item 235-556, Ohio Academic 88902
Resources Network, shall be used to support the operations of the 88903
Ohio Academic Resources Network, which shall include support for 88904

Ohio's state-assisted colleges and universities in maintaining and 88905
enhancing network connections. The network shall give priority to 88906
supporting the Third Frontier Network and allocating bandwidth to 88907
programs directly supporting Ohio's economic development. 88908

LONG-TERM CARE RESEARCH 88909

The foregoing appropriation item 235-558, Long-term Care 88910
Research, shall be disbursed to Miami University for long-term 88911
care research. 88912

BOWLING GREEN STATE UNIVERSITY CANADIAN STUDIES CENTER 88913

The foregoing appropriation item 235-561, Bowling Green State 88914
University Canadian Studies Center, shall be used by the Canadian 88915
Studies Center at Bowling Green State University to study 88916
opportunities for Ohio and Ohio businesses to benefit from the 88917
Free Trade Agreement between the United States and Canada. 88918

THE OHIO STATE UNIVERSITY CLINIC SUPPORT 88919

The foregoing appropriation item 235-572, The Ohio State 88920
University Clinic Support, shall be distributed through the Board 88921
of Regents to The Ohio State University for support of dental and 88922
veterinary medicine clinics. 88923

Section 88.10. URBAN UNIVERSITY PROGRAMS 88924

Of the foregoing appropriation item 235-583, Urban University 88925
Programs, universities receiving funds that are used to support an 88926
ongoing university unit shall certify periodically in a manner 88927
approved by the Board of Regents that program funds are being 88928
matched on a one-to-one basis with equivalent resources. Overhead 88929
support may not be used to meet this requirement. Where Urban 88930
University Program funds are being used to support an ongoing 88931
university unit, matching funds shall come from continuing rather 88932
than one-time sources. At each participating state-assisted 88933
institution of higher education, matching funds shall be within 88934

the substantial control of the individual designated by the 88935
institution's president as the Urban University Program 88936
representative. 88937

Of the foregoing appropriation item 235-583, Urban University 88938
Programs, \$317,754 in fiscal year 2004 and \$309,811 in fiscal year 88939
2005 shall be used to support a public communication outreach 88940
program (WCPN). The primary purpose of the program shall be to 88941
develop a relationship between Cleveland State University and 88942
nonprofit communications entities. 88943

Of the foregoing appropriation item 235-583, Urban University 88944
Programs, \$150,515 in fiscal year 2004 and \$146,753 in fiscal year 88945
2005 shall be used to support the Center for the Interdisciplinary 88946
Study of Education and the Urban Child at Cleveland State 88947
University. These funds shall be distributed according to rules 88948
adopted by the Board of Regents and shall be used by the center 88949
for interdisciplinary activities targeted toward increasing the 88950
chance of lifetime success of the urban child, including 88951
interventions beginning with the prenatal period. The primary 88952
purpose of the center is to study issues in urban education and to 88953
systematically map directions for new approaches and new solutions 88954
by bringing together a cadre of researchers, scholars, and 88955
professionals representing the social, behavioral, education, and 88956
health disciplines. 88957

Of the foregoing appropriation item 235-583, Urban University 88958
Programs, \$217,411 in fiscal year 2004 and \$211,976 in fiscal year 88959
2005 shall be used to support the Kent State University Learning 88960
and Technology Project. This project is a kindergarten through 88961
university collaboration between schools surrounding Kent's eight 88962
campuses in northeast Ohio, and corporate partners who will assist 88963
in development and delivery. 88964

The Kent State University Project shall provide a faculty 88965
member who has a full-time role in the development of 88966

collaborative activities and teacher instructional programming 88967
between Kent and the K-12th grade schools that surround its eight 88968
campuses; appropriate student support staff to facilitate these 88969
programs and joint activities; and hardware and software to 88970
schools that will make possible the delivery of instruction to 88971
pre-service and in-service teachers, and their students, in their 88972
own classrooms or school buildings. This shall involve the 88973
delivery of low-bandwidth streaming video and web-based 88974
technologies in a distributed instructional model. 88975

Of the foregoing appropriation item 235-583, Urban University 88976
Programs, \$83,619 in fiscal year 2004 and \$81,529 in fiscal year 88977
2005 shall be used to support the Ameritech Classroom/Center 88978
for Research at Kent State University. 88979

Of the foregoing appropriation item 235-583, Urban University 88980
Programs, \$836,198 in fiscal year 2004 and \$815,293 in fiscal year 88981
2005 shall be used to support the Polymer Distance Learning 88982
Project at the University of Akron. 88983

Of the foregoing appropriation item 235-583, Urban University 88984
Programs, \$41,810 in fiscal year 2004 and \$40,765 in fiscal year 88985
2005 shall be distributed to the Kent State University/Cleveland 88986
Design Center program. 88987

Of the foregoing appropriation item 235-583, Urban University 88988
Programs, \$209,049 in fiscal year 2004 and \$203,823 in fiscal year 88989
2005 shall be used to support the Bliss Institute of Applied 88990
Politics at the University of Akron. 88991

Of the foregoing appropriation item 235-583, Urban University 88992
Programs, \$12,544 in fiscal year 2004 and \$12,228 in fiscal year 88993
2005 shall be used for the Advancing-Up Program at the University 88994
of Akron. 88995

Of the foregoing appropriation item 235-583, Urban University 88996
Programs, \$1,840,168 in fiscal year 2004 and \$1,794,164 in fiscal 88997

year 2005 shall be distributed by the Board of Regents to 88998
Cleveland State University in support of the Maxine Goodman Levin 88999
College of Urban Affairs. 89000

Of the foregoing appropriation item 235-583, Urban University 89001
Programs, \$1,840,168 in fiscal year 2004 and \$1,794,164 in fiscal 89002
year 2005 shall be distributed to the Northeast Ohio Research 89003
Consortium, the Urban Linkages Program, and the Urban Research 89004
Technical Assistance Grant Program. The distribution among the 89005
three programs shall be determined by the chair of the Urban 89006
University Program. 89007

Of the foregoing appropriation item 235-583, Urban University 89008
Programs, \$175,000 in each fiscal year shall be used to support 89009
the Strategic Economic Research Collaborative at the University of 89010
Toledo Urban Affairs Center. 89011

Of the foregoing appropriation item 235-583, Urban University 89012
Programs, \$175,000 in each fiscal year shall be used to support 89013
the Institute for Collaborative Research and Public Humanities at 89014
The Ohio State University. 89015

RURAL UNIVERSITY PROJECTS 89016

Of the foregoing appropriation item 235-587, Rural University 89017
Projects, Bowling Green State University shall receive \$300,005 in 89018
fiscal year 2004 and \$300,005 in fiscal year 2005, Miami 89019
University shall receive \$279,005 in fiscal year 2004 and \$279,005 89020
in fiscal year 2005, and Ohio University shall receive \$653,973 in 89021
fiscal year 2004 and \$653,973 in fiscal year 2005. These funds 89022
shall be used to support the Institute for Local Government 89023
Administration and Rural Development at Ohio University, the 89024
Center for Public Management and Regional Affairs at Miami 89025
University, and the Center for Policy Analysis and Public Service 89026
at Bowling Green State University. 89027

A small portion of the funds provided to Ohio University 89028

shall also be used for the Institute for Local Government 89029
Administration and Rural Development State and Rural Policy 89030
Partnership with the Governor's Office of Appalachia and the 89031
Appalachian delegation of the General Assembly. 89032

Of the foregoing appropriation item 235-587, Rural University 89033
Projects, \$18,131 in fiscal year 2004 and \$18,131 in fiscal year 89034
2005 shall be used to support the Washington State Community 89035
College day care center. 89036

Of the foregoing appropriation item 235-587, Rural University 89037
Projects, \$54,396 in fiscal year 2004 and \$54,396 in fiscal year 89038
2005 shall be used to support the COAD/ILGARD/GOA Appalachian 89039
Leadership Initiative. 89040

Section 88.11. OHIO RESOURCE CENTER FOR MATHEMATICS, SCIENCE, 89041
AND READING 89042

The foregoing appropriation item 235-588, Ohio Resource 89043
Center for Mathematics, Science, and Reading, shall be used to 89044
support a resource center for mathematics, science, and reading to 89045
be located at a state-assisted university for the purpose of 89046
identifying best educational practices in primary and secondary 89047
schools and establishing methods for communicating them to 89048
colleges of education and school districts. The Ohio Resource 89049
Center for Mathematics, Science, and Reading shall not make 89050
available resources that are inconsistent with standards and 89051
policies of the State Board of Education. 89052

INTERNATIONAL CENTER FOR WATER RESOURCES DEVELOPMENT 89053

The foregoing appropriation item 235-595, International 89054
Center for Water Resources Development, shall be used to support 89055
the International Center for Water Resources Development at 89056
Central State University. The center shall develop methods to 89057
improve the management of water resources for Ohio and for 89058

emerging nations.	89059
HAZARDOUS MATERIALS PROGRAM	89060
The foregoing appropriation item 235-596, Hazardous Materials Program, shall be disbursed to Cleveland State University for the operation of a program to certify firefighters for the handling of hazardous materials. Training shall be available to all Ohio firefighters.	89061 89062 89063 89064 89065
Of the foregoing appropriation item 235-596, Hazardous Materials Program, \$130,601 in fiscal year 2004 and \$127,337 in fiscal year 2005 shall be used to support the Center for the Interdisciplinary Study of Education and Leadership in Public Service at Cleveland State University. These funds shall be distributed by the Board of Regents and shall be used by the center targeted toward increasing the role of special populations in public service and not-for-profit organizations. The primary purpose of the center is to study issues in public service and to guide strategies for attracting new communities into public service occupations by bringing together a cadre of researchers, scholars and professionals representing the public administration, social behavioral, and education disciplines.	89066 89067 89068 89069 89070 89071 89072 89073 89074 89075 89076 89077 89078
NATIONAL GUARD SCHOLARSHIP PROGRAM	89079
The Board of Regents shall disburse funds from appropriation item 235-599, National Guard Scholarship Program, at the direction of the Adjutant General.	89080 89081 89082
* PLEDGE OF FEES	89083
Any new pledge of fees, or new agreement for adjustment of fees, made in the 2003-2005 biennium to secure bonds or notes of a state-assisted institution of higher education for a project for which bonds or notes were not outstanding on the effective date of this section shall be effective only after approval by the Board of Regents, unless approved in a previous biennium.	89084 89085 89086 89087 89088 89089

HIGHER EDUCATION GENERAL OBLIGATION DEBT SERVICE 89090

The foregoing appropriation item 235-909, Higher Education 89091
General Obligation Debt Service, shall be used to pay all debt 89092
service and related financing costs at the times they are required 89093
to be made pursuant to sections 151.01 and 151.04 of the Revised 89094
Code during the period from July 1, 2003, to June 30, 2005. The 89095
Office of the Sinking Fund or the Director of Budget and 89096
Management shall effectuate the required payments by an intrastate 89097
transfer voucher. 89098

Section 88.12. SALES AND SERVICES 89099

The Board of Regents is authorized to charge and accept 89100
payment for the provision of goods and services. Such charges 89101
shall be reasonably related to the cost of producing the goods and 89102
services. No charges may be levied for goods or services that are 89103
produced as part of the routine responsibilities or duties of the 89104
Board. All revenues received by the Board of Regents shall be 89105
deposited into Fund 456, and may be used by the Board of Regents 89106
to pay for the costs of producing the goods and services. 89107

OHIO HIGHER EDUCATIONAL FACILITY COMMISSION SUPPORT 89108

The foregoing appropriation item 235-602, Higher Educational 89109
Facility Commission Administration, shall be used by the Board of 89110
Regents for operating expenses related to the Board of Regents' 89111
support of the activities of the Ohio Higher Educational Facility 89112
Commission. Upon the request of the chancellor, the Director of 89113
Budget and Management shall transfer up to \$20,000 cash from Fund 89114
461 to Fund 4E8 in each fiscal year of the biennium. 89115

PHYSICIAN LOAN REPAYMENT 89116

The foregoing appropriation item 235-604, Physician Loan 89117
Repayment, shall be used in accordance with sections 3702.71 to 89118
3702.81 of the Revised Code. 89119

NURSING LOAN PROGRAM 89120

The foregoing appropriation item 235-606, Nursing Loan 89121
Program, shall be used to administer the nurse education 89122
assistance program. Up to \$159,600 in fiscal year 2004 and 89123
\$167,580 in fiscal year 2005 may be used for operating expenses 89124
associated with the program. Any additional funds needed for the 89125
administration of the program are subject to Controlling Board 89126
approval. 89127

Section 88.13. SCIENCE AND TECHNOLOGY COLLABORATION 89128

The Board of Regents shall work in close collaboration with 89129
the Department of Development and the Third Frontier Commission in 89130
relation to appropriation items and programs listed in the 89131
following paragraph, and other technology-related appropriations 89132
and programs in the Department of Development and the Board of 89133
Regents as these agencies may designate, to ensure implementation 89134
of a coherent state strategy with respect to science and 89135
technology. 89136

Each of the following appropriations and programs: 195-401, 89137
Thomas Edison Program; 195-408, Coal Research Development; 89138
195-422, Third Frontier Action Fund; 195-632, Coal Research and 89139
Development Fund; 235-454, Research Challenge; 235-508, Air Force 89140
Institute of Technology; 235-510, Ohio Supercomputer Center; 89141
235-527, Ohio Aerospace Institute; 235-535, Ohio Agricultural 89142
Research and Development Center; 235-553, Dayton Area Graduate 89143
Studies Institute; 235-554, Computer Science Graduate Education; 89144
235-556, Ohio Academic Resources Network; and 195-405, Biomedical 89145
Research and Technology Transfer Trust, shall be reviewed annually 89146
by the Third Frontier Commission with respect to its development 89147
of complementary relationships within a combined state science and 89148
technology investment portfolio and its overall contribution to 89149
the state's science and technology strategy, including the 89150

adoption of appropriately consistent criteria for: (1) the 89151
scientific merit of activities supported by the program; (2) the 89152
relevance of the program's activities to commercial opportunities 89153
in the private sector; (3) the private sector's involvement in a 89154
process that continually evaluates commercial opportunities to use 89155
the work supported by the program; and (4) the ability of the 89156
program and recipients of grant funding from the program to engage 89157
in activities that are collaborative, complementary, and efficient 89158
with respect to the expenditure of state funds. All programs 89159
listed above shall provide annual reports to the Third Frontier 89160
Commission discussing existing, planned, or possible 89161
collaborations between programs and recipients of grant funding 89162
related to technology, development, commercialization, and 89163
supporting Ohio's economic development. The annual review by the 89164
Third Frontier Commission shall be a comprehensive review of the 89165
entire state science and technology program portfolio rather than 89166
a review of individual programs. 89167

REPAYMENT OF RESEARCH FACILITY INVESTMENT FUND MONEYS 89168

Notwithstanding any provision of law to the contrary, all 89169
repayments of Research Facility Investment Fund loans shall be 89170
made to the Bond Service Trust Fund. All Research Facility 89171
Investment Fund loan repayments made prior to the effective date 89172
of this section shall be transferred by the Director of Budget and 89173
Management to the Bond Service Trust Fund within sixty days of the 89174
effective date of this section. 89175

Campuses shall make timely repayments of Research Facility 89176
Investment Fund loans, according to the schedule established by 89177
the Board of Regents. In the case of late payments, the Board of 89178
Regents may deduct from an institution's periodic subsidy 89179
distribution an amount equal to the amount of the overdue payment 89180
for that institution, transfer such amount to the Bond Service 89181
Trust Fund, and credit the appropriate institution for the 89182

repayment.	89183
VETERANS' PREFERENCES	89184
The Board of Regents shall work with the Governor's Office of Veterans' Affairs to develop specific veterans' preference guidelines for higher education institutions. These guidelines shall ensure that the institutions' hiring practices are in accordance with the intent of Ohio's veterans' preference laws.	89185 89186 89187 89188 89189
Section 88.15. STUDY OF CO-LOCATED INSTITUTIONS	89190
The Board of Regents shall review the operation and effectiveness of co-located university branch campuses and technical colleges, with particular attention to improved responsiveness to community needs and improved transfer of coursework. The Board of Regents shall report its findings and recommendations to the General Assembly not later than May 15, 2004.	89191 89192 89193 89194 89195 89196 89197
Section 88.16. On the effective date of this section, the Board of Regents shall recognize the conversion of Belmont Technical College from a technical college under Chapter 3358. of the Revised Code to a community college under Chapter 3354. of the Revised Code, and on and after the effective date of this section Belmont Technical College shall be known as Belmont Community College.	89198 89199 89200 89201 89202 89203 89204
Section 89. DRC DEPARTMENT OF REHABILITATION AND CORRECTION	89205
General Revenue Fund	89206
GRF 501-321 Institutional Operations	\$ 849,631,155 \$ 861,557,899 89207
GRF 501-403 Prisoner Compensation	\$ 8,455,052 \$ 8,705,052 89208
GRF 501-405 Halfway House	\$ 36,640,139 \$ 35,579,419 89209
GRF 501-406 Lease Rental Payments	\$ 141,997,000 \$ 146,307,900 89210

GRF 501-407	Community Nonresidential Programs	\$ 15,161,353	\$ 15,352,814	89211
GRF 501-408	Community Misdemeanor Programs	\$ 7,942,211	\$ 8,041,489	89212
GRF 501-501	Community Residential Programs - CBCF	\$ 54,720,123	\$ 55,372,875	89213
GRF 502-321	Mental Health Services	\$ 67,052,290	\$ 68,265,662	89214
GRF 503-321	Parole and Community Operations	\$ 77,445,938	\$ 78,845,845	89215
GRF 504-321	Administrative Operations	\$ 24,533,707	\$ 24,920,848	89216
GRF 505-321	Institution Medical Services	\$ 118,406,940	\$ 120,014,320	89217
GRF 506-321	Institution Education Services	\$ 24,335,287	\$ 24,747,574	89218
GRF 507-321	Institution Recovery Services	\$ 7,018,500	\$ 7,124,516	89219
TOTAL GRF	General Revenue Fund	\$ 1,433,339,695	\$ 1,454,836,213	89220
	General Services Fund Group			89221
4B0 501-601	Penitentiary Sewer Treatment Facility Services	\$ 1,693,129	\$ 1,758,177	89222
4D4 501-603	Prisoner Programs	\$ 20,537,291	\$ 20,967,703	89223
4L4 501-604	Transitional Control	\$ 1,348,740	\$ 1,593,794	89224
4S5 501-608	Education Services	\$ 4,452,754	\$ 4,564,072	89225
483 501-605	Property Receipts	\$ 383,894	\$ 393,491	89226
5H8 501-617	Offender Financial Responsibility	\$ 1,335,000	\$ 1,374,020	89227
5L6 501-611	Information Technology Services	\$ 3,650,712	\$ 3,741,980	89228
571 501-606	Training Academy Receipts	\$ 73,356	\$ 75,190	89229

593	501-618	Laboratory Services	\$	4,707,730	\$	4,825,423	89230
TOTAL GSF General Services Fund			\$	38,182,606	\$	39,293,850	89231
Group							
Federal Special Revenue Fund Group							89232
3S1	501-615	Truth-In-Sentencing	\$	24,604,435	\$	25,517,173	89233
Grants							
323	501-619	Federal Grants	\$	10,759,329	\$	11,300,335	89234
TOTAL FED Federal Special Revenue							89235
Fund Group			\$	35,363,764	\$	36,817,508	89236
Intragovernmental Service Fund Group							89237
148	501-602	Services and	\$	95,207,653	\$	95,207,653	89238
Agricultural							
200	501-607	Ohio Penal Industries	\$	29,748,175	\$	31,491,879	89239
TOTAL ISF Intragovernmental							89240
Service Fund Group			\$	124,955,828	\$	126,699,532	89241
TOTAL ALL BUDGET FUND GROUPS			\$	1,631,841,893	\$	1,657,647,103	89242

COMMUNITY CORRECTIONS TRANSFERS 89243

With the approval of the Controlling Board, the Department of 89244
 Rehabilitation and Correction shall transfer in FY 2005 from the 89245
 unexpended, unobligated GRF appropriations made to the Department 89246
 for fiscal years 2004 and 2005 at least \$3,500,000 in 89247
 appropriation authority to appropriation item 501-405, Halfway 89248
 House, and at least \$1,000,000 in appropriation authority to 89249
 appropriation item 501-501, Community Residential Programs - CBCF. 89250

ZERO-BASED BUDGETING 89251

The Director of Budget and Management shall prepare a full 89252
 zero-based budget for the biennium ending June 30, 2007, for the 89253
 Department of Rehabilitation and Correction. The Director shall 89254
 offer the Department substantial technical assistance throughout 89255
 the process of preparing its zero-based budget. The Department 89256
 shall prepare a full zero-based budget in such manner and 89257

according to such schedule as the Director of Budget and Management requires. The zero-based budget shall, as the Director of Budget and Management determines, be in addition to or in place of the estimates of revenue and proposed expenditures that the Department otherwise would be required to prepare under section 126.02 of the Revised Code.

OHIO BUILDING AUTHORITY LEASE PAYMENTS

The foregoing appropriation item 501-406, Lease Rental Payments, shall be used for payments to the Ohio Building Authority for the period July 1, 2003, to June 30, 2005, pursuant to the primary leases and agreements for those buildings made under Chapter 152. of the Revised Code but limited to the aggregate amount of \$288,304,900. This appropriation amount is the source of funds pledged for bond service charges on related obligations issued pursuant to Chapter 152. of the Revised Code.

PRISONER COMPENSATION

Money from the foregoing appropriation item 501-403, Prisoner Compensation, shall be transferred on a quarterly basis by intrastate transfer voucher to the Services and Agricultural Fund (Fund 148) for the purposes of paying prisoner compensation.

CASH TRANSFER TO THE OFFENDER FINANCIAL RESPONSIBILITY FUND

On July 1, 2003, or as soon thereafter as possible, the Director of Budget and Management shall transfer the cash balance in the Adult Parole Authority Probation Services Fund (Fund 5A3) to the Offender Financial Responsibility Fund (Fund 5H8).

Section 90. RSC REHABILITATION SERVICES COMMISSION

General Revenue Fund

GRF 415-100	Personal Services	\$	8,677,911	\$	8,851,468	89285
GRF 415-402	Independent Living	\$	12,040	\$	12,280	89286

Council

GRF 415-403	Mental Health Services	\$	717,221	\$	717,221	89287
GRF 415-404	MR/DD Services	\$	1,260,816	\$	1,260,816	89288
GRF 415-405	Vocational Rehabilitation/Job and Family Services	\$	536,912	\$	536,912	89289
GRF 415-406	Assistive Technology	\$	47,531	\$	47,531	89290
GRF 415-431	Office for People with Brain Injury	\$	222,364	\$	226,012	89291
GRF 415-506	Services for People with Disabilities	\$	11,830,306	\$	12,185,215	89292
GRF 415-508	Services for the Deaf	\$	50,000	\$	50,000	89293
GRF 415-509	Services for the Elderly	\$	359,377	\$	359,377	89294
GRF 415-520	Independent Living Services	\$	50,000	\$	50,000	89295
TOTAL GRF	General Revenue Fund	\$	23,764,478	\$	24,296,832	89296
	General Services Fund Group					89297
4W5 415-606	Administrative Expenses	\$	18,016,543	\$	18,557,040	89298
467 415-609	Business Enterprise Operating Expenses	\$	1,584,545	\$	1,632,082	89299
TOTAL GSF	General Services Fund Group	\$	19,601,088	\$	20,189,122	89301
	Federal Special Revenue Fund Group					89302
3L1 415-601	Social Security Personal Care Assistance	\$	3,984,486	\$	3,988,032	89303
3L1 415-605	Social Security Community Centers for the Deaf	\$	1,100,488	\$	1,100,488	89304
3L1 415-607	Social Security Administration Cost	\$	174,119	\$	175,860	89305

3L1	415-608	Social Security Special Programs/Assistance	\$	6,941,158	\$	6,941,158	89306
3L1	415-610	Social Security Vocational Rehabilitation	\$	1,338,324	\$	1,338,324	89307
3L1	415-614	Social Security Independent Living	\$	385,917	\$	385,917	89308
3L4	415-612	Federal-Independent Living Centers or Services	\$	663,687	\$	663,687	89309
3L4	415-615	Federal - Supported Employment	\$	1,714,546	\$	1,714,546	89310
3L4	415-617	Independent Living/Vocational Rehabilitation Programs	\$	1,582,484	\$	1,582,484	89311
317	415-620	Disability Determination	\$	73,120,329	\$	76,776,343	89312
379	415-616	Federal-Vocational Rehabilitation	\$	117,955,833	\$	125,520,457	89313
TOTAL FED Federal Special							89314
Revenue Fund Group			\$	208,961,371	\$	220,187,296	89315
State Special Revenue Fund Group							89316
4L1	415-619	Services for Rehabilitation	\$	3,623,845	\$	3,176,070	89317
468	415-618	Third Party Funding	\$	1,692,991	\$	2,392,991	89318
TOTAL SSR State Special							89319
Revenue Fund Group			\$	5,316,836	\$	5,569,061	89320
TOTAL ALL BUDGET FUND GROUPS			\$	257,643,773	\$	270,242,311	89321
MR/DD SERVICES							89322
The foregoing appropriation item 415-404, MR/DD Services,							89323

shall be used as state matching funds to provide vocational 89324
rehabilitation services to mutually eligible clients between the 89325
Rehabilitation Services Commission and the Department of Mental 89326
Retardation and Developmental Disabilities. The Rehabilitation 89327
Services Commission shall report to the Department of Mental 89328
Retardation and Developmental Disabilities, as outlined in an 89329
interagency agreement, on the number and status of mutually 89330
eligible clients and the status of the funds and expenditures for 89331
these clients. 89332

VOCATIONAL REHABILITATION/JOB AND FAMILY SERVICES 89333

The foregoing appropriation item 415-405, Vocational 89334
Rehabilitation/Job and Family Services, shall be used as state 89335
matching funds to provide vocational rehabilitation services to 89336
mutually eligible clients between the Rehabilitation Services 89337
Commission and the Department of Job and Family Services. The 89338
Rehabilitation Services Commission shall report to the Department 89339
of Job and Family Services, as outlined in an interagency 89340
agreement, on the number and status of mutually eligible clients 89341
and the status of the funds and expenditures for these clients. 89342

ASSISTIVE TECHNOLOGY 89343

The foregoing appropriation item 415-406, Assistive 89344
Technology, shall be provided to Assistive Technology of Ohio and 89345
shall be used only to provide grants under that program. No amount 89346
of the appropriation may be used for administrative costs. 89347

OFFICE FOR PEOPLE WITH BRAIN INJURY 89348

Of the foregoing appropriation item 415-431, Office for 89349
People with Brain Injury, \$50,000 in each fiscal year shall be 89350
used for the state match for a federal grant awarded through the 89351
Traumatic Brain Injury Act, Pub. L. No. 104-166, and up to \$50,000 89352
in fiscal year 2004 and up to \$50,000 in fiscal year 2005 shall be 89353
provided to the Brain Injury Trust Fund. The remaining 89354

appropriation in this item shall be used to plan and coordinate 89355
head-injury-related services provided by state agencies and other 89356
government or private entities, to assess the needs for such 89357
services, and to set priorities in this area. 89358

SERVICES FOR THE ELDERLY 89359

The foregoing appropriation item 415-509, Services for the 89360
Elderly, shall be used as matching funds for vocational 89361
rehabilitation services for eligible elderly citizens with a 89362
disability. 89363

SOCIAL SECURITY REIMBURSEMENT FUNDS 89364

Reimbursement funds received from the Social Security 89365
Administration, United States Department of Health and Human 89366
Services, for the costs of providing services and training to 89367
return disability recipients to gainful employment, shall be used 89368
in the Social Security Reimbursement Fund (Fund 3L1), as follows: 89369

(A) Appropriation item 415-601, Social Security Personal Care 89370
Assistance, to provide personal care services in accordance with 89371
section 3304.41 of the Revised Code; 89372

(B) Appropriation item 415-605, Social Security Community 89373
Centers for the Deaf, to provide grants to community centers for 89374
the deaf in Ohio for services to individuals with hearing 89375
impairments; 89376

(C) Appropriation item 415-607, Social Security 89377
Administration Cost, to provide administrative services needed to 89378
administer the Social Security reimbursement program; 89379

(D) Appropriation item 415-608, Social Security Special 89380
Programs/Assistance, to provide vocational rehabilitation services 89381
to individuals with severe disabilities, who are Social Security 89382
beneficiaries, to achieve competitive employment. This item also 89383
includes funds to assist the Personal Care Assistance, Community 89384

Centers for the Deaf, and Independent Living Programs to pay their	89385
share of indirect costs as mandated by federal OMB Circular A-87.	89386
(E) Appropriation item 415-610, Social Security Vocational	89387
Rehabilitation, to provide vocational rehabilitation services to	89388
older blind individuals with severe disabilities to achieve a	89389
noncompetitive employment goal.	89390
ADMINISTRATIVE EXPENSES	89391
The foregoing appropriation item 415-606, Administrative	89392
Expenses, shall be used to support the administrative functions of	89393
the commission related to the provision of vocational	89394
rehabilitation, disability determination services, and ancillary	89395
programs.	89396
INDEPENDENT LIVING COUNCIL	89397
The foregoing appropriation item 415-402, Independent Living	89398
Council, shall be used to fund the operations of the State	89399
Independent Living Council.	89400
MENTAL HEALTH SERVICES	89401
The foregoing appropriation item 415-403, Mental Health	89402
Services, shall be used for the provision of vocational	89403
rehabilitation services to mutually eligible consumers of the	89404
Rehabilitation Services Commission and the Department of Mental	89405
Health.	89406
The Department of Mental Health shall receive a quarterly	89407
report from the Rehabilitation Services Commission stating the	89408
numbers served, numbers placed in employment, average hourly wage,	89409
and average hours worked.	89410
INDEPENDENT LIVING SERVICES	89411
The foregoing appropriation items 415-520, Independent Living	89412
Services, and 415-612, Federal-Independent Living Centers or	89413
Services, shall be used to support state independent living	89414

centers or independent living services pursuant to Title VII of 89415
the Independent Living Services and Centers for Independent Living 89416
of the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29 89417
U.S.C. 796d. 89418

INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS 89419

The foregoing appropriation item 415-617, Independent 89420
Living/Vocational Rehabilitation Programs, shall be used to 89421
support vocational rehabilitation programs, including, but not 89422
limited to, Projects with Industry, Training Grants, and Brain 89423
Injury Grants. 89424

PILOT PROGRAM FOR VOCATIONAL REHABILITATION 89425

During fiscal years 2004 and 2005, the Rehabilitation 89426
Services Commission may conduct a pilot program to provide 89427
vocational rehabilitation and related services to entities, 89428
employers, or individuals that are not eligible for state or 89429
federally supported services through the commission. The 89430
commission shall propose fees to be collected from the entities, 89431
employers, or individuals served by the pilot program for the 89432
approval of the Controlling Board to support the costs for 89433
vocational rehabilitation and related services provided under the 89434
pilot program. Fee revenues collected under the program shall be 89435
credited to Fund 468 (Third Party Funding). Prior to the 89436
commencement of services through the pilot program, the 89437
Rehabilitation Services Commission shall develop a program plan to 89438
be submitted to the Controlling Board. Any plan revisions or 89439
updates shall be reported to the Controlling Board. During the 89440
implementation of the pilot program, the Rehabilitation Services 89441
Commission shall investigate and determine the possibility of 89442
utilizing this source of revenue to match federal funds. The 89443
Rehabilitation Services Commission shall evaluate the progress of 89444
the pilot program and issue a report of its findings to the 89445
Governor by December 15, 2005. The report shall include a 89446

recommendation to either continue or discontinue the pilot program 89447
in the next biennium. 89448

Section 91. RCB RESPIRATORY CARE BOARD 89449

General Services Fund Group 89450

4K9 872-609 Operating Expenses \$ 318,499 \$ 315,481 89451

TOTAL GSF General Services 89452

Fund Group \$ 318,499 \$ 315,481 89453

TOTAL ALL BUDGET FUND GROUPS \$ 318,499 \$ 315,481 89454

Section 92. REVENUE DISTRIBUTION FUNDS 89456

Volunteer Firefighters' Dependents Fund 89457

085 768-900 Volunteer \$ 200,000 \$ 200,000 89458

Firefighters'

Dependents Fund

TOTAL 085 Volunteer Firefighters' 89459

Dependents Fund \$ 200,000 \$ 200,000 89460

Agency Fund Group 89461

062 110-900 Resort Area Excise Tax \$ 500,000 \$ 500,000 89462

063 110-900 Permissive Tax \$ 1,397,512,400 \$ 1,439,437,700 89463

Distribution

067 110-900 School District Income \$ 154,836,700 \$ 161,030,200 89464

Tax Fund

4P8 001-698 Cash Management \$ 2,500,000 \$ 2,500,000 89465

Improvement Fund

608 001-699 Investment Earnings \$ 174,300,000 \$ 181,300,000 89466

TOTAL AGY Agency Fund Group \$ 1,729,649,100 \$ 1,784,767,900 89467

Holding Account Redistribution 89468

R45 110-617 International Fuel Tax \$ 36,400,000 \$ 37,200,000 89469

Distribution

TOTAL R45 Holding Account \$ 36,400,000 \$ 37,200,000 89470

Redistribution Fund

Revenue Distribution Fund Group				89471
049 038-900 Indigent Drivers	\$	1,850,000	\$ 1,850,000	89472
Alcohol Treatment				
050 762-900 International	\$	60,000,000	\$ 60,000,000	89473
Registration Plan				
Distribution				
051 762-901 Auto Registration	\$	475,000,000	\$ 486,875,000	89474
Distribution				
054 110-900 Local Government	\$	75,000,000	\$ 75,000,000	89475
Property Tax				
Replacement				
060 110-900 Gasoline Excise Tax	\$	113,344,700	\$ 115,611,600	89476
Fund				
064 110-900 Local Government	\$	98,500,000	\$ 98,500,000	89477
Revenue Assistance				
065 110-900 Library/Local	\$	475,000,000	\$ 475,000,000	89478
Government Support				
Fund				
066 800-900 Undivided Liquor	\$	13,500,000	\$ 13,500,000	89479
Permit Fund				
068 110-900 State/Local Government	\$	227,607,000	\$ 232,159,100	89480
Highway Distribution				
Fund				
069 110-900 Local Government Fund	\$	705,000,000	\$ 705,000,000	89481
082 110-900 Horse Racing Tax	\$	130,000	\$ 130,000	89482
083 700-900 Ohio Fairs Fund	\$	3,150,000	\$ 3,150,000	89483
TOTAL RDF Revenue Distribution				89484
Fund Group	\$	2,248,081,700	\$ 2,266,775,700	89485
TOTAL ALL BUDGET FUND GROUPS	\$	4,014,330,800	\$ 4,088,943,600	89486
ADDITIONAL APPROPRIATIONS				89487
Appropriation items in this section are to be used for the				89488
purpose of administering and distributing the designated revenue				89489

distributions fund according to the Revised Code. If it is 89490
determined that additional appropriations are necessary, such 89491
amounts are appropriated. 89492

Section 93. SAN BOARD OF SANITARIAN REGISTRATION 89493

General Services Fund Group 89494
4K9 893-609 Operating Expenses \$ 124,892 \$ 125,612 89495
TOTAL GSF General Services 89496
Fund Group \$ 124,892 \$ 125,612 89497
TOTAL ALL BUDGET FUND GROUPS \$ 124,892 \$ 125,612 89498

Section 94. OSB OHIO STATE SCHOOL FOR THE BLIND 89500

General Revenue Fund 89501
GRF 226-100 Personal Services \$ 6,287,483 \$ 6,456,616 89502
GRF 226-200 Maintenance \$ 685,256 \$ 685,256 89503
GRF 226-300 Equipment \$ 121,355 \$ 121,355 89504
TOTAL GRF General Revenue Fund \$ 7,094,094 \$ 7,263,227 89505
General Services Fund Group 89506
4H8 226-602 Education Reform \$ 61,476 \$ 61,476 89507
Grants
TOTAL GSF General Services 89508
Fund Group \$ 61,476 \$ 61,476 89509
State Special Revenue Fund Group 89510
4M5 226-601 Work Study & \$ 42,919 \$ 42,919 89511
Technology Investments
TOTAL SSR State Special Revenue 89512
Fund Group \$ 42,919 \$ 42,919 89513
Federal Special Revenue Fund Group 89514
3P5 226-643 Medicaid Professional \$ 143,600 \$ 143,600 89515
Services Reimbursement
310 226-626 Coordinating Unit \$ 1,390,000 \$ 1,384,000 89516
TOTAL FED Federal Special 89517

Revenue Fund Group	\$	1,533,600	\$	1,527,600	89518
TOTAL ALL BUDGET FUND GROUPS	\$	8,732,089	\$	8,895,222	89519

Section 95. OSD OHIO STATE SCHOOL FOR THE DEAF 89521

General Revenue Fund 89522

GRF 221-100 Personal Services	\$	8,071,660	\$	8,391,704	89523
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GRF 221-200 Maintenance	\$	1,012,561	\$	1,032,813	89524
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GRF 221-300 Equipment	\$	269,377	\$	269,377	89525
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TOTAL GRF General Revenue Fund	\$	9,353,598	\$	9,693,894	89526
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General Services Fund Group 89527

4M1 221-602 Education Reform	\$	70,701	\$	70,701	89528
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Grants

TOTAL GSF General Services 89529

Fund Group	\$	70,701	\$	70,701	89530
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State Special Revenue Fund Group 89531

4M0 221-601 Educational Program	\$	33,188	\$	33,188	89532
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Expenses 89533

5H6 221-609 Even Start Fees &	\$	98,500	\$	98,500	89534
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Gifts

TOTAL SSR State Special Revenue 89535

Fund Group	\$	131,688	\$	131,688	89536
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Federal Special Revenue Fund Group 89537

3R0 221-684 Medicaid Professional	\$	111,377	\$	111,377	89538
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Services Reimbursement 89539

311 221-625 Coordinating Unit	\$	949,899	\$	974,649	89540
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3Y1 221-686 Early Childhood Grant	\$	248,235	\$	262,275	89541
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TOTAL FED Federal Special 89542

Revenue Fund Group	\$	1,309,511	\$	1,348,301	89543
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TOTAL ALL BUDGET FUND GROUPS	\$	10,865,498	\$	11,244,584	89544
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Section 96. SFC SCHOOL FACILITIES COMMISSION 89546

General Revenue Fund 89547

GRF 230-428	Lease Rental Payments	\$ 31,776,500	\$ 31,704,700	89548
GRF 230-908	Common Schools General	\$ 106,322,300	\$ 145,989,300	89549
	Obligation Debt			
	Service			
TOTAL GRF	General Revenue Fund	\$ 138,098,800	\$ 177,694,000	89550
	Federal Special Revenue Fund Group			89551
3X9 230-601	Federal School	\$ 28,214,058	\$ 28,214,058	89552
	Facilities Grant			
TOTAL FED	Federal Special Revenue	\$ 28,214,058	\$ 28,214,058	89553
	Fund Group			
	State Special Revenue Fund Group			89554
5E3 230-644	Operating Expenses	\$ 7,009,766	\$ 7,009,766	89555
TOTAL SSR	State Special Revenue			89556
	Fund Group	\$ 7,009,766	\$ 7,009,766	89557
TOTAL ALL BUDGET FUND GROUPS		\$ 173,322,624	\$ 212,917,824	89558

Section 96.01. LEASE RENTAL PAYMENTS 89560

The foregoing appropriation item 230-428, Lease Rental 89561
 Payments, shall be used to meet all payments at the times they are 89562
 required to be made during the period from July 1, 2003, to June 89563
 30, 2005, by the School Facilities Commission pursuant to leases 89564
 and agreements made under section 3318.26 of the Revised Code, but 89565
 limited to the aggregate amount of \$63,481,200. Nothing in this 89566
 act shall be deemed to contravene the obligation of the state to 89567
 pay, without necessity for further appropriation, from the sources 89568
 pledged thereto, the bond service charges on obligations issued 89569
 pursuant to Chapter 3318. of the Revised Code. 89570

COMMON SCHOOLS GENERAL OBLIGATION DEBT SERVICE 89571

The foregoing appropriation item 230-908, Common Schools 89572
 General Obligation Debt Service, shall be used to pay all debt 89573
 service and related financing costs at the times they are required 89574

to be made pursuant to sections 151.01 and 151.03 of the Revised Code during the period from July 1, 2003, to June 30, 2005. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by an intrastate transfer voucher.

OPERATING EXPENSES

The foregoing appropriation item 230-644, Operating Expenses, shall be used by the Ohio School Facilities Commission to carry out its responsibilities pursuant to this section and Chapter 3318. of the Revised Code.

Within ten days after the effective date of this section, or as soon as possible thereafter, the Executive Director of the Ohio School Facilities Commission shall certify to the Director of Budget and Management the amount of cash from interest earnings to be transferred from the School Building Assistance Fund (Fund 032) or the Public School Building Fund (Fund 021) to the Ohio School Facilities Commission Fund (Fund 5E3).

By July 10, 2004, the Executive Director of the Ohio School Facilities Commission shall certify to the Director of Budget and Management the amount of cash from interest earnings to be transferred from the School Building Assistance Fund (Fund 032) or the Public School Building Fund (Fund 021) to the Ohio School Facilities Commission Fund (Fund 5E3). The amount transferred may 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

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 89606
accordance with section 3318.05 of the Revised Code. The Executive 89607
Director of the Ohio School Facilities Commission shall certify 89608
the amounts of these canceled encumbrances to the Director of 89609
Budget and Management on a quarterly basis. The amounts of the 89610
canceled encumbrances are appropriated. 89611

Section 96.02. COMMUNITY SCHOOL CLASSROOM FACILITIES LOAN 89612
GUARANTEE 89613

The unencumbered and unallotted balances as of June 30, 2003, 89614
in appropriation item 230-602, Community School Loan Guarantee, 89615
are hereby reappropriated in fiscal year 2004 to support loan 89616
guarantees to community schools under section 3318.50 of the 89617
Revised Code. The unencumbered an unallotted balances of the 89618
appropriation at the end of fiscal year 2004 are hereby 89619
reappropriated in fiscal year 2005 to support loan guarantees to 89620
community schools under section 3318.50 of the Revised Code. 89621

Section 96.02a. EXTREME ENVIRONMENTAL CONTAMINATION OF SCHOOL 89622
FACILITIES 89623

Notwithstanding any other provision of law to the contrary, 89624
the School Facilities Commission may provide assistance under the 89625
Exceptional Needs School Facilities Program established in section 89626
3318.37 of the Revised Code to any school district, and not 89627
exclusively to a school district in the lowest fifty per cent of 89628
adjusted valuation per pupil on the current ranking of school 89629
districts established pursuant to section 3317.02 of the Revised 89630
Code, for the purpose of the relocation or replacement of school 89631
facilities required as a result of extreme environmental 89632
contamination. 89633

The School Facilities Commission shall contract with an 89634
independent environmental consultant to conduct a study and to 89635

report to the commission as to the seriousness of the 89636
environmental contamination, whether the contamination violates 89637
applicable state and federal standards, and whether the facilities 89638
are no longer suitable for use as school facilities. The 89639
commission then shall make a determination regarding funding for 89640
the relocation or replacement of the school facilities. If the 89641
federal government or other public or private entity provides 89642
funds for restitution of costs incurred by the state or school 89643
district in the relocation or replacement of the school 89644
facilities, the school district shall use such funds in excess of 89645
the school district's share to refund the state for the state's 89646
contribution to the environmental contamination portion of the 89647
project. The school district may apply an amount of such 89648
restitution funds up to an amount equal to the school district's 89649
portion of the project, as defined by the commission, toward 89650
paying its portion of that project to reduce the amount of bonds 89651
the school district otherwise must issue to receive state 89652
assistance under sections 3318.01 to 3318.20 of the Revised Code. 89653

Section 96.03. (A) The Ohio School Facilities Commission may 89654
commit up to thirty-five million dollars to the Canton City School 89655
District for construction of a facility described in this section, 89656
in lieu of a high school that would otherwise be authorized under 89657
Chapter 3318. of the Revised Code. The commission shall not commit 89658
funds under this section unless all of the following conditions 89659
are met: 89660

(1) The district has entered into a cooperative agreement 89661
with a state-assisted technical college. 89662

(2) The district has received an irrevocable commitment of 89663
additional funding from nonpublic sources. 89664

(3) The facility is intended to serve both secondary and 89665
postsecondary instructional purposes. 89666

(B) The commission shall enter into an agreement with the district for the construction of the facility authorized under this section that is separate from and in addition to the agreement required for the district's participation in the Classroom Facilities Assistance Program under section 3318.08 of the Revised Code. Notwithstanding that section and sections 3318.03, 3318.04, and 3318.083 of the Revised Code, the additional agreement shall provide, but not be limited to, the following:

(1) The commission shall not have any oversight responsibilities over the construction of the facility.

(2) The facility need not comply with the specifications for plans and materials for high schools adopted by the commission.

(3) The commission may decrease the basic project cost that would otherwise be calculated for a high school under Chapter 3318. of the Revised Code.

(4) The state shall not share in any increases in the basic project cost for the facility above the amount authorized under this section.

All other provisions of Chapter 3318. of the Revised Code apply to the approval and construction of a facility authorized under this section.

The state funds committed to the facility authorized by this section shall be part of the total amount the state commits to the Canton City School District under Chapter 3318. of the Revised Code. All additional state funds committed to the Canton City School District for classroom facilities assistance shall be subject to all provisions of Chapter 3318. of the Revised Code.

Section 97. NET OHIO SCHOOLNET COMMISSION

General Revenue Fund

GRF 228-404 Operating Expenses \$ 5,961,208 \$ 5,961,208

GRF 228-406	Technical and Instructional Professional Development	\$	7,691,831	\$	7,691,831	89697
GRF 228-539	Education Technology	\$	6,989,315	\$	6,989,315	89698
Total GRF General Revenue Fund		\$	20,642,354	\$	20,642,354	89699
General Services Fund Group						89700
5D4 228-640	Conference/Special Purpose Expenses	\$	1,350,000	\$	1,350,000	89701
TOTAL GSF General Services Fund Group		\$	1,350,000	\$	1,350,000	89702 89703
State Special Revenue Fund Group						89704
4W9 228-630	Ohio SchoolNet Telecommunity Fund	\$	400,000	\$	400,000	89705
4X1 228-634	Distance Learning	\$	1,750,000	\$	1,750,000	89706
5T3 228-605	Gates Foundation Grants	\$	1,194,908	\$	1,194,908	89707
TOTAL SSR State Special Revenue Fund Group		\$	3,344,908	\$	3,344,908	89708 89709
Federal Special Revenue Fund Group						89710
3X8 228-604	Individuals With Disabilities Education Act	\$	1,500,000	\$	1,500,000	89711
TOTAL FED Federal Special Revenue Fund Group		\$	1,500,000	\$	1,500,000	89712 89713
TOTAL ALL BUDGET FUND GROUPS		\$	26,837,262	\$	26,837,262	89714

Section 97.01. TECHNICAL AND INSTRUCTIONAL PROFESSIONAL DEVELOPMENT 89716
DEVELOPMENT 89717

The foregoing appropriation item 228-406, Technical and 89718
Instructional Professional Development, shall be used by the Ohio 89719
SchoolNet Commission to make grants or provide services to 89720

qualifying schools, including the State School for the Blind and 89721
the Ohio School for the Deaf, for the provision of hardware, 89722
software, telecommunications services, and staff development to 89723
support educational uses of technology in the classroom. 89724

The Ohio SchoolNet Commission shall consider the professional 89725
development needs associated with the OhioReads Program when 89726
making funding allocations and program decisions. 89727

Of the foregoing appropriation \$1,260,000 in each fiscal year 89728
shall be used by the Ohio Educational Telecommunications Network 89729
Commission, with the advice of the Ohio SchoolNet Commission, to 89730
make grants for research, development and production of 89731
interactive instructional programming series and teleconferences 89732
to support the SchoolNet Commission. Up to \$55,000 of this amount 89733
shall be used in each fiscal year to provide for the 89734
administration of these activities by the Ohio Educational 89735
Telecommunications Network Commission. The programming shall be 89736
targeted to the needs of the poorest two hundred school districts 89737
as determined by the district's adjusted valuation per pupil as 89738
defined in section 3317.0213 of the Revised Code. 89739

Of the foregoing appropriation item 228-406, Technical and 89740
Instructional Professional Development, \$818,322 in each fiscal 89741
year shall be used by the INFOhio Network, with the advice of the 89742
Ohio SchoolNet Commission, to support the provision of electronic 89743
resources to all public schools with preference given to 89744
elementary schools. Consideration shall be given by the Commission 89745
to coordinating the allocation of these moneys with the efforts of 89746
OhioLINK and the Ohio Public Information Network. 89747

Of the foregoing appropriation item 228-406, Technical and 89748
Instructional Professional Development, \$300,000 in each fiscal 89749
year shall be used by the JASON project, with the advice of the 89750
Ohio SchoolNet Commission, to provide statewide access and a 75 89751
per cent subsidy for statewide licensing of JASON content for 89752

90,000 middle school students statewide, and professional 89753
development for teachers participating in the program. 89754

The remaining appropriation allocated in appropriation item 89755
228-406, Technical and Instructional Professional Development, 89756
shall be used by the Ohio SchoolNet Commission for professional 89757
development for teachers and administrators for the use of 89758
educational technology. The commission may make grants to provide 89759
technical assistance and professional development on the use of 89760
educational technology to school districts. 89761

Eligible recipients of grants include regional training 89762
centers, county offices of education, data collection sites, 89763
instructional technology centers, institutions of higher 89764
education, public television stations, special education resource 89765
centers, area media centers, or other nonprofit educational 89766
organizations. Services provided through these grants may include 89767
use of private entities subcontracting through the grant 89768
recipient. 89769

Grants shall be made to entities on a contractual basis with 89770
the Ohio SchoolNet Commission. Contracts shall include provisions 89771
that demonstrate how services will benefit technology use in the 89772
schools, and in particular will support Ohio SchoolNet efforts to 89773
support technology in the schools. Contracts shall specify the 89774
scope of assistance being offered and the potential number of 89775
professionals who will be served. Contracting entities may be 89776
awarded more than one grant at a time. 89777

Grants shall be awarded in a manner consistent with the goals 89778
of Ohio SchoolNet. Special emphasis in the award of grants shall 89779
be placed on collaborative efforts among service providers. 89780

Application for grants from this appropriation in 89781
appropriation item 228-406, Technical and Instructional 89782
Professional Development, shall be consistent with a school 89783

district's technology plan that shall meet the minimum 89784
specifications for school district technology plans as prescribed 89785
by the Ohio SchoolNet Commission. Funds allocated through these 89786
grants may be combined with funds received through other state or 89787
federal grants for technology so long as the school district's 89788
technology plan specifies the use of these funds. 89789

EDUCATION TECHNOLOGY 89790

The foregoing appropriation item 228-539, Education 89791
Technology, shall be used to provide funding to suppliers of 89792
information services to school districts for the provision of 89793
hardware, software, and staff development in support of 89794
educational uses of technology in the classroom as prescribed by 89795
the State Plan for Technology pursuant to section 3301.07 of the 89796
Revised Code, and to support assistive technology for children and 89797
youth with disabilities. 89798

Of the foregoing appropriation item 228-539, Education 89799
Technology, up to \$1,946,000 in each fiscal year shall be used by 89800
the Ohio SchoolNet Commission to link all public K-12 classrooms 89801
to each other and the Internet, and to provide access to voice, 89802
video, and data educational resources for students and teachers 89803
through the OneNet Ohio Program. 89804

Up to \$4,403,778 in each fiscal year shall be used by the 89805
Ohio SchoolNet Commission to contract with instructional 89806
television, and \$639,537 in each fiscal year shall be used by the 89807
commission to contract with education media centers to provide 89808
Ohio schools with instructional resources and services. 89809

Resources may include, but not be limited to, the following: 89810
pre-recorded video materials (including videotape, laser discs, 89811
and CD-ROM discs); computer software for student use or student 89812
access to electronic communication, databases, spreadsheet, and 89813
word processing capability; live student courses or courses 89814

delivered electronically; automated media systems; and 89815
instructional and professional development materials for teachers. 89816
The commission shall cooperate with education technology agencies 89817
in the acquisition, development, and delivery of such educational 89818
resources to ensure high-quality and educational soundness at the 89819
lowest possible cost. Delivery of such resources may utilize a 89820
variety of technologies, with preference given to a high-speed 89821
integrated information network that can transport video, voice, 89822
data, and graphics simultaneously. 89823

Services shall include presentations and technical assistance 89824
that will help students and teachers integrate educational 89825
materials that support curriculum objectives, match specific 89826
learning styles, and are appropriate for individual interests and 89827
ability levels. 89828

Such instructional resources and services shall be made 89829
available for purchase by chartered nonpublic schools or by public 89830
school districts for the benefit of pupils attending chartered 89831
nonpublic schools. 89832

TELECOMMUNITY 89833

The foregoing appropriation item 228-630, Ohio SchoolNet 89834
Telecommunity Fund, shall be distributed by the Ohio SchoolNet 89835
Commission on a grant basis to eligible school districts to 89836
establish "distance learning" through interactive video 89837
technologies in the school district. Per agreements with eight 89838
Ohio local telephone companies: ALLTEL Ohio, CENTURY Telephone of 89839
Ohio, Chillicothe Telephone Company, Cincinnati Bell Telephone 89840
Company, Orwell Telephone Company, Sprint North Central Telephone, 89841
VERIZON, and Western Reserve Telephone Company, school districts 89842
are eligible for funds if they are within one of the listed 89843
telephone company service areas. Funds to administer the program 89844
shall be expended by the commission up to the amount specified in 89845
agreements with the listed telephone companies. 89846

Within 30 days after the effective date of this section, the 89847
Director of Budget and Management shall transfer to Fund 4W9 in 89848
the State Special Revenue Fund Group any investment earnings from 89849
moneys paid to the Ohio SchoolNet Commission by any telephone 89850
company as part of any settlement agreement between the listed 89851
companies and the Public Utilities Commission in fiscal years 1996 89852
and beyond. 89853

DISTANCE LEARNING 89854

Appropriation item 228-634, Distance Learning, shall be 89855
distributed by the Ohio SchoolNet Commission on a grant basis to 89856
eligible school districts to establish "distance learning" in the 89857
school district. Per the agreement with Ameritech, school 89858
districts are eligible for funds if they are within an Ameritech 89859
service area. Funds to administer the program shall be expended by 89860
the commission up to the amount specified in the agreement with 89861
Ameritech. 89862

Within thirty days after the effective date of this section, 89863
the Director of Budget and Management shall transfer to fund 4X1 89864
in the State Special Revenue Fund Group any investment earnings 89865
from moneys paid to the office or to the SchoolNet Commission by 89866
any telephone company as part of a settlement agreement between 89867
the company and the Public Utilities Commission in fiscal year 89868
1995. 89869

GATES FOUNDATION GRANTS 89870

The foregoing appropriation item 228-605, Gates Foundation 89871
Grants, shall be used by the Ohio SchoolNet Commission to provide 89872
professional development to school district principals, 89873
superintendents, and other administrative staff for the use of 89874
education technology. The appropriation is made possible through a 89875
grant from the Bill and Melinda Gates foundation. 89876

Section 98. SOS SECRETARY OF STATE				89877
General Revenue Fund				89878
GRF 050-321	Operating Expenses	\$ 2,750,000	\$ 2,750,000	89879
GRF 050-403	Election Statistics	\$ 110,570	\$ 110,570	89880
GRF 050-407	Pollworkers Training	\$ 295,742	\$ 295,742	89881
GRF 050-409	Litigation	\$ 4,949	\$ 4,949	89882
Expenditures				
TOTAL GRF	General Revenue Fund	\$ 3,161,261	\$ 3,161,261	89883
General Services Fund Group				89884
4S8 050-610	Board of Voting	\$ 7,200	\$ 7,200	89885
Machine Examiners				
412 050-609	Notary Commission	\$ 178,124	\$ 185,249	89886
413 050-601	Information Systems	\$ 163,418	\$ 169,955	89887
414 050-602	Citizen Education Fund	\$ 72,800	\$ 75,712	89888
TOTAL General Services	Fund Group	\$ 421,542	\$ 438,116	89889
Federal Special Revenue Fund Group				89890
3X4 050-612	Ohio Cntr/Law Related	\$ 41,000	\$ 41,000	89891
Educ Grant				
TOTAL FED	Federal Special Revenue			89892
Fund Group		\$ 41,000	\$ 41,000	89893
State Special Revenue Fund Group				89894
5N9 050-607	Technology	\$ 124,582	\$ 129,565	89895
Improvements				
599 050-603	Business Services	\$ 13,889,462	\$ 14,241,966	89896
Operating Expenses				
TOTAL SSR	State Special Revenue			89897
Fund Group		\$ 14,014,044	\$ 14,371,531	89898
Holding Account Redistribution Fund Group				89899
R01 050-605	Uniform Commercial	\$ 65,000	\$ 65,000	89900
Code Refunds				

R02 050-606 Corporate/Business	\$	100,000	\$	100,000	89901
Filing Refunds					
TOTAL 090 Holding Account					89902
Redistribution Fund Group	\$	165,000	\$	165,000	89903
TOTAL ALL BUDGET FUND GROUPS	\$	17,802,847	\$	18,176,908	89904
BOARD OF VOTING MACHINE EXAMINERS					89905
The foregoing appropriation item 050-610, Board of Voting					89906
Machine Examiners, shall be used to pay for the services and					89907
expenses of the members of the Board of Voting Machine Examiners,					89908
and for other expenses that are authorized to be paid from the					89909
Board of Voting Machine Examiners Fund, which is created in					89910
section 3506.05 of the Revised Code. Moneys not used shall be					89911
returned to the person or entity submitting the equipment for					89912
examination. If it is determined that additional appropriations					89913
are necessary, such amounts are appropriated.					89914
HOLDING ACCOUNT REDISTRIBUTION GROUP					89915
The foregoing appropriation items 050-605 and 050-606,					89916
Holding Account Redistribution Fund Group, shall be used to hold					89917
revenues until they are directed to the appropriate accounts or					89918
until they are refunded. If it is determined that additional					89919
appropriations are necessary, such amounts are appropriated.					89920
Section 99. SEN THE OHIO SENATE					89921
General Revenue Fund					89922
GRF 020-321 Operating Expenses	\$	10,887,655	\$	11,432,037	89923
TOTAL GRF General Revenue Fund	\$	10,887,655	\$	11,432,037	89924
General Services Fund Group					89925
102 020-602 Senate Reimbursement	\$	422,881	\$	444,025	89926
409 020-601 Miscellaneous Sales	\$	32,529	\$	34,155	89927
TOTAL GSF General Services					89928
Fund Group	\$	455,410	\$	478,180	89929

TOTAL ALL BUDGET FUND GROUPS	\$	11,343,065	\$	11,910,217	89930
Section 100. CSF COMMISSIONERS OF THE SINKING FUND					89932
Debt Service Fund Group					89933
071 155-901 Highway Obligations	\$	35,536,300	\$	10,450,000	89934
Bond Retirement Fund					
072 155-902 Highway Capital	\$	153,559,600	\$	173,238,200	89935
Improvements Bond					
Retirement Fund					
073 155-903 Natural Resources Bond	\$	23,808,300	\$	26,914,300	89936
Retirement					
074 155-904 Conservation Projects	\$	9,743,500	\$	11,235,700	89937
Bond Service Fund					
076 155-906 Coal Research and	\$	7,231,200	\$	9,185,100	89938
Development Bond					
Retirement Fund					
077 155-907 State Capital	\$	156,974,400	\$	152,069,700	89939
Improvements Bond					
Retirement Fund					
078 155-908 Common Schools Bond	\$	106,322,300	\$	145,989,300	89940
Retirement Fund					
079 155-909 Higher Education Bond	\$	97,668,000	\$	130,967,600	89941
Retirement Fund					
TOTAL DSF Debt Service Fund Group	\$	590,843,600	\$	660,049,900	89942
TOTAL ALL BUDGET FUND GROUPS	\$	590,843,600	\$	660,049,900	89943
ADDITIONAL APPROPRIATIONS					89944
Appropriation items in this section are for the purpose of					89945
paying debt service and financing costs on bonds or notes of the					89946
state issued pursuant to the Ohio Constitution and acts of the					89947
General Assembly. If it is determined that additional					89948
appropriations are necessary, such amounts are appropriated.					89949

Section 101.	SPE BOARD OF SPEECH-LANGUAGE PATHOLOGY &			89950
	AUDIOLOGY			89951
	General Services Fund Group			89952
4K9 886-609	Operating Expenses	\$ 390,966	\$ 403,554	89953
	TOTAL GSF General Services			89954
	Fund Group	\$ 390,966	\$ 403,554	89955
	TOTAL ALL BUDGET FUND GROUPS	\$ 390,966	\$ 403,554	89956
Section 102.	BTA BOARD OF TAX APPEALS			89958
	General Revenue Fund			89959
GRF 116-321	Operating Expenses	\$ 2,171,760	\$ 2,171,760	89960
	TOTAL GRF General Revenue Fund	\$ 2,171,760	\$ 2,171,760	89961
	TOTAL ALL BUDGET FUND GROUPS	\$ 2,171,760	\$ 2,171,760	89962
Section 103.	TAX DEPARTMENT OF TAXATION			89964
	General Revenue Fund			89965
GRF 110-321	Operating Expenses	\$ 92,501,007	\$ 94,267,788	89966
GRF 110-412	Child Support	\$ 74,215	\$ 74,215	89967
	Administration			
GRF 110-901	Property Tax	\$ 434,650,000	\$ 462,640,000	89968
	Allocation - Taxation			
GRF 110-906	Tangible Tax Exemption	\$ 26,590,000	\$ 25,090,000	89969
	- Taxation			
	TOTAL GRF General Revenue Fund	\$ 553,815,222	\$ 582,072,003	89970
	Agency Fund Group			89971
095 110-901	Municipal Income Tax	\$ 12,000,000	\$ 12,000,000	89972
425 110-635	Tax Refunds	\$ 1,296,756,200	\$ 1,337,119,600	89973
	TOTAL AGY Agency Fund Group	\$ 1,308,756,200	\$ 1,349,119,600	89974
	General Services Fund Group			89975
433 110-602	Tape File Account	\$ 96,165	\$ 96,165	89976
	TOTAL GSF General Services			89977

Fund Group		\$	96,165	\$	96,165	89978
State Special Revenue Fund Group						89979
4C6 110-616	International	\$	706,855	\$	706,855	89980
	Registration Plan					
4R6 110-610	Tire Tax	\$	65,000	\$	65,000	89981
	Administration					
435 110-607	Local Tax	\$	13,600,000	\$	13,700,000	89982
	Administration					
436 110-608	Motor Vehicle Audit	\$	1,350,000	\$	1,350,000	89983
437 110-606	Litter Tax and Natural	\$	625,232	\$	625,232	89984
	Resource Tax					
	Administration					
438 110-609	School District Income	\$	2,599,999	\$	2,599,999	89985
	Tax					
5N5 110-605	Municipal Income Tax	\$	650,000	\$	650,000	89986
	Administration					
5N6 110-618	Kilowatt Hour Tax	\$	85,000	\$	85,000	89987
	Administration					
5V7 110-622	Motor Fuel Tax	\$	3,734,036	\$	3,833,091	89988
	Administration					
5V8 110-623	Property Tax	\$	11,569,719	\$	11,938,362	89989
	Administration					
5W4 110-625	Centralized Tax Filing	\$	3,000,000	\$	3,000,000	89990
	and Payment					
639 110-614	Cigarette Tax	\$	168,925	\$	168,925	89991
	Enforcement					
642 110-613	Ohio Political Party	\$	600,000	\$	600,000	89992
	Distributions					
688 110-615	Local Excise Tax	\$	300,000	\$	300,000	89993
	Administration					
TOTAL SSR State Special Revenue						89994
Fund Group		\$	39,054,766	\$	39,622,464	89995

Federal Special Revenue Fund Group				89996
3J6 110-601 Motor Fuel Compliance	\$	33,300	\$ 25,000	89997
TOTAL FED Federal Special Revenue				89998
Fund Group	\$	33,300	\$ 25,000	89999
Holding Account Redistribution Fund Group				90000
R10 110-611 Tax Distributions	\$	50,000	\$ 50,000	90001
R11 110-612 Miscellaneous Income	\$	50,000	\$ 50,000	90002
Tax Receipts				
TOTAL 090 Holding Account				90003
Redistribution Fund Group	\$	100,000	\$ 100,000	90004
TOTAL ALL BUDGET FUND GROUPS	\$	1,901,855,653	\$ 1,971,035,232	90005
TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT				90006
Of the foregoing appropriation item 110-607, Local Tax				90007
Administration, the Tax Commissioner may disburse funds, if				90008
available, for the purposes of paying travel expenses incurred by				90009
members of Ohio's delegation to the Streamlined Sales Tax Project,				90010
as appointed under section 5740.02 of the Revised Code. Any travel				90011
expense reimbursement paid for by the Department of Taxation shall				90012
be done in accordance with applicable state laws and guidelines.				90013
LITTER CONTROL TAX ADMINISTRATION FUND				90014
Notwithstanding section 5733.12 of the Revised Code, during				90015
the period from July 1, 2003, to June 30, 2004, the amount of				90016
\$625,232, and during the period from July 1, 2004, to June 30,				90017
2005, the amount of \$625,232, received by the Tax Commissioner				90018
under Chapter 5733. of the Revised Code, shall be credited to the				90019
Litter Control Tax Administration Fund (Fund 437).				90020
CENTRALIZED TAX FILING AND PAYMENT FUND				90021
The Director of Budget and Management pursuant to a plan				90022
submitted by the Tax Commissioner, or as otherwise determined by				90023
the Director of Budget and Management, shall set a schedule to				90024

transfer cash from the General Revenue Fund to the credit of the 90025
Centralized Tax Filing and Payment Fund. Such transfers of cash 90026
shall not exceed \$3,000,000 in any fiscal year. 90027

INTERNATIONAL REGISTRATION PLAN AUDIT 90028

The foregoing appropriation item 110-616, International 90029
Registration Plan, shall be used pursuant to section 5703.12 of 90030
the Revised Code for audits of persons with vehicles registered 90031
under the International Registration Plan. 90032

HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK, AND TANGIBLE TAX 90033
EXEMPTION 90034

The foregoing appropriation item 110-901, Property Tax 90035
Allocation - Taxation, is appropriated to pay for the state's 90036
costs incurred due to the Homestead Exemption, the Manufactured 90037
Home Property Tax Rollback, and the Property Tax Rollback. The Tax 90038
Commissioner shall distribute these funds directly to the 90039
appropriate local taxing districts of the state, except for school 90040
districts, notwithstanding the provisions in sections 321.24 and 90041
323.156 of the Revised Code, which provide for payment of the 90042
Homestead Exemption, the Manufactured Home Property Tax Rollback, 90043
and Property Tax Rollback by the Tax Commissioner to the 90044
appropriate county treasurer and the subsequent redistribution of 90045
these funds to the appropriate local taxing districts by the 90046
county auditor. 90047

The foregoing appropriation item 110-906, Tangible Tax 90048
Exemption - Taxation, is appropriated to pay for the state's costs 90049
incurred due to the tangible personal property tax exemption 90050
required by division (C)(3) of section 5709.01 of the Revised 90051
Code. The Tax Commissioner shall distribute to each county 90052
treasurer the total amount certified by the county treasurer 90053
pursuant to section 319.311 of the Revised Code for all local 90054
taxing districts located in the county except for school 90055

districts, notwithstanding the provision in section 319.311 of the Revised Code which provides for payment of the \$10,000 tangible personal property tax exemption by the Tax Commissioner to the appropriate county treasurer for all local taxing districts located in the county including school districts. Pursuant to division (G) of section 321.24 of the Revised Code, the county auditor shall distribute the amount paid by the Tax Commissioner among the appropriate local taxing districts except for school districts.

Upon receipt of these amounts, each local taxing district shall distribute the amount among the proper funds as if it had been paid as real or tangible personal property taxes. Payments for the costs of administration shall continue to be paid to the county treasurer and county auditor as provided for in sections 319.54, 321.26, and 323.156 of the Revised Code.

Any sums, in addition to the amounts specifically appropriated in appropriation items 110-901, Property Tax Allocation - Taxation, for the Homestead Exemption, the Manufactured Home Property Tax Rollback, and the Property Tax Rollback payments, and 110-906, Tangible Tax Exemption - Taxation, for the \$10,000 tangible personal property tax exemption payments, which are determined to be necessary for these purposes, are hereby appropriated.

MUNICIPAL INCOME TAX

The foregoing appropriation item 110-901, Municipal Income Tax, shall be used to make payments to municipal corporations as provided in section 5745.05 of the Revised Code. If it is determined that additional appropriations are necessary to make such payments, such amounts are hereby appropriated.

TAX REFUNDS

The foregoing appropriation item 110-635, Tax Refunds, shall

be used to pay refunds as provided in section 5703.052 of the Revised Code. If it is determined that additional appropriations are necessary, such amounts are appropriated.

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Section 104. DOT DEPARTMENT OF TRANSPORTATION

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Transportation Modes

90091

General Revenue Fund

90092

GRF 775-451 Public Transportation \$ 18,875,595 \$ 19,525,595 90093
- State

GRF 776-465 Ohio Rail Development \$ 3,116,889 \$ 2,936,056 90094
Commission

GRF 776-466 Railroad \$ 500,000 \$ 840,000 90095
Crossing/Grade
Separation

GRF 777-471 Airport Improvements - \$ 1,908,495 \$ 1,908,495 90096
State

GRF 777-473 Rickenbacker Lease \$ 591,600 \$ 591,500 90097
Payments - State

TOTAL GRF General Revenue Fund \$ 24,992,579 \$ 25,801,646 90098

Federal Special Revenue Fund Group

90099

3B9 776-662 Rail Transportation - \$ 50,000 \$ 50,000 90100
Federal

TOTAL FSR Federal Special Revenue

90101

Fund Group \$ 50,000 \$ 50,000 90102

State Special Revenue Fund Group

90103

4N4 776-663 Panhandle Lease \$ 770,000 \$ 770,000 90104
Reserve Payments

4N4 776-664 Rail Transportation - \$ 1,919,500 \$ 2,111,500 90105
Other

TOTAL SSR State Special Revenue

90106

Fund Group \$ 2,689,500 \$ 2,881,500 90107

TOTAL ALL BUDGET FUND GROUPS \$ 27,732,079 \$ 28,733,146 90108

ELDERLY AND DISABLED FARE ASSISTANCE	90109
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.	90110 90111 90112 90113 90114 90115 90116 90117 90118 90119 90120
AVIATION LEASE PAYMENTS	90121
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.	90122 90123 90124 90125 90126 90127 90128 90129 90130 90131
Section 105. TOS TREASURER OF STATE	90132
General Revenue Fund	90133
GRF 090-321 Operating Expenses \$ 9,329,082 \$ 9,619,082	90134
GRF 090-401 Office of the Sinking Fund \$ 554,868 \$ 554,868	90135 90136
GRF 090-402 Continuing Education \$ 463,585 \$ 463,585	90137
GRF 090-524 Police and Fire \$ 35,000 \$ 30,000	90138

	Disability Pension				90139
	Fund				
GRF 090-534	Police & Fire Ad Hoc	\$	225,000	\$	230,000
	Cost				90140
	of Living				90141
GRF 090-544	Police and Fire State	\$	1,200,000	\$	1,200,000
	Contribution				90142
					90143
GRF 090-554	Police and Fire	\$	1,320,000	\$	1,260,000
	Survivor				90144
	Benefits				90145
GRF 090-575	Police and Fire Death	\$	24,000,000	\$	25,000,000
	Benefits				90146
					90147
TOTAL GRF	General Revenue Fund	\$	37,127,535	\$	38,357,535
					90148
	Agency Fund Group				90149
425 090-635	Tax Refunds	\$	31,000,000	\$	31,000,000
					90150
TOTAL Agency	Fund Group	\$	31,000,000	\$	31,000,000
					90151
	General Services Fund Group				90152
4E9 090-603	Securities Lending	\$	2,400,000	\$	2,100,000
	Income				90153
577 090-605	Investment Pool	\$	600,000	\$	550,000
	Reimbursement				90154
					90155
605 090-609	Treasurer of State	\$	600,000	\$	700,000
	Administrative Fund				90156
					90157
TOTAL GSF	General Services				90158
	Fund Group	\$	3,600,000	\$	3,350,000
					90159
	State Special Revenue Fund Group				90160
5C5 090-602	County Treasurer	\$	175,000	\$	135,000
	Education				90161
					90162
TOTAL SSR	State Special Revenue				90162
	Fund Group	\$	175,000	\$	135,000
					90163
TOTAL ALL BUDGET	FUND GROUPS	\$	71,902,535	\$	72,842,535
					90164

Section 105.01. OFFICE OF THE SINKING FUND 90166

The foregoing appropriation item 090-401, Office of the 90167
Sinking Fund, shall be used for financing and other costs incurred 90168
by or on behalf of the Commissioners of the Sinking Fund, the Ohio 90169
Public Facilities Commission or its secretary, or the Treasurer of 90170
State, with respect to State of Ohio general obligation bonds or 90171
notes, including, but not limited to, printing, advertising, 90172
delivery, rating fees and the procurement of ratings, professional 90173
publications, membership in professional organizations, and 90174
services referred to in division (D) of section 151.01 of the 90175
Revised Code. The General Revenue Fund shall be reimbursed for 90176
such costs by intrastate transfer voucher pursuant to a 90177
certification by the Office of the Sinking Fund of the actual 90178
amounts used. The amounts necessary to make such reimbursements 90179
are appropriated from the general obligation bond retirement funds 90180
created by the Constitution and laws to the extent such costs are 90181
incurred. 90182

POLICE AND FIRE DEATH BENEFIT FUND 90183

The foregoing appropriation item 090-575, Police and Fire 90184
Death Benefits, shall be disbursed annually by the Treasurer of 90185
State at the beginning of each fiscal year to the Board of 90186
Trustees of the Ohio Police and Fire Pension Fund. By the 90187
twentieth day of June of each year, the Board of Trustees of the 90188
Ohio Police and Fire Pension Fund shall certify to the Treasurer 90189
of State the amount disbursed in the current fiscal year to make 90190
the payments required by section 742.63 of the Revised Code and 90191
shall return to the Treasurer of State moneys received from this 90192
item but not disbursed. 90193

The foregoing appropriation item 090-635, Tax Refunds, shall 90194
be used to pay refunds as provided in section 5703.052 of the 90195
Revised Code. If it is determined by the Director of Budget and 90196

Management that additional amounts are necessary, such amounts are 90197
 appropriated. 90198

Section 106. UST PETROLEUM UNDERGROUND STORAGE TANK RELEASE 90199
 COMPENSATION BOARD 90200
 State Special Revenue Fund Group 90201
 691 810-632 PUSTRCB Staff \$ 1,075,158 \$ 1,075,158 90202
 TOTAL SSR State Special Revenue 90203
 Fund Group \$ 1,075,158 \$ 1,075,158 90204
 TOTAL ALL BUDGET FUND GROUPS \$ 1,075,158 \$ 1,075,158 90205

Section 107. TTA OHIO TUITION TRUST AUTHORITY 90207
 State Special Revenue Fund Group 90208
 5P3 095-602 Variable Savings Plan \$ 1,639,747 \$ 1,690,213 90209
 645 095-601 Operating Expenses \$ 3,570,614 \$ 3,689,101 90210
 TOTAL SSR State Special Revenue 90211
 Fund Group \$ 5,210,361 \$ 5,379,314 90212
 TOTAL ALL BUDGET FUND GROUPS \$ 5,210,361 \$ 5,379,314 90213

Section 108. OVH OHIO VETERANS' HOME 90215
 General Revenue Fund 90216
 GRF 430-100 Personal Services \$ 20,664,311 \$ 18,877,112 90217
 GRF 430-200 Maintenance \$ 6,912,553 \$ 6,546,928 90218
 TOTAL GRF General Revenue Fund \$ 27,576,864 \$ 25,424,040 90219
 General Services Fund Group 90220
 484 430-603 Rental and Service \$ 709,737 \$ 709,737 90221
 Revenue
 TOTAL GSF General Services Fund \$ 709,737 \$ 709,737 90222
 Group
 Federal Special Revenue Fund Group 90223
 3L2 430-601 Federal Grants \$ 12,220,340 \$ 14,696,578 90224
 TOTAL FED Federal Special Revenue 90225

Fund Group	\$	12,220,340	\$	14,696,578	90226
State Special Revenue Fund Group					90227
4E2 430-602 Veterans Home	\$	6,719,938	\$	7,769,277	90228
Operating					
604 430-604 Veterans Home	\$	770,096	\$	770,096	90229
Improvement					
TOTAL SSR State Special Revenue					90230
Fund Group	\$	7,490,034	\$	8,539,373	90231
TOTAL ALL BUDGET FUND GROUPS	\$	47,996,975	\$	49,369,728	90232
Section 108.01. VET VETERANS' ORGANIZATIONS					90234
General Revenue Fund					90235
VAP AMERICAN EX-PRISONERS OF WAR					90236
GRF 743-501 State Support	\$	25,030	\$	25,030	90237
VAN ARMY AND NAVY UNION, USA, INC.					90238
GRF 746-501 State Support	\$	55,012	\$	55,012	90239
VKW KOREAN WAR VETERANS					90240
GRF 747-501 State Support	\$	53,953	\$	49,453	90241
VJW JEWISH WAR VETERANS					90242
GRF 748-501 State Support	\$	29,715	\$	29,715	90243
VCW CATHOLIC WAR VETERANS					90244
GRF 749-501 State Support	\$	57,990	\$	57,990	90245
VPH MILITARY ORDER OF THE PURPLE HEART					90246
GRF 750-501 State Support	\$	56,377	\$	56,377	90247
VVV VIETNAM VETERANS OF AMERICA					90248
GRF 751-501 State Support	\$	185,954	\$	185,954	90249
VAL AMERICAN LEGION OF OHIO					90250
GRF 752-501 State Support	\$	252,328	\$	252,328	90251
VII AMVETS					90252
GRF 753-501 State Support	\$	237,919	\$	237,919	90253
VAV DISABLED AMERICAN VETERANS					90254
GRF 754-501 State Support	\$	166,308	\$	166,308	90255

	VMC MARINE CORPS LEAGUE			90256
GRF 756-501	State Support	\$ 85,972	\$ 85,972	90257
	V37 37TH DIVISION AEF VETERANS' ASSOCIATION			90258
GRF 757-501	State Support	\$ 5,946	\$ 5,946	90259
	VFW VETERANS OF FOREIGN WARS			90260
GRF 758-501	State Support	\$ 196,615	\$ 196,615	90261
TOTAL GRF	General Revenue Fund	\$ 1,409,119	\$ 1,404,619	90262
TOTAL ALL BUDGET FUND GROUPS		\$ 1,409,119	\$ 1,404,619	90263
	RELEASE OF FUNDS			90264
	The foregoing appropriation items 743-501, 746-501, 747-501, 748-501, 749-501, 750-501, 751-501, 752-501, 753-501, 754-501, 756-501, 757-501, and 758-501, State Support, shall be released upon approval by the Director of Budget and Management.			90265 90266 90267 90268
	50th ANNIVERSARY COMMEMORATION OF THE KOREAN WAR			90269
	Of the foregoing appropriation item 747-501, State Support, Korean War Veterans, up to \$4,500 in fiscal year 2004 shall be used for activities to commemorate the 50th anniversary of the Korean War. Commemorative activities shall be carried out by the Korean War Veterans Organization with input from the Governor's Office of Veterans Affairs and the other veterans organizations representing Korean War veterans.			90270 90271 90272 90273 90274 90275 90276
	AMERICAN EX-PRISONERS OF WAR			90277
	The American Ex-Prisoners of War shall be permitted to share an office with the Veterans of World War I.			90278 90279
	CENTRAL OHIO UNITED SERVICES ORGANIZATION			90280
	Of the foregoing appropriation item 751-501, State Support, Vietnam Veterans of America, \$50,000 in each fiscal year shall be used to support the activities of the Central Ohio USO.			90281 90282 90283
	VETERANS SERVICE COMMISSION EDUCATION			90284
	Of the foregoing appropriation item 753-501, State Support,			90285

AMVETS, up to \$20,000 in each fiscal year may be used to provide 90286
moneys to the Association of County Veterans Service Commissioners 90287
to reimburse its member county veterans service commissions for 90288
costs incurred in carrying out educational and outreach duties 90289
required under divisions (E) and (F) of section 5901.03 of the 90290
Revised Code. The Director of Budget and Management shall release 90291
these funds upon the presentation of an itemized receipt from the 90292
association for reasonable and appropriate expenses incurred while 90293
performing these duties. The association shall establish uniform 90294
procedures for reimbursing member commissions. 90295

Section 109. DVM STATE VETERINARY MEDICAL BOARD 90296

General Services Fund Group 90297
4K9 888-609 Operating Expenses \$ 444,208 \$ 453,043 90298
TOTAL GSF General Services 90299
Fund Group \$ 444,208 \$ 453,043 90300
TOTAL ALL BUDGET FUND GROUPS \$ 444,208 \$ 453,043 90301

Section 111. DYS DEPARTMENT OF YOUTH SERVICES 90303

General Revenue Fund 90304
GRF 470-401 RECLAIM Ohio \$ 164,637,416 \$ 167,697,792 90305
GRF 470-412 Lease Rental Payments \$ 21,110,100 \$ 21,110,000 90306
GRF 470-510 Youth Services \$ 18,608,587 \$ 18,608,587 90307
GRF 472-321 Parole Operations \$ 15,347,154 \$ 14,841,872 90308
GRF 477-321 Administrative \$ 14,427,323 \$ 14,166,008 90309
Operations
TOTAL GRF General Revenue Fund \$ 234,130,580 \$ 236,424,259 90310
General Services Fund Group 90311
175 470-613 Education \$ 8,817,598 \$ 8,817,598 90312
Reimbursement
4A2 470-602 Child Support \$ 311,302 \$ 320,641 90313
4G6 470-605 General Operational \$ 10,000 \$ 10,000 90314

Funds							
479	470-609	Employee Food Service	\$	118,454	\$	122,008	90315
523	470-621	Wellness Program	\$	197,778	\$	197,778	90316
TOTAL GSF General Services							90317
Fund Group			\$	9,455,132	\$	9,468,025	90318
Federal Special Revenue Fund Group							90319
3V5	470-604	Juvenile	\$	4,091,100	\$	4,254,744	90320
Justice/Delinquency Prevention							
3W0	470-611	Federal Juvenile Programs FFY 02	\$	4,500,000	\$	0	90321
3Z8	470-625	Federal Juvenile Programs FFY 04	\$	7,828,899	\$	4,500,000	90322
3Z9	470-626	Federal Juvenile Programs FFY 05	\$	0	\$	7,828,899	90323
321	470-601	Education	\$	1,491,587	\$	1,555,147	90324
321	470-603	Juvenile Justice Prevention	\$	1,558,138	\$	1,558,138	90325
321	470-606	Nutrition	\$	2,389,587	\$	2,485,170	90326
321	470-610	Rehabilitation Programs	\$	585,000	\$	585,000	90327
321	470-614	Title IV-E Reimbursements	\$	4,776,002	\$	4,919,282	90328
321	470-617	Americorps Programs	\$	460,000	\$	460,000	90329
TOTAL FED Federal Special Revenue							90330
Fund Group			\$	27,680,313	\$	28,146,380	90331
State Special Revenue Fund Group							90332
147	470-612	Vocational Education	\$	2,523,653	\$	2,630,612	90333
4W3	470-618	Help Me Grow	\$	11,587	\$	11,587	90334
5J7	470-623	Residential Treatment Services	\$	500,000	\$	500,000	90335
TOTAL SSR State Special Revenue							90336

Fund Group	\$	3,035,240	\$	3,142,199	90337
TOTAL ALL BUDGET FUND GROUPS	\$	274,301,265	\$	277,180,863	90338

ZERO-BASED BUDGETING 90339

The Director of Budget and Management shall prepare a full 90340
zero-based budget for the biennium beginning July 1, 2005, for the 90341
Department of Youth Services. The Director shall offer the 90342
Department substantial technical assistance throughout the process 90343
of preparing their zero-based budget. The Department shall prepare 90344
a full zero-based budget in such manner and according to such 90345
schedule as the Director of Budget and Management requires. The 90346
zero-based budget shall, as the Director of Budget and Management 90347
determines, be in addition to or in place of the estimates of 90348
revenue and proposed expenditures that the Department otherwise 90349
would be required to prepare under section 126.02 of the Revised 90350
Code. 90351

OHIO BUILDING AUTHORITY LEASE PAYMENTS 90352

The foregoing appropriation item 470-412, Lease Rental 90353
Payments, in the Department of Youth Services, shall be used for 90354
payments to the Ohio Building Authority for the period from July 90355
1, 2003, to June 30, 2005, pursuant to the primary leases and 90356
agreements for facilities made under Chapter 152. of the Revised 90357
Code, but limited to the aggregate amount of \$42,220,100. This 90358
appropriation is the source of funds pledged for bond service 90359
charges on related obligations issued pursuant to Chapter 152. of 90360
the Revised Code. 90361

YOUTH SERVICES BLOCK GRANT 90362

Of the foregoing appropriation item 470-510, Youth Services, 90363
\$50,000 in each fiscal year shall be distributed directly to 90364
Lighthouse Youth Services. 90365

EMPLOYEE FOOD SERVICE AND EQUIPMENT 90366

Notwithstanding section 125.14 of the Revised Code, the 90367
foregoing appropriation item 470-609, Employee Food Service, may 90368
be used to purchase any food operational items with funds received 90369
into the fund from reimbursement for state surplus property. 90370

EDUCATION REIMBURSEMENT 90371

The foregoing appropriation item 470-613, Education 90372
Reimbursement, shall be used to fund the operating expenses of 90373
providing educational services to youth supervised by the 90374
Department of Youth Services. Operating expenses include, but are 90375
not limited to, teachers' salaries, maintenance costs, and 90376
educational equipment. This appropriation item shall not be used 90377
for capital expenses. 90378

FEDERAL JUVENILE JUSTICE PROGRAM TRANSFER FROM THE OFFICE OF 90379
CRIMINAL JUSTICE SERVICES TO THE DEPARTMENT OF YOUTH SERVICES 90380

Any business relating to the funds associated with the Office 90381
of Criminal Justice Services' appropriation item 196-602, Criminal 90382
Justice Federal Programs, commenced but not completed by the 90383
Office of Criminal Justice Services or its director shall be 90384
completed by the Department of Youth Services or its director in 90385
the same manner, and with the same effect, as if completed by the 90386
Office of Criminal Justice Services or its director. No 90387
validation, cure, right, privilege, remedy, obligation, or 90388
liability is lost or impaired by reason of the transfer and shall 90389
be administered by the Department of Youth Services. 90390

Any action or proceeding against the Office of Criminal 90391
Justice Services pending on the effective date of this section 90392
shall not be affected by the transfer of responsibility to the 90393
Department of Youth Services, and shall be prosecuted or defended 90394
in the name of the Department of Youth Services or its director. 90395
In all such actions and proceedings, the Department of Youth 90396
Services or its director upon application of the court shall be 90397

substituted as party. 90398

Section 112. EXPENDITURES AND APPROPRIATION INCREASES 90399

APPROVED BY THE CONTROLLING BOARD 90400

Any money that the Controlling Board approves for expenditure 90401
or any increase in appropriation authority that the Controlling 90402
Board approves pursuant to the provisions of sections 127.14, 90403
131.35, and 131.39 of the Revised Code or any other provision of 90404
law is appropriated for the period ending June 30, 2005. 90405

Section 113. PERSONAL SERVICE EXPENSES 90406

Unless otherwise prohibited by law, any appropriation from 90407
which personal service expenses are paid shall bear the employer's 90408
share of public employees' retirement, workers' compensation, 90409
disabled workers' relief, and all group insurance programs; the 90410
costs of centralized accounting, centralized payroll processing, 90411
and related personnel reports and services; the cost of the Office 90412
of Collective Bargaining; the cost of the Personnel Board of 90413
Review; the cost of the Employee Assistance Program; the cost of 90414
the affirmative action and equal employment opportunity programs 90415
administered by the Department of Administrative Services; the 90416
costs of interagency information management infrastructure; and 90417
the cost of administering the state employee merit system as 90418
required by section 124.07 of the Revised Code. These costs shall 90419
be determined in conformity with appropriate sections of law and 90420
paid in accordance with procedures specified by the Office of 90421
Budget and Management. Expenditures from appropriation item 90422
070-601, Public Audit Expense - Local Government, in Fund 422 may 90423
be exempted from the requirements of this section. 90424

Section 114. REISSUANCE OF VOIDED WARRANTS 90425

In order to provide funds for the reissuance of voided 90426

warrants pursuant to section 117.47 of the Revised Code, there is 90427
appropriated, out of moneys in the state treasury from the fund 90428
credited as provided in section 117.47 of the Revised Code, that 90429
amount sufficient to pay such warrants when approved by the Office 90430
of Budget and Management. 90431

Section 115. * CAPITAL PROJECT SETTLEMENTS 90432

This section specifies an additional and supplemental 90433
procedure to provide for payments of judgments and settlements if 90434
the Director of Budget and Management determines, pursuant to 90435
division (C)(4) of section 2743.19 of the Revised Code, that 90436
sufficient unencumbered moneys do not exist in the particular 90437
appropriation to pay the amount of a final judgment rendered 90438
against the state or a state agency, including the settlement of a 90439
claim approved by a court, in an action upon and arising out of a 90440
contractual obligation for the construction or improvement of a 90441
capital facility if the costs under the contract were payable in 90442
whole or in part from a state capital projects appropriation. In 90443
such a case, the director may either proceed pursuant to division 90444
(C)(4) of section 2743.19 of the Revised Code, or apply to the 90445
Controlling Board to increase an appropriation or create an 90446
appropriation out of any unencumbered moneys in the state treasury 90447
to the credit of the capital projects fund from which the initial 90448
state appropriation was made. The Controlling Board may approve or 90449
disapprove the application as submitted or modified. The amount of 90450
an increase in appropriation or new appropriation specified in an 90451
application approved by the Controlling Board is hereby 90452
appropriated from the applicable capital projects fund and made 90453
available for the payment of the judgment or settlement. 90454

If the director does not make the application authorized by 90455
this section or the Controlling Board disapproves the application, 90456
and the director does not make application pursuant to division 90457

(C)(4) of section 2743.19 of the Revised Code, the director shall 90458
for the purpose of making that payment make a request to the 90459
General Assembly as provided for in division (C)(5) of that 90460
section. 90461

Section 116. INCOME TAX DISTRIBUTION TO COUNTIES 90462

There are hereby appropriated out of any moneys in the state 90463
treasury to the credit of the General Revenue Fund, which are not 90464
otherwise appropriated, funds sufficient to make any payment 90465
required by division (B)(2) of section 5747.03 of the Revised 90466
Code. 90467

Section 117. SATISFACTION OF JUDGMENTS AND SETTLEMENTS 90468
AGAINST THE STATE 90469

Any appropriation may be used for the purpose of satisfying 90470
judgments or settlements in connection with civil actions against 90471
the state in federal court not barred by sovereign immunity or the 90472
Eleventh Amendment to the Constitution of the United States, or 90473
for the purpose of satisfying judgments, settlements, or 90474
administrative awards ordered or approved by the Court of Claims 90475
in connection with civil actions against the state, pursuant to 90476
section 2743.15, 2743.19, or 2743.191 of the Revised Code. This 90477
authorization does not apply to appropriations to be applied to or 90478
used for payment of guarantees by or on behalf of the state, for 90479
or relating to lease payments or debt service on bonds, notes, or 90480
similar obligations and those from the Sports Facilities Building 90481
Fund (Fund 024), the Highway Safety Building Fund (Fund 025), the 90482
Administrative Building Fund (Fund 026), the Adult Correctional 90483
Building Fund (Fund 027), the Juvenile Correctional Building Fund 90484
(Fund 028), the Transportation Building Fund (Fund 029), the Arts 90485
Facilities Building Fund (Fund 030), the Natural Resources 90486
Projects Fund (Fund 031), the School Building Program Assistance 90487

Fund (Fund 032), the Mental Health Facilities Improvement Fund 90488
(Fund 033), the Higher Education Improvement Fund (Fund 034), the 90489
Parks and Recreation Improvement Fund (Fund 035), the State 90490
Capital Improvements Fund (Fund 038), the Highway Obligation Fund 90491
(Fund 041), the Coal Research/Development Fund (Fund 046), and any 90492
other fund into which proceeds of obligations are deposited. 90493
Nothing contained in this section is intended to subject the state 90494
to suit in any forum in which it is not otherwise subject to suit, 90495
nor is it intended to waive or compromise any defense or right 90496
available to the state in any suit against it. 90497

Section 118. * UTILITY RADIOLOGICAL SAFETY BOARD ASSESSMENTS 90498

The maximum amounts that may be assessed against nuclear 90499
electric utilities in accordance with division (B)(2) of section 90500
4937.05 of the Revised Code are as follows: 90501

	FY 2004	FY 2005	
Department of Agriculture			90502
Fund 4E4 Utility Radiological Safety	\$73,059	\$73,059	90503
Department of Health			90504
Fund 610 Radiation Emergency Response	\$923,315	\$923,315	90505
Environmental Protection Agency			90506
Fund 644 ER Radiological Safety	\$281,424	\$286,114	90507
Emergency Management Agency			90508
Fund 657 Utility Radiological Safety	\$1,200,000	\$1,260,000	90509

Section 119. UNCLAIMED FUNDS TRANSFER 90510

Notwithstanding division (A) of section 169.05 of the Revised 90511
Code, prior to June 30, 2004, upon the request of the Director of 90512
Budget and Management, the Director of Commerce shall transfer to 90513
the General Revenue Fund up to \$25,000,000 of the unclaimed funds 90514
that have been reported by the holder of unclaimed funds as 90515
provided by section 169.05 of the Revised Code, irrespective of 90516
90517

the allocation of the unclaimed funds under that section. 90518

Section 120. GRF TRANSFER TO FUND 5N4, OAKS PROJECT 90519
IMPLEMENTATION 90520

On July 1, 2003, or as soon thereafter as possible, the 90521
Director of Budget and Management shall transfer up to \$1,250,000 90522
in cash from the General Revenue Fund to Fund 5N4, OAKS Project 90523
Implementation. On July 1, 2004, or as soon thereafter as 90524
possible, the Director of Budget and Management shall transfer up 90525
to \$1,250,000 in cash from the General Revenue Fund to Fund 5N4, 90526
OAKS Project Implementation. 90527

Section 120a. FUND 4K9 TRANSFER TO GRF 90528

On July 31, 2003, or as soon thereafter as possible, the 90529
Director of Budget and Management shall transfer \$2,000,000 in 90530
cash from Fund 4K9, Occupational Licensing and Regulatory Fund, to 90531
the General Revenue Fund. 90532

Section 121. CORPORATE AND UCC FILING FUND TRANSFER TO GRF 90533

Not later than the first day of June in each year of the 90534
biennium, the Director of Budget and Management shall transfer 90535
\$1,000,000 from the Corporate and Uniform Commercial Code Filing 90536
Fund to the General Revenue Fund. 90537

Section 122. GENERAL OBLIGATION DEBT SERVICE PAYMENTS 90538

Certain appropriations are in this act for the purpose of 90539
paying debt service and financing costs on general obligation 90540
bonds or notes of the state issued pursuant to the Ohio 90541
Constitution and acts of the General Assembly. If it is determined 90542
that additional appropriations are necessary for this purpose, 90543
such amounts are appropriated. 90544

Section 123. LEASE PAYMENTS TO OPFC, OBA, AND TREASURER OF STATE 90545
90546

Certain appropriations are in this act for the purpose of 90547
making lease payments pursuant to leases and agreements relating 90548
to bonds or notes issued by the Ohio Building Authority or the 90549
Treasurer of State or, previously, by the Ohio Public Facilities 90550
Commission, pursuant to the Ohio Constitution and acts of the 90551
General Assembly. If it is determined that additional 90552
appropriations are necessary for this purpose, such amounts are 90553
appropriated. 90554

Section 124. AUTHORIZATION FOR TREASURER OF STATE AND OBM TO 90555
EFFECTUATE CERTAIN DEBT SERVICE PAYMENTS 90556

The Office of Budget and Management shall initiate and 90557
process disbursements from general obligation and lease rental 90558
payment appropriation items during the period from July 1, 2003, 90559
to June 30, 2005, relating to bonds or notes issued under Sections 90560
2i, 2k, 2l, 2m, 2n, 2o, and 15 of Article VIII, Ohio Constitution, 90561
and Chapters 151., 154., and 3318. of the Revised Code. 90562
Disbursements shall be made upon certification by the Treasurer of 90563
State of the dates and amounts due on those dates. 90564

Section 125. STATE AND LOCAL REBATE AUTHORIZATION 90565

There is hereby appropriated, from those funds designated by 90566
or pursuant to the applicable proceedings authorizing the issuance 90567
of state obligations, amounts computed at the time to represent 90568
the portion of investment income to be rebated or amounts in lieu 90569
of or in addition to any rebate amount to be paid to the federal 90570
government in order to maintain the exclusion from gross income 90571
for federal income tax purposes of interest on those state 90572
obligations pursuant to section 148(f) of the Internal Revenue 90573

Code.	90574
Rebate payments shall be approved and vouchered by the Office of Budget and Management.	90575 90576
Section 126. APPROPRIATIONS RELATED TO CASH TRANSFERS AND REESTABLISHMENT OF ENCUMBRANCES	90577 90578
Any cash transferred by the Director of Budget and Management as provided by section 126.15 of the Revised Code is appropriated. Any amounts necessary to reestablish appropriations or encumbrances as provided in section 126.15 of the Revised Code are appropriated.	90579 90580 90581 90582 90583
Section 127. FEDERAL CASH MANAGEMENT IMPROVEMENT ACT	90584
Pursuant to the plan for compliance with the Federal Cash Management Improvement Act required by section 131.36 of the Revised Code, the Director of Budget and Management is authorized to cancel and reestablish all or parts of encumbrances in like amounts within the funds identified by the plan. The amounts necessary to reestablish all or parts of encumbrances are appropriated.	90585 90586 90587 90588 90589 90590 90591
Section 128. STATEWIDE INDIRECT COST RECOVERY	90592
Whenever the Director of Budget and Management determines that an appropriation made to a state agency from a fund of the state is insufficient to provide for the recovery of statewide indirect costs pursuant to section 126.12 of the Revised Code, the amount required for such purpose is appropriated from the available receipts of such fund.	90593 90594 90595 90596 90597 90598
Section 129. GRF TRANSFERS ON BEHALF OF THE STATEWIDE INDIRECT COST ALLOCATION PLAN	90599 90600
The total transfers made from the General Revenue Fund by the	90601

Director of Budget and Management pursuant to this section shall 90602
not exceed the amounts transferred into the General Revenue Fund 90603
pursuant to division (B) of section 126.12 of the Revised Code. 90604

A director of an agency may certify to the Director of Budget 90605
and Management the amount of expenses not allowed to be included 90606
in the Statewide Indirect Cost Allocation plan pursuant to federal 90607
regulations, from any fund included in the Statewide Indirect Cost 90608
Allocation plan, prepared as required by section 126.12 of the 90609
Revised Code. 90610

Upon determining that no alternative source of funding is 90611
available to pay for such expenses, the Director of Budget and 90612
Management may transfer from the General Revenue Fund into the 90613
fund for which the certification is made, up to the amount of the 90614
certification. The director of the agency receiving such funds 90615
shall include, as part of the next budget submission prepared 90616
pursuant to section 126.02 of the Revised Code, a request for 90617
funding for such activities from an alternative source such that 90618
further federal disallowances would not be required. 90619

Section 130. REAPPROPRIATION OF UNEXPENDED ENCUMBERED 90620
BALANCES OF OPERATING APPROPRIATIONS 90621

An unexpended balance of an operating appropriation or 90622
reappropriation that a state agency lawfully encumbered prior to 90623
the close of a fiscal year is reappropriated on the first day of 90624
July of the following fiscal year from the fund from which it was 90625
originally appropriated or reappropriated for the following period 90626
and shall remain available only for the purpose of discharging the 90627
encumbrance: 90628

(A) For an encumbrance for personal services, maintenance, 90629
equipment, or items for resale, other than an encumbrance for an 90630
item of special order manufacture not available on term contract 90631
or in the open market or for reclamation of land or oil and gas 90632

wells for a period of not more than five months from the end of 90633
the fiscal year; 90634

(B) For an encumbrance for an item of special order 90635
manufacture not available on term contract or in the open market, 90636
for a period of not more than five months from the end of the 90637
fiscal year or, with the written approval of the Director of 90638
Budget and Management, for a period of not more than twelve months 90639
from the end of the fiscal year; 90640

(C) For an encumbrance for reclamation of land or oil and gas 90641
wells, for a period ending when the encumbered appropriation is 90642
expended or for a period of two years, whichever is less; 90643

(D) For an encumbrance for any other expense, for such period 90644
as the director approves, provided such period does not exceed two 90645
years. 90646

Any operating appropriations for which unexpended balances 90647
are reappropriated beyond a five-month period from the end of the 90648
fiscal year, pursuant to division (B) of this section, shall be 90649
reported to the Controlling Board by the Director of Budget and 90650
Management by the thirty-first day of December of each year. The 90651
report on each such item shall include the item, the cost of the 90652
item, and the name of the vendor. This report to the board shall 90653
be updated on a quarterly basis for encumbrances remaining open. 90654

Upon the expiration of the reappropriation period set out in 90655
divisions (A), (B), (C), or (D) of this section, a reappropriation 90656
made pursuant to this section lapses, and the Director of Budget 90657
and Management shall cancel the encumbrance of the unexpended 90658
reappropriation not later than the end of the weekend following 90659
the expiration of the reappropriation period. 90660

Notwithstanding the preceding paragraph, with the approval of 90661
the Director of Budget and Management, an unexpended balance of an 90662
encumbrance that was reappropriated on the first day of July 90663

pursuant to this section for a period specified in division (C) or 90664
(D) of this section and that remains encumbered at the close of 90665
the fiscal biennium is hereby reappropriated pursuant to this 90666
section on the first day of July of the following fiscal biennium 90667
from the fund from which it was originally appropriated or 90668
reappropriated for the applicable period specified in division (C) 90669
or (D) of this section and shall remain available only for the 90670
purpose of discharging the encumbrance. 90671

If the Controlling Board approved a purchase, that approval 90672
remains in effect as long as the appropriation used to make that 90673
purchase remains encumbered. 90674

Section 131. FEDERAL GOVERNMENT INTEREST REQUIREMENTS 90675

Notwithstanding any provision of law to the contrary, on or 90676
before the first day of September of each fiscal year, the 90677
Director of Budget and Management, in order to reduce the payment 90678
of adjustments to the federal government, as determined by the 90679
plan prepared pursuant to division (A) of section 126.12 of the 90680
Revised Code, may designate such funds as the director considers 90681
necessary to retain their own interest earnings. 90682

Section 131.01. That Sections 11 and 11.04 of Am. Sub. H.B. 90683
87 of the 125th General Assembly be amended to read as follows: 90684

Sec. 11. DOT DEPARTMENT OF TRANSPORTATION 90685

FUND	TITLE	FY 2004	FY 2005	
	Transportation Planning and Research			90687
	Highway Operating Fund Group			90688
002 771-411	Planning and Research	\$ 14,548,950	\$ 15,070,100	90689
	- State			
002 771-412	Planning and Research	\$ 35,193,300	\$ 35,644,900	90690
	- Federal			

TOTAL HOF Highway Operating				90691
Fund Group	\$	49,742,250	\$ 50,715,000	90692
TOTAL ALL BUDGET FUND GROUPS -				90693
Transportation Planning				90694
and Research	\$	49,742,250	\$ 50,715,000	90695
Highway Construction				90696
Highway Operating Fund Group				90697
002 772-421 Highway Construction -	\$	485,577,430	\$ 442,367,300	90698
State				
002 772-422 Highway Construction -	\$	762,964,700	\$ 766,001,700	90699
Federal				
002 772-424 Highway Construction -	\$	70,000,000	\$ 51,000,000	90700
Other				
212 770-005 Infrastructure Debt	\$	72,064,200	\$ 78,696,100	90701
Service - Federal				
212 772-423 Infrastructure Lease	\$	12,537,800	\$ 12,537,300	90702
Payments - Federal				
212 772-426 Highway Infrastructure	\$	2,740,000	\$ 2,620,000	90703
Bank - Federal				
212 772-427 Highway Infrastructure	\$	11,000,000	\$ 11,000,000	90704
Bank - State				
TOTAL HOF Highway Operating				90705
Fund Group	\$	1,416,884,130	\$ 1,364,222,400	90706
Highway Capital Improvement Fund Group				90707
042 772-723 Highway Construction -	\$	220,000,000	\$ 220,000,000	90708
Bonds				
TOTAL 042 Highway Capital				90709
Improvement Fund Group	\$	220,000,000	\$ 220,000,000	90710
Infrastructure Bank Obligations				90711
Fund Group				
045 772-428 Highway Infrastructure	\$	40,000,000	\$ 40,000,000	90712
Bank - Bonds				

TOTAL 045 Infrastructure Bank				90713	
Obligations Fund Group	\$	40,000,000	\$	40,000,000	90714
TOTAL ALL BUDGET FUND GROUPS -				90715	
Highway Construction	\$	1,678,384,130	\$	1,627,222,400	90716
Highway Maintenance				90717	
Highway Operating Fund Group				90718	
002 773-431 Highway Maintenance -	\$	394,605,100	\$	413,082,600	90719
State					
TOTAL HOF Highway Operating				90720	
Fund Group	\$	394,605,100	\$	413,082,600	90721
TOTAL ALL BUDGET FUND GROUPS -				90722	
Highway Maintenance	\$	394,605,100	\$	413,082,600	90723
Public Transportation				90724	
Highway Operating Fund Group				90725	
002 775-452 Public Transportation	\$	27,000,000	\$	27,000,000	90726
- Federal					
002 775-454 Public Transportation	\$	1,500,000	\$	1,500,000	90727
- Other					
002 775-459 Elderly and Disabled	\$	4,230,000	\$	4,230,000	90728
Special Equipment -					
Federal					
TOTAL HOF Highway Operating				90729	
Fund Group	\$	32,730,000	\$	32,730,000	90730
TOTAL ALL BUDGET FUND GROUPS -				90731	
Public Transportation	\$	32,730,000	\$	32,730,000	90732
Rail Transportation				90733	
Highway Operating Fund Group				90734	
002 776-462 Grade Crossings -	\$	15,000,000	\$	15,000,000	90735
Federal					
TOTAL HOF Highway Operating				90736	
Fund Group	\$	15,000,000	\$	15,000,000	90737
State Special Revenue Fund Group				90738	

4A3 776-665	Railroad Crossing	\$	1,000,000	\$	0	90739
	Safety Devices					
TOTAL SSR State Special Revenue		\$	1,000,000	\$	0	90740
Fund Group						
TOTAL ALL BUDGET FUND GROUPS -						90741
Rail Transportation		\$	16,000,000	\$	15,000,000	90742
			<u>15,000,000</u>			90743
	Aviation					90744
Highway Operating Fund Group						90745
002 777-472	Airport Improvements -	\$	405,000	\$	405,000	90746
	Federal					
002 777-475	Aviation	\$	4,064,700	\$	4,139,000	90747
	Administration					
TOTAL HOF Highway Operating						90748
Fund Group						\$ 4,469,700 \$ 4,544,000 90749
TOTAL ALL BUDGET FUND GROUPS -						90750
Aviation		\$	4,469,700	\$	4,544,000	90751
	Administration					90752
State Special Revenue Fund Group						90753
4T5 770-609	Administration	\$	5,000	\$	5,000	90754
	Memorial Fund					
TOTAL SSR State Special Revenue						90755
Fund Group						\$ 5,000 \$ 5,000 90756
Highway Operating Fund Group						90757
002 779-491	Administration - State	\$	116,449,900	\$	121,986,500	90758
TOTAL HOF Highway Operating						90759
Fund Group						\$ 116,449,900 \$ 121,986,500 90760
TOTAL ALL BUDGET FUND GROUPS -						90761
Administration		\$	116,454,900	\$	121,991,500	90762
	Debt Service					90763
Highway Operating Fund Group						90764
002 770-003	Administration - State	\$	13,802,600	\$	13,395,900	90765

- Debt Service			
TOTAL HOF Highway Operating			90766
Fund Group	\$ 13,802,600	\$ 13,395,900	90767
TOTAL ALL BUDGET FUND GROUPS -			90768
Debt Service	\$ 13,802,600	\$ 13,395,900	90769
TOTAL Department of Transportation 90770			
TOTAL HOF Highway Operating			90771
Fund Group	\$ 2,043,683,680	\$ 2,015,676,400	90772
TOTAL 042 Highway Capital			90773
Improvement Fund Group	\$ 220,000,000	\$ 220,000,000	90774
TOTAL 045 Infrastructure Bank			90775
Obligations Fund Group	\$ 40,000,000	\$ 40,000,000	90776
TOTAL SSR State Special Revenue			90777
Fund Group	\$ 1,005,000	\$ 5,000	90778
	<u>5,000</u>		90779
TOTAL ALL BUDGET FUND GROUPS	\$ 2,304,688,680	\$ 2,275,681,400	90780
	<u>2,303,688,680</u>		90781

Sec. 11.04. PUBLIC ACCESS ROADS FOR STATE FACILITIES 90783

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.

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.

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 facilities as requested by the commission and approved by the Director of Transportation.

LIQUIDATION OF UNFORESEEN LIABILITIES

Any appropriation made to the Department of Transportation, Highway Operating Fund, not otherwise restricted by law, is available to liquidate unforeseen liabilities arising from contractual agreements of prior years when the prior year encumbrance is insufficient.

~~RUMBLE STRIPS AT RAILROAD CROSSINGS~~

~~Of the foregoing appropriation item 776 665, Railroad Crossing Safety Devices, \$1,000,000 in fiscal year 2004 shall be used by the Department of Transportation to fund competitive grants to political subdivisions for the cost of putting rumble strips at active railroad crossings without gates or lights. The maximum amount of a competitive grant is \$50,000 for any single crossing. Each political subdivision with jurisdiction over a crossing may apply to the Department for a competitive grant for the costs of putting rumble strips at crossings. Those political subdivisions awarded grants shall install the rumble strips by December 1, 2004. Those political subdivisions awarded such grants shall not use the moneys as matching funds for any other state rail safety programs.~~

~~If rumble strips are not appropriate for a crossing, the Department may allow the political subdivision which is awarded the grant to use the funding for a safety device or technology more appropriate for the crossing.~~

~~The Department shall notify each political subdivision with jurisdiction over a crossing of the requirements of this section that funding is available for rumble strips at crossings and for other rail crossing safety improvements. The Department also shall notify associations representing political subdivisions of the availability of the funding.~~

~~The Department shall spend no more than five per cent of the appropriation item on Department administrative expenses.~~

~~The Department shall issue a report on or before June 30, 2005, describing the activities carried out by the Department to comply with the provisions of this section. The report shall include the number of crossings at which rumble strip installation was completed, the cost of each installation to date, the number of active crossings without gates or lights that still do not have rumble strips, and a geographic breakdown of where the crossings are that have and have not yet received rumble strips.~~

~~All appropriations in Fund 4A3, appropriation item 776-665, Railroad Crossing Safety Devices, remaining unencumbered on June 30, 2004, are hereby reappropriated for the same purpose in fiscal year 2005. The Department shall report all such appropriations to the Controlling Board.~~

Section 131.02. That existing Sections 11 and 11.04 of Am. Sub. H.B. 87 of the 125th General Assembly are hereby repealed.

Section 131.03. That Section 13.05 of Am. Sub. H.B. 87 of the 125th General Assembly be amended to read as follows:

Sec. 13.05. EMERGENCY MANAGEMENT

Federal Special Revenue Fund Group

3N5	763-644	U.S. DOE Agreement	\$	266,000	\$	275,000	90855
329	763-645	Individual/Family	\$	303,504	\$	303,504	90856

	Grant - Fed					
337	763-609	Federal Disaster Relief	\$	5,000,000	\$ 3,000,000	90857
				<u>23,000,000</u>		90858
339	763-647	Emergency Management Assistance and Training	\$	129,622,000	\$ 129,622,000	90859
				<u>111,622,000</u>	<u>111,622,000</u>	90860
	TOTAL FED	Federal Special Revenue Fund Group	\$	135,191,504	\$ 133,200,504	90861
					<u>115,200,504</u>	90862
		General Services Fund Group				90863
4V3	763-662	EMA Service and Reimbursement	\$	696,446	\$ 696,446	90864
533	763-601	State Disaster Relief	\$	7,500,000	\$ 7,500,000	90865
	TOTAL GSF	General Services Fund Group	\$	8,196,446	\$ 8,196,446	90866
		State Special Revenue Fund Group				90867
657	763-652	Utility Radiological Safety	\$	1,200,000	\$ 1,260,000	90868
681	763-653	SARA Title III HAZMAT Planning	\$	264,510	\$ 271,510	90869
	TOTAL SSR	State Special Revenue Fund Group	\$	1,464,510	\$ 1,531,510	90870
		TOTAL ALL BUDGET FUND GROUPS -				90871
	Emergency Management		\$	144,852,460	\$ 142,928,460	90872
					<u>124,928,460</u>	90873
		SARA TITLE III HAZMAT PLANNING				90874
		The SARA Title III HAZMAT Planning Fund (Fund 681) shall receive grant funds from the Emergency Response Commission to implement the Emergency Management Agency's responsibilities under Chapter 3750. of the Revised Code.				90875
						90876
						90877
						90878
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						90880
						90881

STATE DISASTER RELIEF 90882

The foregoing appropriation item 763-601, State Disaster Relief, may accept transfers of cash and appropriations from Controlling Board appropriation items to reimburse eligible local governments and private nonprofit organizations for costs related to disasters that have been declared by local governments or the Governor. The Ohio Emergency Management Agency shall publish and make available an application packet outlining eligible items and application procedures for entities requesting state disaster relief. 90883
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Individuals may be eligible for reimbursement of costs related to disasters that have been declared by the Governor and the Small Business Administration. The funding in appropriation item 763-601, State Disaster Relief, shall be used in accordance with the principles of the federal Individual and Family Grant Program, which provides grants to households that have been affected by a disaster to replace basic living items. The Ohio Emergency Management Agency shall publish and make available an application procedure for individuals requesting assistance under the state Individual Assistance Program. 90892
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EMA SERVICE AND REIMBURSEMENT FUND 90902

On July 1, 2003, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balances in the EMA Utility Payment Fund (Fund 4Y0) and the Salvage and Exchange-EMA Fund (Fund 4Y1) to the EMA Service and Reimbursement Fund (Fund 4V3), created in section 5502.39 of the Revised Code. Upon the completion of the transfer, notwithstanding any other provision of law to the contrary, the EMA Utility Payment Fund (Fund 4Y0) and the Salvage and Exchange-EMA Fund (Fund 4Y1) are abolished. The director shall cancel any existing encumbrances against appropriation items 763-654, EMA Utility Payment, and 90903
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763-655, Salvage and Exchange-EMA, and reestablish them against 90913
appropriation item 763-662, EMA Service and Reimbursement. The 90914
amounts of the reestablished encumbrances are hereby appropriated. 90915

Section 131.04. That existing Section 13.05 of Am. Sub. H.B. 90916
87 of the 125th General Assembly is hereby repealed. 90917

Section 131.05. That Sections 1.09 and 35.03 of H.B. 675 of 90918
the 124th General Assembly be amended to read as follows: 90919

Sec. 1.09. Sections 1.07 and 1.08 of ~~this act~~ H.B. 675 of the 90920
124th General Assembly take effect ~~July~~ January 1, 2004. 90921

Sec. 35.03. Section 5739.031 of the Revised Code takes effect 90922
~~July 1, 2003~~ January 1, 2004. 90923

Section 131.06. That existing Sections 1.09 and 35.03 of H.B. 90924
675 of the 124th General Assembly are hereby repealed. 90925

Section 131.07. The amendment by this act of Sections 1.09 90926
and 35.03 of H.B. 675 of the 124th General Assembly provides for 90927
or is essential to the implementation of a tax levy. Therefore, 90928
under Ohio Constitution, Article II, Section 1d, the amendment is 90929
not subject to the referendum and goes into immediate effect when 90930
this act becomes law. 90931

Section 131E. That Sections 18.03, 18.04, 19.39, and 19.52 of 90932
H.B. 675 of the 124th General Assembly be amended to read as 90933
follows: 90934

Appropriations

Sec. 18.03. DMH DEPARTMENT OF MENTAL HEALTH 90935
CAP-479 Community Assistance Projects \$ ~~3,912,500~~ 90936
3,662,500

CAP-906	Campus Consolidation/Automation	\$	12,040,000	90937
CAP-978	Infrastructure Improvements	\$	3,460,000	90938
Total Department of Mental Health		\$	19,412,500	90939
			<u>19,162,500</u>	

COMMUNITY ASSISTANCE PROJECTS 90940

Of the foregoing appropriation item CAP-479, Community 90941
 Assistance Projects, ~~\$500,000 shall be used for the Achievement~~ 90942
~~Centers for Children in Cuyahoga County~~ \$250,000 shall be used for 90943
the Berea Children's Home. 90944

Sec. 18.04. DMR DEPARTMENT OF MENTAL RETARDATION AND 90945
 DEVELOPMENTAL DISABILITIES 90946

Appropriations

STATEWIDE AND CENTRAL OFFICE PROJECTS 90947

CAP-480	Community Assistance Projects	\$	9,441,000	90948
			<u>9,691,000</u>	
CAP-955	Statewide Development Centers	\$	3,959,000	90949
Total Statewide and Central Office Projects		\$	13,400,000	90950
			<u>13,650,000</u>	

TOTAL Department of Mental Retardation and 90951
 Developmental Disabilities \$ ~~13,400,000~~ 90952
13,650,000

TOTAL MENTAL HEALTH FACILITIES IMPROVEMENT FUND \$ 33,079,012 90953

COMMUNITY ASSISTANCE PROJECTS 90954

The foregoing appropriation item CAP-480, Community 90955
 Assistance Projects, may be used to provide community assistance 90956
 funds for the development, purchase, construction, or renovation 90957
 of facilities for day programs or residential programs that 90958
 provide services to persons eligible for services from the 90959
 Department of Mental Retardation and Developmental Disabilities or 90960
 county boards of mental retardation and developmental 90961
 disabilities. Any funds provided to nonprofit agencies for the 90962

construction or renovation of facilities for persons eligible for 90963
 services from the Department of Mental Retardation and 90964
 Developmental Disabilities and county boards of mental retardation 90965
 and developmental disabilities shall be governed by the prevailing 90966
 wage provisions in section 176.05 of the Revised Code. 90967

Of the foregoing appropriation item CAP-480, Community 90968
 Assistance Projects, \$150,000 shall be used for the Fostoria Area 90969
 Community Childhood and Family Center; ~~\$250,000 shall be used for~~ 90970
~~the Berea Children's Home; and~~ \$1,000,000 shall be used for the 90971
 Bellefaire Jewish Children's Bureau; and \$500,000 shall be used 90972
for the Achievement Centers for Children in Cuyahoga County. 90973

Appropriations

Sec. 19.39. BTC BELMONT TECHNICAL <u>COMMUNITY</u> COLLEGE			90974
CAP-008 Basic Renovations	\$	214,638	90975
Total Belmont Technical <u>Community</u> College	\$	214,638	90976

Sec. 19.52. The requirements of Chapters 123. and 153. of the 90978
 Revised Code, with respect to the powers and duties of the 90979
 Director of Administrative Services, and the requirements of 90980
 section 127.16 of the Revised Code, with respect to the 90981
 Controlling Board, shall not apply to projects of community 90982
 college districts, which include Belmont Community College, 90983
 Cuyahoga Community College, Jefferson Community College, Lakeland 90984
 Community College, Lorain County Community College, Rio Grande 90985
 Community College, and Sinclair Community College; and technical 90986
 college districts which include ~~Belmont Technical College,~~ Central 90987
 Ohio Technical College, Hocking Technical College, Lima Technical 90988
 College, Marion Technical College, Muskingum Area Technical 90989
 College, North Central Technical College, and Stark Technical 90990
 College. 90991

Section 131F. That existing Sections 18.03, 18.04, 19.39, and 90992

19.52 of H.B. 675 of the 124th General Assembly are hereby 90993
repealed. 90994

Section 131G. That Section 3 of Am. Sub. S.B. 143 of the 90995
124th General Assembly be amended to read as follows: 90996

Sec. 3. Sections ~~5739.021, 5739.023, 5739.026,~~ 5739.03, 90997
~~5739.031, 5739.033,~~ 5739.12, 5741.02, and 5741.12, and division 90998
(I)(7) of section 5741.01 of the Revised Code, as amended by ~~this~~ 90999
~~act~~ Am. Sub. S.B. 143 of the 124th General Assembly, and sections 91000
306.73, 5703.65, 5739.04, 5739.06, 5741.05, and 5741.08 of the 91001
Revised Code, as enacted by ~~this act~~ Am. Sub. S.B. 143 of the 91002
124th General Assembly, shall take effect July 1, 2003. Sections 91003
5739.021, 5739.023, 5739.026, 5739.031, and 5739.033 of the 91004
Revised Code, as amended by Am. Sub. S.B. 143 of the 124th General 91005
Assembly, shall take effect January 1, 2004. 91006

Section 131H. That existing Section 3 of Am. Sub. S.B. 143 of 91007
the 124th General Assembly is hereby repealed. 91008

Section 131I. The amendment by this act of Section 3 of Am. 91009
Sub. S.B. 143 of the 124th General Assembly provides for or is 91010
essential to the implementation of a tax levy. Therefore, under 91011
Ohio Constitution, Article II, Section 1d, the amendment is not 91012
subject to the referendum and goes into immediate effect when this 91013
act becomes law. 91014

Section 131J. The amendments to sections 5739.021, 5739.023, 91015
and 5739.026 of the Revised Code by Am. Sub. S.B. 143 of the 124th 91016
General Assembly apply to levies proposed by a resolution adopted 91017
on or after January 1, 2004, and do not apply to levies proposed 91018
by a resolution adopted before that date. 91019

Section 131K. Sections 131G, 131H, 131I, and 131J of this act 91020
intend to delay the scheduled July 1, 2003, effective date of 91021
sections 5739.021, 5739.023, 5739.026, 5739.031, and 5739.033 of 91022
the Revised Code until January 1, 2004. 91023

Section 132.01. That Sections 10 and 14 of Am. Sub. S.B. 242 91024
of the 124th General Assembly be amended to read as follows: 91025

Sec. 10. NET SCHOOLNET COMMISSION 91026

Tobacco Master Settlement Agreement Fund Group 91027
S87 228-602 Education Technology \$ 16,500,000 \$ 16,500,000 91028
Trust Fund
TOTAL TSF Tobacco Master 91029
Settlement Agreement Fund 91030
Group \$ 16,500,000 \$ 16,500,000 91031
TOTAL ALL BUDGET FUND GROUPS \$ 16,500,000 \$ 16,500,000 91032

EDUCATION TECHNOLOGY TRUST FUND 91033

The foregoing appropriation item 228-602, Education 91034
Technology Trust Fund, shall be used by the SchoolNet Commission 91035
for grants to school districts and other entities and for the 91036
costs of administering these grants. Of the total amount for 91037
grants, \$1,917,293 in fiscal year 2003 shall be used for the Ohio 91038
ONEnet project, \$909,247 in fiscal year 2003 shall be used for the 91039
INFOhio Network, \$298,750 in fiscal year 2003 shall be used for 91040
the JASON Project, \$1,000,000 in fiscal year 2003 shall be used 91041
for RISE Learning Solutions, and \$200,000 in fiscal year 2003 91042
shall be used for the Stark County School Teacher Technical 91043
Training Center. The remaining amount for grants shall be made to 91044
school districts. 91045

The JASON Project shall provide funding for statewide access 91046
and a seventy-five per cent subsidy for statewide licensing of 91047

JASON content for 90,000 middle school students statewide, and 91048
professional development for teachers participating in the JASON 91049
Project. 91050

It is the intent of the General Assembly that the SchoolNet 91051
Commission, in conjunction with RISE Learning Solutions, shall 91052
develop a program that may be conducted in conjunction with 91053
state-supported technology programs, including, but not limited 91054
to, SchoolNet Commission appropriation item 228-406, Technical and 91055
Instructional Professional Development, and appropriation item 91056
228-539, Education Technology, and that shall be designed to 91057
educate preschool staff members and providers on developmentally 91058
appropriate teaching methods, behavior guidance, and literacy and 91059
to involve parents more closely in the education and development 91060
of their children. The program shall include an interactive 91061
instructional component, delivered using satellite television, 91062
Internet, and with facilitation, and shall be distributed to 91063
program participants using the established satellite receiver 91064
dishes on public schools, Head Start centers, and childcare 91065
centers at up to 100 locations throughout the state. The 91066
interactive instructional component of the program shall be 91067
developed to enhance the professional development, training, and 91068
performance of preschool staff members, the education and 91069
care-giving skills of the parents of preschool children, and the 91070
preparation of preschool-age children for learning. 91071

The program shall utilize the grant to continue a 91072
direct-service component that shall include at least three 91073
teleconferences that may be distributed by Ohio-based public 91074
television utilizing satellite or microwave technology in a manner 91075
designed to promote interactive communications between the program 91076
participants located at subsites within the Ohio Educational 91077
Broadcast Network or as determined by the commission. Program 91078
participants shall communicate with trainers and participants at 91079

other program sites through telecommunications and facsimile and 91080
on-line computer technology. As much as possible, the 91081
direct-service component shall utilize systems currently available 91082
in state-supported technology programs and conduct the component 91083
in a manner that promotes innovative, interactive communications 91084
between program participants at all the sites. Parent support 91085
groups and teacher training sessions shall supplement the 91086
teleconferences and shall occur on a local basis. 91087

RISE Learning Solutions may subcontract components of the 91088
program. 91089

Individuals eligible to participate in the program include 91090
those children, their parents, custodians, or guardians, and 91091
preschool staff members who are eligible to participate in a 91092
preschool program as defined in division (A) of section 3301.52 91093
and section 5104.02 of the Revised Code. 91094

The components of the program, including two that shall be 91095
developed in support of teacher proficiency in teaching reading to 91096
prekindergarten and kindergarten to third grade students, at the 91097
direction of the Department of Education, may include: two 91098
three-hour broadcast seminars from a central up-link station, 91099
distributed in up to 88 counties; high production-value video 91100
sought in various locations; and direct interactive adult learning 91101
activities. These two components shall include development of 91102
workbooks and involve at least three small, group-facilitated 91103
follow-up discussion workshops and development and distribution of 91104
at least two home videos. The program shall also provide Internet 91105
access, interactive lines, bulletin board, and CD-ROM. 91106

Upon completion of each of the school years for which the 91107
grant was made, RISE Learning Solutions shall issue a report to 91108
the commission and members of the General Assembly explaining the 91109
goals and objectives determined, the activities implemented, the 91110
progress made toward the achievement of the goals and objectives, 91111

and the outcome of the program. 91112

The commission shall use the remaining appropriation 91113
 authority in fiscal year 2003 and appropriation authority granted 91114
 in fiscal year 2004 to establish and equip, through the SchoolNet 91115
 Plus Program, at least one interactive computer station for each 91116
 five children enrolled in the sixth grade as determined by a 91117
 three-year average adjusted per pupil property valuation pursuant 91118
 to division (A) of section 3317.03 of the Revised Code. Districts 91119
 in the first two quartiles of wealth shall receive up to \$380 per 91120
 pupil for students in grade six to purchase classroom computers 91121
 for the sixth grade. Districts in the third and fourth quartile 91122
 shall receive ~~approximately~~ up to \$188 per sixth grade pupil. If a 91123
 district has met the state's goal of one computer to every five 91124
 students, the district may use funds provided through the 91125
 SchoolNet Plus Program to purchase computers for grade seven or to 91126
 fulfill educational technology needs on other grades as specified 91127
 in the district's technology plan. When there is at least one 91128
 computer for each five children enrolled in the sixth grade, 91129
 SchoolNet shall use any remaining funds appropriated to establish 91130
 and equip at least one interactive computer workstation for each 91131
 five children enrolled in the seventh grade as determined by the 91132
 previously defined formula. 91133

Sec. 14. All items set forth in this section are hereby 91134
 appropriated out of any moneys in the state treasury to the credit 91135
 of the Education Facilities Trust Fund (Fund N87) that are not 91136
 otherwise appropriated. 91137

		Appropriations	
SFC SCHOOL FACILITIES COMMISSION			91138
CAP-780	Classroom Facilities Assistance Program	\$ 148,400,000	91139
		<u>25,600,000</u>	
Total School Facilities Commission		\$ 148,400,000	91140
		<u>25,600,000</u>	

TOTAL Education Facilities Trust Fund	\$	148,400,000	91141
		<u>25,600,000</u>	

Section 132.02. That existing Sections 10 and 14 of Am. Sub. 91143
S.B. 242 of the 124th General Assembly is hereby repealed. 91144

Section 132.02A. That Section 24.43 of Am. Sub. H.B. 524 of 91145
the 124th General Assembly be amended to read as follows: 91146

Reappropriations

Sec. 24.43. BTC BELMONT TECHNICAL <u>COMMUNITY</u> COLLEGE			91147
CAP-008 Basic Renovations	\$	653,372	91148
CAP-014 Main Building Renovation - Phase 3	\$	49,137	91149
CAP-019 ADA Modifications	\$	45,915	91150
Total Belmont Technical <u>Community</u> College	\$	748,424	91151

Section 132.02B. That existing Section 24.43 of Am. Sub. H.B. 91153
524 of the 124th General Assembly is hereby repealed. 91154

Section 132.03. That Section 3 of Am. Sub. H.B. 215 of the 91155
122nd General Assembly, as most recently amended by Am. Sub. H.B. 91156
94 of the 124th General Assembly, be amended to read as follows: 91157

Sec. 3. Section 1751.68 of the Revised Code is hereby 91158
repealed, effective October 16, ~~2003~~ 2005. 91159

Section 132.04. That existing Section 3 of Am. Sub. H.B. 215 91160
of the 122nd General Assembly, as most recently amended by Am. 91161
Sub. H.B. 94 of the 124th General Assembly, is hereby repealed. 91162

Section 132.05. * That Section 3 of Am. Sub. H.B. 621 of the 91163
122nd General Assembly, as most recently amended by Am. Sub. H.B. 91164
94 of the 124th General Assembly, be amended to read as follows: 91165

Sec. 3. That sections 166.031, 901.80, 901.81, 901.82, and 91166
901.83 of the Revised Code are hereby repealed, effective ~~July 1,~~ 91167
~~2003~~ October 15, 2005. 91168

Section 132.06. * That existing Section 3 of Am. Sub. H.B. 91169
621 of the 122nd General Assembly, as most recently amended by Am. 91170
Sub. H.B. 94 of the 124th General Assembly, is hereby repealed. 91171

Section 132.07. That Section 153 of Am. Sub. H.B. 117 of the 91172
121st General Assembly, as most recently amended by Am. Sub. H.B. 91173
94 of the 124th General Assembly, be amended to read as follows: 91174

Sec. 153. (A) Sections 5112.01, 5112.03, 5112.04, 5112.05, 91175
5112.06, 5112.07, 5112.08, 5112.09, 5112.10, 5112.11, 5112.18, 91176
5112.19, 5112.21, and 5112.99 of the Revised Code are hereby 91177
repealed, effective October 16, ~~2003~~ 2005. 91178

(B) Any money remaining in the Legislative Budget Services 91179
Fund on October 16, ~~2003~~ 2005, the date that section 5112.19 of 91180
the Revised Code is repealed by division (A) of this section, 91181
shall be used solely for the purposes stated in then former 91182
section 5112.19 of the Revised Code. When all money in the 91183
Legislative Budget Services Fund has been spent after then former 91184
section 5112.19 of the Revised Code is repealed under division (A) 91185
of this section, the fund shall cease to exist. 91186

Section 132.08. That existing Section 153 of Am. Sub. H.B. 91187
117 of the 121st General Assembly, as most recently amended by Am. 91188
Sub. H.B. 94 of the 124th General Assembly, is hereby repealed. 91189

Section 132.09. * That Section 27 of Sub. H.B. 670 of the 91190
121st General Assembly, as amended by Sub. H.B. 548 of the 123rd 91191
General Assembly, be amended to read as follows: 91192

Sec. 27. The following agencies shall be retained pursuant to		91193
division (D) of section 101.83 of the Revised Code and shall		91194
expire on December 31, 2004:		91195
	REVISED CODE	91196
	OR	
	UNCODIFIED	91197
	<u>UNCODIFIED</u>	
AGENCY NAME	SECTION	91198
Advisory Council on Amusement Ride Safety	1711.51	91199
Advisory Board of Directors for Prison Labor	5145.162	91200
Appalachian Public Facilities Council	Sec. 3, H.B. 280, 121st GA	91201
Apprenticeship Council	4111.26	91202
Armory Board of Control	5911.09	91203
Banking Commission	1123.01	91204
Board of Voting Machine Examiners	3506.05(B)	91205
Board of Governors, Medical Malpractice Joint Underwriting Association	3929.77	91206
Board of Tax Appeals	5703.02	91207
Brain Injury Advisory Committee Committee	3304.231 3304.231	91208
Capitol Square Review and Advisory Board	105.41	91209
Child Support Guideline Advisory Council	3113.215(G)	91210
Children's Trust Fund Board	3109.15	91211
Citizen's Advisory Council (Dept. of Mental Retardation and Developmental Disabilities)	5123.092	91212
Citizen's Advisory Council (Dept. of Mental Health)	5119.81	91213
Civilian Conservation Advisory Committee	1553.10	91214
Coastal Resources Advisory Council	1506.12	91215
Commission on African-American Males	4112.12	91216
Commission on Hispanic-Latino Affairs	121.31	91217

Commodity Advisory Commission	926.32	91218
Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council	5123.353	91219
Continuing Education Committee (for sheriffs)	109.80	91220
Controlling Board	127.12	91221
Council on Alcohol and Drug Addiction Services	3793.09	91222
Council on Unreclaimed Strip Mine Lands	1513.29	91223
County Sheriffs' Standard Car Marking and Uniform Commission	311.25	91224
Criminal Sentencing Advisory Committee	181.22	91225
Day-Care Advisory Council	5104.08	91226
Development Financing Advisory Council	122.40	91227
Electrical Safety Inspector Advisory Committee	3783.08	91228
Engineering Experiment Station Advisory Committee	3335.27	91229
Environmental Review Appeals Commission	3745.02	91230
Environmental Education Council	3745.21	91231
Forestry Advisory Council	1503.40	91232
Governor's Community Service Council	121.40	91233
Governor's Council on People with Disabilities	3303.41	91234
Hazardous Waste Facility Board	3734.05	91235
Health Care Quality Advisory Council	4121.442	91236
Health Data Advisory Committee	3729.61	91237
Hemophilia Advisory Council	3701.145	91238
Historic Site Preservation Advisory Board	149.301	91239
Hospital Advisory Committee and the Medical Advisory Committee of the Joint Underwriting Association Board of Governors	3929.76	91240
Industrial Commission	4121.02	91241
Industrial Commission Nominating Council	4121.04	91242
Industrial Technology and Enterprise Advisory Council	122.29	91243
Insurance Agent Education Advisory Council	3905.483	91244
Interagency Recycling Market Development Workgroup	1502.10	91245

Joint Select Committee on Volume Cap	133.021	91246
Labor-Management Government Advisory Council	4121.70	91247
Legal Rights Service Commission	5123.60	91248
Martha Kinney Cooper Ohioana Library Association	3375.62	91249
Board of Trustees		
Maternal and Child Health Council	3701.025	91250
Medicaid Long Term Care Reimbursement Study	5111.34	91251
Council		
Medically Handicapped Children's Medical Advisory	3701.025	91252
Council		
Milk Sanitation Board	917.03	91253
Mine Subsidence Insurance Governing Board	3929.51	91254
Multi-Agency Radio Communication Systems Steering	Sec. 21, H.B.	91255
Committee	790, 120th GA	
Multidisciplinary Council	3746.03	91256
National Museum of Afro-American History and	149.303	91257
Culture Planning Committee		
<u>Nursing Facility Reimbursement Study Council</u>	<u>5111.34</u>	91258
Ohio Advisory Council for the Aging	173.03	91259
Ohio Arts Council	3379.02	91260
Ohio Arts and Sports Facilities Commission	3383.02	91261
Ohio Benefit Systems Data Linkage Committee	125.24	91262
Ohio Bicentennial Commission	149.32	91263
Ohio Cemetery Dispute Resolution Commission	4767.05	91264
Ohio Commission on Dispute Resolution and Conflict	179.02	91265
Management		
Ohio Educational Telecommunications Network	3353.02	91266
Commission		
Ohio Ethics Commission	102.05	91267
Ohio Expositions Commission	991.02	91268
Ohio Family and Children First Cabinet Council	121.37	91269
Ohio Geology Advisory Council	1505.11	91270
Ohio Grape Industries Committee	924.51	91271

Ohio Historical Society Board of Trustees	149.30	91272
Ohio Lake Erie Commission	1506.21	91273
Ohio Medical Quality Foundation	3701.89	91274
Ohio Natural Areas Council	1517.03	91275
Ohio Parks and Recreation Council	1541.40	91276
Ohio Peace Officer Training Commission	109.71	91277
Ohio Public Defender Commission	120.01	91278
Ohio Quarter Horse Development Commission	3769.086	91279
Ohio Scenic Rivers Advisory Councils	1517.18	91280
Ohio Small Government Capital Improvements Commission	164.02	91281
Ohio Soil and Water Conservation Commission	1515.02	91282
Ohio Standardbred Development Commission	3769.085	91283
Ohio Steel Industry Advisory Council	122.97	91284
Ohio Teacher Education and Licensure Advisory Council	3319.28(D)	91285
Ohio Thoroughbred Racing Advisory Committee	3769.084	91286
Ohio Tuition Trust Authority	3334.03	91287
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10	91288
Ohio Vendors Representative Committee	3304.34	91289
Ohio Veterans' Home Board of Trustees	5907.02	91290
Ohio War Orphans Scholarship Board	5910.02	91291
Ohio Water Advisory Council	1521.031	91292
Oil and Gas Commission	1509.35	91293
Organized Crime Investigations Commission	177.01	91294
Parole Board	5149.10	91295
Pharmacy and Therapeutics Committee of the Dept. of Human Services	5111.81	91296
Physical Fitness and Sports Advisory Board	3701.77	91297
Power Siting Board	4906.02	91298
Private Water Systems Advisory Council	3701.346	91299
Public Employment Risk Reduction Advisory	4167.02	91300

Commission		
Public Utilities Commission Nominating Council	4901.021	91301
Reclamation Commission	1513.05	91302
Recreation and Resources Commission	1501.04	91303
Recycling and Litter Prevention Advisory Council	1502.04	91304
Rehabilitation Services Commission Consumer Advisory Committee	3304.24	91305
Select Commission on Pyrotechnics	Sec. 3, H.B. 508, 119th GA	91306
Services Committee of the Workers' Compensation System	4121.06	91307
Set Aside Review Board	123.151(C)(4)	91308
Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19	91309
Solid Waste Management Advisory Council	3734.51	91310
State Board of Deposit	135.02	91311
State Board of Library Examiners	3375.47	91312
State Council of Uniform State Laws	105.21	91313
State Committee for the Purchase of Products and Services of Persons with Severe Disabilities	4115.32	91314
State Criminal Sentencing Commission	181.21	91315
State Fire Commission	3737.81	91316
State and Local Government Commission of Ohio	105.45	91317
State Victims Assistance Advisory Committee	109.91	91318
Student Tuition Recovery Authority	3332.081	91319
Subcommittee of the State Board of Emergency Medical Services for Firefighter and Fire Safety Inspector Training	4765.55	91320
Submerged Lands Advisory Council	1506.37	91321
Tax Credit Authority	122.17	91322
Technical Advisory Committee to assist the Director of the Ohio Coal Development Office	1551.35	91323
Technical Advisory Council on Oil and Gas	1509.38	91324

Technology Advisory Committee (for Education)	Sec. 45.01, H.B. 117, 121st GA	91325
Unemployment Compensation Review Commission	4141.06	91326
Unemployment Compensation Advisory Council	4141.08	91327
Utility Radiological Safety Board	4937.02	91328
Veterans Advisory Committee	5902.02(K)	91329
Water and Sewer Commission	1525.11(C)	91330
Waterways Safety Council	1547.73	91331
Welfare Oversight Council	5101.93	91332
Wildlife Council	1531.03	91333
Workers' Compensation System Oversight Committee	Sec. 10, H.B. 222, 118th GA	91334
Wright-Dunbar State Heritage Commission	149.321	91335
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.		91336 91337 91338
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:		91339 91340 91341
Sec. 5. Sections 3 and 4 of Am. Sub. S.B. 50 of the 121st General Assembly shall take effect July 1, 2003 <u>2005</u> .		91342 91343
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.		91344 91345 91346
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		91347 91348 91349

Assembly, is hereby repealed. 91350

Section 132.12B. That Section 2 of Am. Sub. H.B. 71 of the 120th General Assembly be amended to read as follows: 91351
91352

Sec. 2. Sections ~~1742.42~~, 3901.49~~7~~ 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 shall apply only to contracts and policies that are delivered, issued for delivery, or renewed in this state on or after that date, and to plans of self-insurance that are established or modified in this state on or after that date. 91353
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Section 132.12C. That existing Section 2 of Am. Sub. H.B. 71 of the 120th General Assembly is hereby repealed. 91360
91361

Section 132.12D. That Section 6 of Am. Sub. S.B. 67 of the 122nd General Assembly be amended to read as follows: 91362
91363

Sec. 6. Section 1751.64 of the Revised Code is hereby repealed, effective February 9, ~~2004~~ 2014. The repeal of that section shall apply only to contracts that are delivered, issued for delivery, or renewed in this state on or after that date. 91364
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91366
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Section 132.12E. That existing Section 6 of Am. Sub. S.B. 67 of the 122nd General Assembly is hereby repealed. 91368
91369

Section 132.14. Section 129 of Am. Sub. H.B. 283 of the 123rd General Assembly as amended by Am. Sub. H.B. 94 of the 124th General Assembly is hereby repealed. 91370
91371
91372

Section 132.14B. Section 16 of Am. Sub. H.B. 87 of the 125th General Assembly is hereby repealed. 91373
91374

Section 132.14C. * (A) Section 3 of Am. Sub. S.B. 272 of the 123rd General Assembly, as amended by Am. Sub. H.B. 768 of the 123rd General Assembly, is hereby repealed.

(B) Notwithstanding the repeal of Section 3 of Am. Sub. S.B. 272 of the 123rd General Assembly, as subsequently amended, prescribed in division (A) of this section, a school district that is participating in the School Building Assistance Expedited Local Partnership Program under section 3318.36 of the Revised Code may apply as local resources under that program those expenditures described in Section 3 of Am. Sub. S.B. 272 of the 123rd General Assembly, as subsequently amended, if, and only if, all the following conditions are satisfied:

(1) The school district's project was conditionally approved by the Ohio School Facilities Commission and subsequently approved by the Controlling Board under division (D)(1) of section 3318.36 of the Revised Code not later than one hundred eighty days after the effective date of this section.

(2) The school district board of education and the Commission entered into an agreement under section 3318.36 of the Revised Code, not later than one hundred eighty days after the effective date of this section, for the district to acquire the discrete part of the project under the Expedited Local Partnership Program, as identified by the school district board under division (D)(1) of section 3318.36 of the Revised Code.

Section 132.16. That Section 11 of Am. Sub. S.B. 50 of the 121st General Assembly, as amended by Am. Sub. H.B. 405 of the 124th General Assembly, is hereby repealed.

Section 132.17. That Section 3 of Am. Sub. S.B. 238 of the 123rd General Assembly is hereby repealed. The intent of this

repeal is to remove the limitation upon the continued existence of 91404
sections 4779.01 to 4779.13, 4779.15 to 4779.33, and 4779.99 of 91405
the Revised Code. This intent is not affected by the rule of 91406
statutory interpretation contained in section 1.57 of the Revised 91407
Code. 91408

Section 132.18. That Section 72 of Am. Sub. H.B. 850 of the 91409
122nd General Assembly is hereby repealed. 91410

Section 133. TRANSFERS FROM THE TOBACCO MASTER SETTLEMENT 91411
AGREEMENT FUND TO THE GENERAL REVENUE FUND 91412

Notwithstanding section 183.02 of the Revised Code, on or 91413
before June 30, 2004, the Director of Budget and Management may 91414
transfer up to \$242,800,000 to the General Revenue Fund from the 91415
Tobacco Master Settlement Agreement Fund (Fund 087), as provided 91416
in divisions (A) and (B) of this section: 91417

(A) Up to \$120,000,000 of the revenue that otherwise would be 91418
transferred from the Tobacco Master Settlement Agreement Fund to 91419
the Tobacco Use Prevention and Cessation Trust Fund (Fund H87) 91420
shall instead be transferred to the General Revenue Fund. Of the 91421
tobacco revenue that is credited to the Tobacco Master Settlement 91422
Agreement Fund in fiscal year 2004, the share that is determined 91423
pursuant to section 183.02 of the Revised Code to be the amount to 91424
be transferred by the Director of Budget and Management from the 91425
Tobacco Master Settlement Agreement Fund to the Tobacco Use 91426
Prevention and Cessation Trust Fund shall be reduced by the amount 91427
that is transferred from the Tobacco Master Settlement Agreement 91428
Fund to the General Revenue Fund in accordance with this division. 91429

(B) Up to \$122,800,000 of the revenue that otherwise would be 91430
transferred from the Tobacco Master Settlement Agreement Fund to 91431
the Education Facilities Trust Fund (Fund N87) shall instead be 91432
transferred to the General Revenue Fund. Of the tobacco revenue 91433

that is credited to the Tobacco Master Settlement Agreement Fund 91434
in fiscal year 2004, the share that is determined pursuant to 91435
section 183.02 of the Revised Code to be the amount to be 91436
transferred by the Director of Budget and Management from the 91437
Tobacco Master Settlement Agreement Fund to the Education 91438
Facilities Trust Fund shall be reduced by the amount that is 91439
transferred from the Tobacco Master Settlement Agreement Fund to 91440
the General Revenue Fund in accordance with this division. 91441

Section 134. TEMPORARY ADJUSTMENT TO LOCAL GOVERNMENT 91442
DISTRIBUTIONS 91443

(A) On or before the seventh day of each month of the period 91444
July 2003 through June 2005, the Tax Commissioner shall determine 91445
and certify to the Director of Budget and Management the amount to 91446
be credited, by tax, during that month to the Local Government 91447
Fund, to the Library and Local Government Support Fund, and to the 91448
Local Government Revenue Assistance Fund, respectively, pursuant 91449
to divisions (B), (C), and (D) of this section. 91450

(B) Notwithstanding section 5727.84 of the Revised Code to 91451
the contrary, for the period July 1, 2003, through June 30, 2005, 91452
no amounts shall be credited to the Local Government Fund or to 91453
the Local Government Revenue Assistance Fund from the kilowatt 91454
hour tax, and such amounts that would have otherwise been required 91455
to be credited to such funds shall instead be credited to the 91456
General Revenue Fund. Notwithstanding sections 5727.45, 5733.12, 91457
5739.21, 5741.03, and 5747.03 of the Revised Code to the contrary, 91458
for each month in the period July 1, 2003, through June 30, 2005, 91459
from the public utility excise, corporate franchise, sales, use, 91460
and personal income taxes collected; 91461

(1) An amount shall first be credited to the Local Government 91462
Fund that equals the amount credited to that fund from that tax 91463
according to the schedule in division (C) of this section. 91464

(2) An amount shall next be credited to the Local Government Revenue Assistance Fund that equals the amount credited to that fund from that tax according to the schedule in division (C) of this section. 91465
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(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. 91469
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(C) The amounts shall be credited from each tax to each respective fund as follows: 91485
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(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; 91487
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(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; 91490
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(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; 91493
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(4) In October 2003, one hundred per cent of the amount	91496
credited in October 2002; in October 2004, one hundred per cent of	91497
the amount credited in October 2003;	91498
(5) In November 2003, one hundred per cent of the amount	91499
credited in November 2002; in November 2004, one hundred per cent	91500
of the amount credited in November 2003;	91501
(6) In December 2003, one hundred per cent of the amount	91502
credited in December 2002; in December 2004, one hundred per cent	91503
of the amount credited in December 2003;	91504
(7) In January 2004, one hundred per cent of the amount	91505
credited in January 2003; in January 2005, one hundred per cent of	91506
the amount credited in January 2004;	91507
(8) In February 2004, one hundred per cent of the amount	91508
credited in February 2003; in February 2005, one hundred per cent	91509
of the amount credited in February 2004;	91510
(9) In March 2004, one hundred per cent of the amount	91511
credited in March 2003; in March 2005, one hundred per cent of the	91512
amount credited in March 2004;	91513
(10) In April 2004, one hundred per cent of the amount	91514
credited in April 2003; in April 2005, one hundred per cent of the	91515
amount credited in April 2004;	91516
(11) In May 2004, one hundred per cent of the amount in	91517
division (C)(11)(a) of this section; in May 2005, one hundred per	91518
cent of the amount in division (C)(11)(b) of this section;	91519
(a) The amount credited in May 2003, less any amount reduced	91520
pursuant to division (D)(4) of Section 140 of Am. Sub. H.B. 94 of	91521
the 124th General Assembly, as amended by Am. Sub. H.B. 405 of the	91522
124th General Assembly and as amended by Am. Sub. H.B. 390 of the	91523
124th General Assembly;	91524
(b) The amount credited in May 2004.	91525

(12) In June 2004, one hundred per cent of the amount in 91526
division (C)(12)(a) of this section, less any reduction required 91527
under division (D)(1) of this section; in June 2005, one hundred 91528
per cent of the amount in division (C)(12)(b) of this section, 91529
less any reduction required under division (D)(2) of this section; 91530

(a) The amount credited in June 2003 before any reduction 91531
made pursuant to division (D)(4) of Section 140 of Am. Sub. H.B. 91532
94 of the 124th General Assembly, as amended by Am. Sub. H.B. 405 91533
of the 124th General Assembly and as amended by Am. Sub. H.B. 390 91534
of the 124th General Assembly; 91535

(b) The amount credited in June 2004. 91536

(D) The Tax Commissioner shall do each of the following: 91537

(1) By June 7, 2004, the commissioner shall subtract the 91538
amount calculated in division (D)(1)(b) of this section from the 91539
amount calculated in division (D)(1)(a) of this section. If the 91540
amount in division (D)(1)(a) of this section is greater than the 91541
amount in division (D)(1)(b) of this section, then such difference 91542
shall be subtracted from the total amount of income tax revenue 91543
credited to the Local Government Fund, the Local Government 91544
Revenue Assistance Fund, and the Library and Local Government 91545
Support Fund in June 2004. An amount shall be subtracted from 91546
income tax revenue credited to the Local Government Fund, the 91547
Local Government Revenue Assistance Fund, or the Library and Local 91548
Government Support Fund only if, and according to the proportion 91549
by which, such fund contributed to the result that the amount in 91550
division (D)(1)(a) of this section exceeds the amount in division 91551
(D)(1)(b) of this section. 91552

(a) The sum of all money credited to the Local Government 91553
Fund, the Local Government Revenue Assistance Fund, and the 91554
Library and Local Government Support Fund from July 2003 through 91555
May 2004; 91556

(b) The sum of all money that would have been credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from July 2003 through May 2004, if sections 5727.45, 5727.84, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised Code were in effect during this period.

(2) By June 7, 2005, the commissioner shall subtract the amount calculated in division (D)(2)(b) of this section from the amount calculated in division (D)(2)(a) of this section. If the amount in division (D)(2)(a) of this section is greater than the amount in division (D)(2)(b) of this section, then such difference shall be subtracted from the total amount of income tax revenue credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund in June 2005. An amount shall be subtracted from income tax revenue credited to the Local Government Fund, the Local Government Revenue Assistance Fund, or the Library and Local Government Support Fund only if, and according to the proportion by which, such fund contributed to the result that the amount in division (D)(2)(a) of this section exceeds the amount in division (D)(2)(b) of this section.

(a) The sum of all money credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from June 2004 through May 2005;

(b) The sum of all money that would have been credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from June 2004 through May 2005, if sections 5727.45, 5727.84, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised Code were in effect during this period.

(3) On the advice of the Tax Commissioner, during any month 91588
other than June 2004 or June 2005 of the period July 1, 2003, 91589
through July 31, 2005, the Director of Budget and Management may 91590
reduce the amounts that are to be otherwise credited to the Local 91591
Government Fund, Local Government Revenue Assistance Fund, or 91592
Library and Local Government Support Fund in order to accomplish 91593
more effectively the purposes of the adjustments in divisions 91594
(D)(1) and (2) of this section. If the respective calculations 91595
made in June 2004 and June 2005 pursuant to divisions (D)(1) and 91596
(2) of this section indicate that excess reductions had been made 91597
during the previous months, such excess amounts shall be credited, 91598
as appropriate, to the Local Government Fund, Local Government 91599
Revenue Assistance Fund, and Library and Local Government Support 91600
Fund. 91601

(E) Notwithstanding any other provision of law to the 91602
contrary, the total amount credited to each fund in each month 91603
during the period July 2003 through June 2005 shall be distributed 91604
by the tenth day of the immediately succeeding month in the 91605
following manner: 91606

(1) Each county undivided local government fund shall receive 91607
a distribution from the Local Government Fund based on its 91608
proportionate share of the total amount received from the fund in 91609
such respective month for the period July 1, 2002, through June 91610
30, 2003. 91611

(2) Each municipality receiving a direct distribution from 91612
the Local Government Fund shall receive a distribution based on 91613
its proportionate share of the total amount received from the fund 91614
in such respective month for the period July 1, 2002, through June 91615
30, 2003. 91616

(3) Each county undivided local government revenue assistance 91617
fund shall receive a distribution from the Local Government 91618

Revenue Assistance Fund based on its proportionate share of the 91619
total amount received from the fund in such respective month for 91620
the period July 1, 2002, through June 30, 2003. 91621

(4) Each county undivided library and local government 91622
support fund shall receive a distribution from the Library and 91623
Local Government Support Fund based on its proportionate share of 91624
the total amount received from the fund in such respective month 91625
for the period July 1, 2002, through June 30, 2003. 91626

(F) For the 2003, 2004, and 2005 distribution years, the Tax 91627
Commissioner is not required to issue the certifications otherwise 91628
required by sections 5747.47, 5747.501, 5747.51, and 5747.61 of 91629
the Revised Code, but shall provide to each county auditor by the 91630
twentieth day of July 2003, July 2004, and July 2005 an estimate 91631
of the amounts to be received by the county in the ensuing year 91632
from the Local Government Fund, Local Government Revenue 91633
Assistance Fund, and Library and Local Government Support Fund 91634
pursuant to this section and any pertinent section of the Revised 91635
Code. The Tax Commissioner may choose to report to each county 91636
auditor a revised estimate of the 2003, 2004, or 2005 91637
distributions at any time during the period July 1, 2003, through 91638
July 31, 2005. 91639

(G) If provisions of H.B. 40 of the 125th General Assembly 91640
are enacted that authorize reductions in the amounts credited to 91641
the Local Government Fund, Local Government Revenue Assistance 91642
Fund, and Library and Local Government Support Fund during fiscal 91643
year 2003, the fiscal year 2003 amounts used in determining the 91644
amounts credited to such funds during fiscal year 2004 pursuant to 91645
division (C) of this section shall be before any such reductions. 91646

(H) During the period July 1, 2003, through July 31, 2005, 91647
the Director of Budget and Management shall issue those directives 91648
to state agencies that are necessary to ensure that the 91649
appropriate amounts are distributed to the Local Government Fund, 91650

to the Local Government Revenue Assistance Fund, and to the 91651
Library and Local Government Support Fund. 91652

Section 136. * CAPITAL APPROPRIATION TO SFC 91653

All items set forth in this section are hereby appropriated 91654
out of any moneys in the state treasury to the credit of the 91655
School Building Program Assistance Fund (Fund 032), created under 91656
section 3318.25 of the Revised Code, derived from the proceeds of 91657
obligations heretofore and herein authorized to pay the cost of 91658
facilities for a system of common schools throughout the state for 91659
the period beginning July 1, 2002, and ending June 30, 2004. The 91660
appropriation shall be in addition to any other appropriation for 91661
this purpose. 91662

Appropriations

SFC SCHOOL FACILITIES COMMISSION 91663

CAP-770 School Building Program Assistance	\$ 122,800,000	91664
Total School Facilities Commission	\$ 122,800,000	91665
TOTAL School Building Program Assistance Fund	\$ 122,800,000	91666

* SCHOOL BUILDING PROGRAM ASSISTANCE 91667

The foregoing appropriation item CAP-770, School Building 91668
Program Assistance, shall be used by the School Facilities 91669
Commission to provide funding to school districts that receive 91670
conditional approval from the Commission pursuant to Chapter 3318. 91671
of the Revised Code. Expenditures from appropriations contained in 91672
this section may be accounted for as though made for the fiscal 91673
year 2003-2004 biennium in H.B. 675 of the 124th General Assembly. 91674
The School Facilities Commission shall not disburse any of the 91675
appropriations made in this section until after April 1, 2004. 91676

* BOND ISSUANCE AUTHORITY 91677

The Ohio Public Facilities Commission is hereby authorized to 91678
issue and sell, in accordance with the provisions of Section 2n of 91679

Article VIII, Ohio Constitution, and Chapter 151. and particularly 91680
sections 151.01 and 151.03 of the Revised Code, original 91681
obligations in an aggregate principal amount not to exceed 91682
\$123,000,000, in addition to the original issuance of obligations 91683
heretofore authorized by prior acts of the General Assembly. The 91684
authorized obligations shall be issued, subject to applicable 91685
constitutional and statutory limitations, to pay the costs to the 91686
state of previously authorized capital facilities and the capital 91687
facilities authorized in this section for the School Building 91688
Program Assistance Fund pursuant to Chapter 3318. of the Revised 91689
Code. 91690

Section 136A. (A) On the effective date of this section, the 91691
following programs administered by the Ohio School Facilities 91692
Commission are terminated: 91693

(1) The Short-Term Loan Program established by Section 10.01 91694
of Am. Sub. H.B. 282 of the 123rd General Assembly; 91695

(2) The Emergency School Repair Program codified in section 91696
3318.35 of the Revised Code. 91697

No new school district shall be served under any of these 91698
programs. The Commission may continue serving school districts 91699
that were receiving assistance under any of these programs before 91700
the effective date of this section in accordance with terms and 91701
agreements in effect on that date. 91702

(B) On March 31, 2004, the Disability Access Program 91703
established by Section 50.15 of Am. Sub. H.B. 215 of the 122nd 91704
General Assembly, Section 5 of Am. Sub. S.B. 102 of the 122nd 91705
General Assembly, as subsequently amended, Section 10 of Am. Sub. 91706
H.B. 282 of the 123rd General Assembly, as subsequently amended, 91707
Section 102.01 of Am. Sub. H.B. 94 of the 124th General Assembly, 91708
and Section 5 of Am. Sub. H.B. 524 of the 124th General Assembly 91709
is terminated. 91710

No new school district shall be served under this program. 91711
The Commission may continue serving school districts that were 91712
receiving assistance under this program before the effective date 91713
of this section in accordance with terms and agreements in effect 91714
on that date. 91715

On April 1, 2004, or as soon as possible thereafter, the 91716
Director of Budget and Management shall transfer the unencumbered 91717
and unallotted balance in appropriation item CAP-777, Disability 91718
Access Projects, to appropriation item CAP-662, Public School 91719
Buildings. The amount transferred from CAP-777, Disability Access 91720
Projects, shall be used to fund classroom facilities projects in 91721
accordance with Chapter 3318. of the Revised Code. 91722

Section 137C. OFFICE OF QUALITY SERVICES FUND TRANSFERS 91723

Notwithstanding any other provision of law to the contrary, 91724
the Director of Budget and Management shall transfer any remaining 91725
amounts of cash from the following specified obsolete fund to the 91726
General Revenue Fund within thirty days after the effective date 91727
of this section: Quality Services (General Services Fund 4C1). The 91728
amount of such transfer to the General Revenue Fund is hereby 91729
appropriated to General Revenue Fund appropriation item 042-409, 91730
Commission Closures. 91731

Section 137D. TRANSFER FROM BOARD OF TAX APPEALS 91732

Notwithstanding any other provision of law to the contrary, 91733
on July 31, 2003, or as soon thereafter as possible, the Director 91734
of Budget and Management shall transfer any remaining amounts of 91735
cash from the following specified obsolete fund to the General 91736
Revenue Fund: Reproduction of Decisions (General Services Fund 91737
439). 91738

Section 137E. FEDERAL JOBS AND GROWTH TAX RELIEF 91739

RECONCILIATION ACT OF 2003 91740

(A)The Director of Budget and Management shall allocate as 91741
follows any Medicaid moneys received under of the provision of the 91742
federal Jobs and Growth Tax Relief Reconciliation Act of 2003 that 91743
increases the federal medical assistance percentage for the third 91744
and fourth calendar quarters of federal fiscal year 2003 and the 91745
first, second, and third calendar quarters of federal fiscal year 91746
2004: 91747

(1) First, to the Department of Job and Family Services to 91748
provide Medicaid coverage to parents up to 100 per cent of the 91749
federal poverty guideline in accordance with section 5111.019 of 91750
the Revised Code. Any funds allocated to the Department of Job and 91751
Family Services for this purpose pursuant to this section are 91752
hereby appropriated. 91753

(2) Then, any remainder shall be transferred to the Family 91754
Services Stabilization Fund created under section 131.41 of the 91755
Revised Code. 91756

(B)The Director of Budget and Management shall transfer to 91757
the Budget Stabilization Fund (Fund 013) any moneys received under 91758
the provision of the federal Jobs and Growth Tax Relief 91759
Reconciliation Act of 2003 that provides temporary state fiscal 91760
relief in federal fiscal years 2003 and 2004 to (1) provide 91761
essential government services and (2) cover the costs to states of 91762
complying with federal intergovernmental mandates. 91763

Section 137F. (A) In September of 2003, each school district 91764
that has been declared to be under an academic watch or in a state 91765
of academic emergency pursuant to section 3302.03 of the Revised 91766
Code shall administer a half-length practice version of each Ohio 91767
Graduation Test prescribed by division (B) of section 3301.0710 of 91768
the Revised Code to all ninth grade students enrolled in the 91769
district. Each district shall determine the dates, times, and 91770

method of administering the tests to students and shall score the tests. 91771
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(B) Each district declared to be in a state of academic emergency pursuant to section 3302.03 of the Revised Code shall determine for each high school in the district whether the school shall be required to provide intervention services in accordance with this division to any students who took the tests. In determining which high schools shall provide intervention services based upon available funding, the district shall consider each school's graduation rate and scores on the practice tests. 91773
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Each high school selected to provide intervention services under this division shall provide intervention services to students whose practice test results indicate that they are failing to make satisfactory progress toward being able to attain scores at the proficient level on the Ohio Graduation Tests. Intervention services shall be provided in any skill in which a student demonstrates unsatisfactory progress and shall be commensurate with the student's test performance. Schools shall provide the intervention services prior to the end of the school year, during the summer following the ninth grade, in the next succeeding school year, or at any combination of those times. 91781
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Section 138. (A) As used in this section, "nursing facility" means a facility, or a distinct part of a facility, that is certified as a nursing facility by the Director of Health for purposes of the Medicaid Program and is not an intermediate care facility for the mentally retarded. "Nursing facility" includes a facility, or a distinct part of a facility, that is certified as a skilled nursing facility by the Director of Health for purposes of the Medicare Program. 91792
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(B) The Director of Health shall request from the Secretary of the United States Department of Health and Human Services 91800
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approval to develop an alternative regulatory procedure for 91802
nursing facilities subject to federal regulation. If the Secretary 91803
gives approval, the Director shall convene the Nursing Facility 91804
Regulatory Reform Task Force. 91805

(C) The Director of Health shall serve as chair of the Task 91806
Force. The Director of Aging, the Director of Job and Family 91807
Services, the State Long-Term Care Ombudsman, or persons they 91808
designate and a member of the Governor's staff designated by the 91809
Governor shall serve on the Task Force. The Director of Health 91810
shall appoint the following individuals to serve on the Task 91811
Force: 91812

(1) Two representatives of the Ohio Health Care Association; 91813

(2) Two representatives of the Association of Ohio 91814
Philanthropic Homes and Housing for the Aging; 91815

(3) Two representatives of the Ohio Academy of Nursing Homes; 91816

(4) Two representatives of the American Association of 91817
Retired Persons (AARP); 91818

(5) Two representatives of Families for Improved Care; 91819

(6) A representative from the Ohio Association of Regional 91820
Long-Term Care Ombudsman Programs; 91821

(7) A representative of the 1199 League of Registered Nurses; 91822

(8) A representative of the American Federation of State, 91823
County, and Municipal Employees. 91824

(D) Except to the extent that service on the task force is 91825
part of their employment, Task Force members shall serve without 91826
compensation and shall not be reimbursed by the State for expenses 91827
incurred in carrying out their duties on the Task Force. The 91828
Scripps Gerontology Center at Miami University shall provide 91829
technical and support services for the Task Force. 91830

(E) The Task Force shall do all of the following: 91831

(1) Review the effectiveness of current regulatory procedures for nursing facilities regarding the quality of care and quality of life of nursing facility residents;	91832 91833 91834
(2) Develop recommendations for improved regulatory procedures for nursing facilities to improve the quality of care and quality of life of nursing facility residents;	91835 91836 91837
(3) Evaluate potential effects on nursing facility residents of elimination of components of the Certificate of Need program pertaining to long-term care facilities;	91838 91839 91840
(4) Develop possible demonstration projects to present the potential of proposed changes to the regulatory procedure to increase the quality of care and the quality of life of nursing facility residents.	91841 91842 91843 91844
(F) The Task Force shall submit a report of its findings and recommendations to the Speaker and Minority Leader of the House of Representatives and to the President and Minority Leader of the Senate. The report shall explain any changes to the Revised Code required to implement the recommendations. On submission of the recommendations, the Task Force shall cease to exist.	91845 91846 91847 91848 91849 91850
(G) At the request of the General Assembly by adoption of a joint resolution, the Director of Health shall apply to the Secretary of the United States Department of Health and Human Services for a waiver to implement the recommendations of the Task Force.	91851 91852 91853 91854 91855
Section 139.01. In amending sections 121.084, 4104.41, 4104.44, 4104.45, and 4104.46 (4104.48), in enacting new section 4104.46 and section 4104.47, and in repealing and re-enacting sections 4104.42 and 4104.43 of the Revised Code, it is the intent of the General Assembly that the provisions of this act are general laws created in the exercise of the state's police power,	91856 91857 91858 91859 91860 91861

arising out of matters of statewide concern, and are designed for 91862
the health, safety, and welfare of contractors, their employees, 91863
and the public. 91864

Section 139.02. In amending sections 121.084, 4104.41, 91865
4104.44, 4104.45, and 4104.46 (4104.48), in enacting new section 91866
4104.46 and section 4104.47, and in repealing and re-enacting 91867
sections 4104.42 and 4104.43 of the Revised Code, it is the intent 91868
of the General Assembly that power, refrigerating, hydraulic, 91869
heating and liquefied petroleum gas, oxygen, and other gaseous 91870
piping systems will continue to be inspected as part of the 91871
building permit process, enforcement of plumbing and mechanical 91872
building codes, and occupancy certification. The purpose of this 91873
legislative action is solely to eliminate duplicative inspection 91874
personnel and fees. 91875

Section 145.01. * The Hemophilia Advisory Council established 91876
under section 3701.145 of the Revised Code, renumbered as section 91877
3701.0210 of the Revised Code by this act, is hereby abolished. 91878

Section 145.03. * Upon the taking effect of this section, the 91879
Hazardous Waste Facility Board is abolished. 91880

All of the rules adopted by the Hazardous Waste Facility 91881
Board are abolished on that date. The Director of the Legislative 91882
Service Commission shall remove the rules from the Administrative 91883
Code as if they had been rescinded. 91884

On and after the effective date of this section and until the 91885
Director of Environmental Protection adopts rules that eliminate 91886
references to the Hazardous Waste Facility Board, whenever the 91887
Hazardous Waste Facility Board or Board, when "Board" refers to 91888
the Hazardous Waste Facility Board, is referred to in a rule, the 91889
reference shall be deemed to refer to the Environmental Protection 91890
Agency or the Director of Environmental Protection, whichever is 91891

appropriate. As expeditiously as possible after the effective date 91892
of this section, the Director of Environmental Protection shall 91893
adopt rules eliminating references to the Hazardous Waste Facility 91894
Board. 91895

Permits or modifications issued by the Hazardous Waste 91896
Facility Board under section 3734.05 of the Revised Code as that 91897
section existed prior to its amendment by this act shall continue 91898
in effect as if the Director had issued the permits or 91899
modifications under section 3734.05 of the Revised Code after the 91900
effective date of its amendment by this act. Any application 91901
pending before the Hazardous Waste Facility Board on the effective 91902
date of this section shall be transferred to the Environmental 91903
Protection Agency for approval or disapproval by the Director. All 91904
records, files, and other documents of the Hazardous Waste 91905
Facility Board shall be transferred to the Environmental 91906
Protection Agency. 91907

Section 145.03A. (A) There is hereby created the Ohio Autism 91908
Task Force consisting of the following members: 91909

(1) All of the following persons to be appointed by the 91910
Governor: 91911

(a) A person diagnosed with autism; 91912

(b) Four persons who are parents of children diagnosed with 91913
autism; 91914

(c) A special education administrator of an Ohio school 91915
district; 91916

(d) A representative of the Ohio Association of County Boards 91917
of Mental Retardation and Developmental Disabilities; 91918

(e) A representative of the Ohio Developmental Disabilities 91919
Council; 91920

(f) A representative of the Autism Society of Ohio; 91921

(g) A developmental pediatrician who is a member of the Ohio Association of Pediatricians;	91922 91923
(h) Two representatives from private schools in Ohio that provide special education services to children diagnosed with autism;	91924 91925 91926
(i) Two representatives from Ohio hospitals that provide services to children diagnosed with autism.	91927 91928
(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;	91929 91930 91931
(3) Two members of the Senate, one from the majority party and one from the minority party, appointed by the President of the Senate;	91932 91933 91934
(4) The Director of Mental Retardation and Developmental Disabilities or the Director's designee;	91935 91936
(5) The Director of Job and Family Services or the Director's designee;	91937 91938
(6) The Superintendent of Public Instruction or the Superintendent's designee;	91939 91940
(7) The Director of Health or the Director's designee.	91941
(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.	91942 91943 91944 91945 91946
(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	91947 91948 91949 91950 91951

the chairperson.	91952
(D) The Department of Mental Retardation and Developmental Disabilities shall provide meeting facilities and other support as necessary for the Task Force.	91953 91954 91955
(E) The Task Force shall study and make recommendations regarding both of the following:	91956 91957
(1)The growing incidence of autism in Ohio;	91958
(2)Ways to improve the delivery in this state of autism services.	91959 91960
(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.	91961 91962 91963 91964
(G) On submission of its report, the Task Force shall cease to exist.	91965 91966
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.	91967 91968 91969 91970 91971
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 property be placed on the tax exempt list and that all unpaid taxes, penalties, and interest on the property be abated.	91972 91973 91974 91975 91976 91977 91978 91979
The application shall be made on the form prescribed by the Tax Commissioner under section 5715.27 of the Revised Code and	91980 91981

shall list the name of the county in which the property is 91982
located; the property's legal description; its taxable value; the 91983
amount in dollars of the unpaid taxes, penalties, and interest; 91984
the date of acquisition of title to the property; the use of the 91985
property during any time that the unpaid taxes accrued; and any 91986
other information required by the Tax Commissioner. The county 91987
auditor shall supply the required information upon request of the 91988
applicant. 91989

Upon request of the applicant, the county treasurer shall 91990
determine if all taxes, penalties, and interest that became a lien 91991
on the qualified property before it first was used for an exempt 91992
purpose and all special assessments charged against the property 91993
have been paid in full. If so, the county treasurer shall issue a 91994
certificate to the applicant stating that all such taxes, 91995
penalties, interest, and assessments have been paid in full. Prior 91996
to filing the application with the Tax Commissioner, the applicant 91997
shall attach the county treasurer's certificate to it. The Tax 91998
Commissioner shall not consider an application filed under this 91999
section unless such a certificate is attached to it. 92000

Upon receipt of the application and after consideration of 92001
it, the Tax Commissioner shall determine if the applicant meets 92002
the qualifications set forth in this section, and if so shall 92003
issue an order directing that the property be placed on the tax 92004
exempt list of the county and that all unpaid taxes, penalties, 92005
and interest for every year the property met the qualifications 92006
for exemption described in section 3313.44, 5709.07, 5709.08, 92007
5709.10, 5709.12, 5709.121, or 5709.14 of the Revised Code be 92008
abated. If the Tax Commissioner finds that the property is not now 92009
being so used or is being used for a purpose that would foreclose 92010
its right to tax exemption, the Tax Commissioner shall issue an 92011
order denying the application. 92012

If the Tax Commissioner finds that the property is not 92013

entitled to tax exemption and to the abatement of unpaid taxes, 92014
penalties, and interest for any of the years for which the owner 92015
claims an exemption or abatement, the Tax Commissioner shall order 92016
the county treasurer of the county in which the property is 92017
located to collect all taxes, penalties, and interest due on the 92018
property for those years in accordance with law. 92019

The Tax Commissioner may apply this section to any qualified 92020
property that is the subject of an application for exemption 92021
pending before the Tax Commissioner on the effective date of this 92022
section, without requiring the property owner to file an 92023
additional application. The Tax Commissioner also may apply this 92024
section to any qualified property that is the subject of an 92025
application for exemption filed on or after the effective date of 92026
this section and on or before twelve months after that effective 92027
date, even though the application does not expressly request 92028
abatement of unpaid taxes. 92029

Section 145.03J. (A) The amendment, repeal and reenactment, 92030
or enactment by this act of sections 718.01, 718.02, 718.03, 92031
718.05, 718.051, and 718.121 of the Revised Code apply to taxable 92032
years beginning on or after January 1, 2004. 92033

(B) The amendment by this act of sections 718.11, 5717.011, 92034
and 5717.03 of the Revised Code apply to matters relating to 92035
taxable years beginning on or after January 1, 2004. 92036

(C) The credit allowed by section 718.021 of the Revised Code 92037
applies to qualifying losses sustained in taxable years beginning 92038
on or after January 1, 2004. 92039

Section 145.03K. Not later than thirty days after the 92040
effective date of this section, the Governor, with the advice and 92041
consent of the Senate, shall make initial appointments to the Ohio 92042
Business Gateway Steering Committee created in section 5703.56 of 92043

the Revised Code. Terms of office shall be as prescribed in 92044
section 5703.56 of the Revised Code. 92045

Section 145.03N. (A) The amendment by this act of sections 92046
165.09, 902.11, 4981.20, 5703.052, 5739.01, 5739.011, 5739.012, 92047
5739.02, 5739.025, 5739.03, 5739.032, 5739.033 (in Section 1 of 92048
this act), 5739.12, 5739.121, 5739.122, 5739.17, 5739.21, 5741.01, 92049
5741.02, and 5741.121 of the Revised Code apply on and after July 92050
1, 2003. 92051

(B) The amendment by this act of sections 5739.021, 5739.022, 92052
5739.023, and 5739.026 of the Revised Code apply on and after 92053
January 1, 2004. 92054

(C) The amendment by this act of sections 5739.10, 5741.021, 92055
5741.741.023 of the Revised Code apply on and after January 1, 92056
2006. 92057

(D) The repeal and re-enactment by this act of section 92058
5739.034 of the Revised Code applies on and after July 1, 2003. 92059

Section 145.030. Sections 107.32 and 107.33 of the Revised 92060
Code shall apply to all state institutional facilities, as defined 92061
in section 107.32 of the Revised Code, that were in operation on 92062
or after January 1, 2003. 92063

Section 145.03R. The Legislative Office of Education 92064
Oversight shall conduct a review of partnership agreements between 92065
a Head Start provider and a provider of child care or day care 92066
services. In conducting this review, the Office shall analyze the 92067
following: 92068

(A) The impact on literacy-readiness for children receiving 92069
services as a result of such agreements; 92070

(B) The costs and benefits of such agreements to both 92071
participant children and the providers who are parties to the 92072

agreements. In analyzing the costs and benefits of such 92073
agreements, the Office shall examine the financial costs and 92074
benefits to providers who are parties to the agreements and to 92075
families of participant children. Additionally, the Office shall 92076
examine intangible costs and benefits to participant children, 92077
such as intellectual, emotional, and physical benefits or 92078
detriments caused by service under such agreements. 92079

(C) The operation of the agreements. In analyzing the 92080
operation of the agreements, the Office shall review how the 92081
agreements work, how well the agreements work, what components are 92082
included in the agreements, and whether the agreements are unique 92083
to the providers who are parties to the agreements or standardized 92084
across the state or within a local region. 92085

(D) Whether there is an administrative entity, such as a 92086
county department of job and family services, that oversees the 92087
implementation of a particular agreement. If there is such an 92088
entity that oversees an agreement, the Office shall examine the 92089
degree to which oversight is performed and what overhead costs the 92090
administrative entity incurs in overseeing such agreements. 92091

The Office shall submit the final results of this study to 92092
the General Assembly not later than December 31, 2004. 92093

Section 145.03T. (A) Within one hundred twenty days after the 92094
effective date of this section, the Director of Agriculture, the 92095
Director of Rehabilitation and Correction, and the Director of 92096
Youth Services shall develop a plan to optimize the quantity and 92097
use of food grown and harvested in state correctional institutions 92098
or secure facilities operated by the Department of Youth Services 92099
in the most cost-effective manner. The plan shall include methods 92100
to increase production at farms operated by either department and 92101
shall include methods to ensure that the highest possible 92102
percentage of food consumed at state correctional institutions and 92103

secure facilities operated by the Department of Youth Services is 92104
food grown and harvested at a state correctional institution or 92105
secure facility operated by the Department of Youth Services. 92106

(B) The plan shall consider possible amendments to the 92107
Revised Code, amendments to the Administrative Code, 92108
administrative changes, financial strategies, strategies to obtain 92109
a reliable workforce, and any other means to optimize the quantity 92110
and use of food of that nature in state correctional institutions 92111
and secure facilities operated by the Department of Youth 92112
Services. 92113

The plan and its findings, conclusions, and any 92114
recommendations and proposed legislation shall be submitted to the 92115
Speaker of the House of Representatives, the President of the 92116
Senate, the Governor, the Director of Rehabilitation and 92117
Correction, and the Director of Youth Services. 92118

(C) As used in this section, "state correctional institution" 92119
has the same meaning as in section 2967.01 of the Revised Code. 92120

Section 145.03BB. The State Racing Commission shall conduct a 92121
performance study of the Commission based upon its current level 92122
of full-time employees. The Commission, not later than January 1, 92123
2004, shall make recommendations to the Governor and the General 92124
Assembly regarding possible staff reductions and ways to improve 92125
the efficiency of the Commission's operations. 92126

Section 145.03CC. For any metropolitan housing authority that 92127
is in existence when division (D) of section 3735.27 of the 92128
Revised Code, as amended by this act, takes effect, and to which 92129
that division applies, the board of county commissioners shall 92130
appoint a member to fill the next vacancy that occurs due to the 92131
expiration of the term of a member appointed by the chief 92132
executive officer of the most populous city in the metropolitan 92133

housing authority district. Thereafter, any vacancy in that 92134
position shall be filled by an appointee of the board of county 92135
commissioners and all other vacancies shall be filled in the 92136
manner provided for the original appointments. 92137

Section 145.03DD. The amendment by this act of section 92138
5747.02 of the Revised Code applies to taxable years ending on or 92139
after the effective date of this section. 92140

Section 145.03EE. (A) If a court finds that any provisions 92141
within sections 1346.04 to 1346.10 of the Revised Code conflict 92142
and cannot be harmonized with those within sections 1346.01 to 92143
1346.03 of the Revised Code, provisions of sections 1346.01 to 92144
1346.03 of the Revised Code shall control. 92145

(B) If any provision within sections 1346.04 to 1346.10 of 92146
the Revised Code causes sections 1346.01 to 1346.03 of the Revised 92147
Code to no longer constitute a qualifying or model statute, as 92148
those terms are defined in the Master Settlement Agreement entered 92149
into on November 23, 1998, by the state and leading United States 92150
tobacco product manufacturers, the provision in question shall be 92151
invalid. If any part of sections 1346.04 to 1346.10 of the Revised 92152
Code is for any reason held to be invalid, unlawful, or 92153
unconstitutional, the remaining portions of those sections shall 92154
remain valid. 92155

Section 145.03FF. The first report of stamping agents 92156
required by division (A) of section 1346.07 of the Revised Code 92157
shall be due on the last day of the month following the month in 92158
which this act becomes effective. The first certifications of a 92159
tobacco product manufacturer under division (A) of section 1346.05 92160
of the Revised Code shall be due forty-five days after the 92161
effective date of this act. The directory established in division 92162
(B) of section 1346.05 of the Revised Code shall be published 92163

within ninety days after the effective date of this act. 92164

Section 145.03GG. (A) For the purposes of section 321.24, as 92165
amended by this act, and of section 5703.80 of the Revised Code, 92166
as enacted by this act, the Tax Commissioner may determine the 92167
property tax administrative fee for fiscal year 2004 at any time 92168
after the day this act becomes law. One-half of the amount of the 92169
fee for that year may be deducted from each of the payments made 92170
in the fiscal year under division (F) of section 321.24 of the 92171
Revised Code, or the full amount of the fee for the year may be 92172
deducted from the second of those payments made in the fiscal 92173
year. The Director of Budget and Management may transfer the fee 92174
from the General Revenue Fund to the Property Tax Administration 92175
Fund created under section 5703.80 of the Revised Code, as enacted 92176
by this act, for fiscal year 2004 in three equal payments on 92177
November 1, 2003, February 1, 2004, and May 1, 2004. 92178

(B) Within thirty days after the Tax Commissioner determines 92179
the property tax administrative fee for fiscal year 2004 under 92180
division (A) of this section, the Tax Commissioner shall notify 92181
the Department of Education of the amount by which each school 92182
district's reimbursement made under division (F) of section 321.24 92183
of the Revised Code, as amended by this act, is to be reduced for 92184
the Property Tax Administration Fund. 92185

Section 145.03HH. (A) As used in this section, "housing 92186
officer" has the same meaning as in section 3735.65 of the Revised 92187
Code. 92188

(B) Any complaint filed with the tax commissioner on or after 92189
the effective date of this section challenging the continued 92190
exemption of property granted an exemption by a housing officer 92191
under section 3735.67 of the Revised Code shall be certified by 92192
the tax commissioner to the housing officer. The housing officer 92193

shall proceed to hear and determine such complaint in accordance 92194
with division (E) of section 3735.67 of the Revised Code. The 92195
commissioner may hear and determine any such complaint filed with 92196
the commissioner before the effective date of this section or may 92197
certify such complaint to the housing officer for hearing and 92198
determination. 92199

(C) The filing date of any complaint certified to a housing 92200
officer under this section shall be considered to be the date on 92201
which the complaint was filed with the tax commissioner. 92202

Section 145.03II. Notwithstanding the date by which 92203
determinations must be made under divisions (D), (G), and (H) of 92204
section 5727.84 of the Revised Code, the Tax Commissioner, as soon 92205
as is practicable after the effective date of that section as 92206
amended by this act, shall redetermine electric company tax value 92207
loss, fixed-rate levy loss, and fixed-sum levy loss for taxing 92208
districts described in division (D)(3) of that section on the 92209
basis of such amendments, and make the certification required by 92210
divisions (J) and (K) of that section. On or before July 31, 2003, 92211
or as soon as is practicable after the effective date of section 92212
5727.84 of the Revised Code as amended by this act, the Department 92213
of Education shall make the computations required under section 92214
5727.85 of the Revised Code on the basis of such redeterminations. 92215
Such redeterminations and computations apply for the purpose of 92216
computing payments made to taxing districts under sections 5727.85 92217
and 5727.86 of the Revised Code during state fiscal year 2004 and 92218
subsequent fiscal years, as otherwise provided in those sections. 92219

Section 145.03JJ. The amendment by this act of section 92220
5733.06 of the Revised Code applies to tax year 2004 and to each 92221
tax year thereafter. 92222

Section 145.03KK. (A)(1) There is hereby created the 92223

Legislative Audit Commission Study Committee, to be composed of 92224
four members. The committee shall study how other states provide 92225
for a legislative auditing function within their respective 92226
legislative branches of government and shall make recommendations 92227
on how Ohio should address the legislative auditing function and 92228
on the funding levels necessary to accomplish the objectives 92229
recommended. The President of the Senate shall appoint to the 92230
committee two members of the Senate, each of whom shall be a 92231
member of a different political party. The Speaker of the House of 92232
Representatives shall appoint to the committee two members of the 92233
House of Representatives, each of whom shall be a member of a 92234
different political party. 92235

(2) All vacancies in the membership of the committee shall be 92236
filled in the same manner prescribed for original appointments to 92237
the committee. 92238

(3) The members of the committee shall serve without 92239
compensation, but shall be reimbursed for their actual and 92240
necessary expenses incurred in the performance of their official 92241
duties. 92242

(B) The members of the Legislative Audit Commission Study 92243
Committee shall select a chairperson from among the appointed 92244
members. 92245

(C) The Legislative Service Commission shall provide 92246
necessary support to the Legislative Audit Commission Study 92247
Committee. 92248

(D) The Legislative Audit Commission Study Committee shall 92249
publish its findings and recommendations in a report to the 92250
Governor, the Speaker and the Minority Leader of the House of 92251
Representatives, and the President and Minority Leader of the 92252
Senate not later than December 31, 2003. Upon submission of the 92253
report, the committee shall cease to exist. 92254

Section 145.03LL. If the amendments made by this act to 92255
division (B)(2)(b) of section 1346.02 of the Revised Code are 92256
found unconstitutional or otherwise held invalid by a court of 92257
competent jurisdiction, then to the extent that a tobacco product 92258
manufacturer establishes that the amount it was required to place 92259
into escrow in a particular year was greater than the state's 92260
allocable share of the total payments that such manufacturer would 92261
have been required to make in that year under the Master 92262
Settlement Agreement (as determined pursuant to section IX(i)(2) 92263
of the Master Settlement Agreement, and before any of the 92264
adjustments or offsets described in section IX(i)(3) of that 92265
Agreement other than the inflation adjustment) had it been a 92266
participating manufacturer, the excess shall be released from 92267
escrow and revert back to such tobacco product manufacturer. 92268

The consequent of the preceding paragraph effectively 92269
reinstates division (B)(2)(b) of section 1346.02 of the Revised 92270
Code as it existed prior to its amendment by this act. 92271

Section 145.03MM. The amendment by this act to division (H) 92272
of section 718.01 and to section 718.14 of the Revised Code apply 92273
to taxable years beginning on or after January 1, 2003. 92274

Section 145.03NN. There is hereby created the Aboveground 92275
Petroleum Storage Tank Study Committee. The Committee shall be 92276
comprised of the State Fire Marshal, and the Superintendent of 92277
Industrial Compliance, a member of the House of Representatives 92278
appointed by the Speaker of the House of Representatives, a member 92279
of the Senate appointed by the President of the Senate, and twelve 92280
members appointed by the Governor. The legislative members shall 92281
be from different political parties. The Speaker of the House of 92282
Representatives, the President of the Senate, and the Governor 92283
shall make these appointments within sixty days after the 92284

effective date of this section. 92285

Of the appointments made by the Governor, two shall be 92286
representatives of petroleum refiners, two shall be 92287
representatives of petroleum marketers, one shall represent 92288
municipal corporations, one shall represent counties, one shall 92289
represent townships, one shall represent agricultural interests, 92290
one shall represent the highway construction industry, one shall 92291
represent the trucking industry, one shall represent the Fire 92292
Service Alliance and one shall represent the public. 92293

The Committee shall determine and recommend whether 92294
aboveground petroleum storage tanks that are not regulated by the 92295
Superintendent of Industrial Compliance should be registered, and 92296
if they are to be registered, the annual fee for registration, and 92297
any other regulation needed to insure the safety of such tanks and 92298
the vicinities in which the tanks are located. 92299

The Committee shall make its recommendations to the Governor, 92300
the Speaker of the House of Representatives, and the President of 92301
the Senate not later than December 31, 2004. 92302

Section 145.0300. The Governor shall appoint the new members 92303
added to the Board of Building and Fire Standards pursuant to 92304
section 3781.07 of the Revised Code as amended by this act and the 92305
new members added to the Board of Building Appeals pursuant to 92306
section 3781.19 of the Revised Code as amended by this act on or 92307
before ninety days after October 1, 2003. The initial term of the 92308
new members shall be until October 13, 2007, and terms thereafter 92309
shall be for four years. 92310

Section 145.03PP. The state fire code adopted by the State 92311
Fire Marshal as it exists on the effective date of this section 92312
remains effective until the State Board of Building and Fire 92313
Standards adopts changes to the state fire code pursuant to 92314

sections 3737.82 and 3737.83 of the Revised Code as amended by 92315
this act. 92316

Section 145.0300. The legislative authority of a county with 92317
a population of six hundred thousand or more may create local 92318
funding options for construction of a convention center and 92319
related facilities. 92320

Section 146.01. Except as otherwise specifically provided in 92321
this act, the codified sections of law amended or enacted in this 92322
act, and the items of law of which the codified sections of law 92323
amended or enacted in this act are composed, are subject to the 92324
referendum. Therefore, under Ohio Constitution, Article II, 92325
Section 1c and section 1.471 of the Revised Code, the codified 92326
sections of law amended or enacted by this act, and the items of 92327
law of which the codified sections of law as amended or enacted by 92328
this act are composed, take effect on the ninety-first day after 92329
this act is filed with the Secretary of State. If, however, a 92330
referendum petition is filed against any such codified section of 92331
law as amended or enacted by this act, or against any item of law 92332
of which any such codified section of law as amended or enacted by 92333
this act is composed, the codified section of law as amended or 92334
enacted, or item of law, unless rejected at the referendum, takes 92335
effect at the earliest time permitted by law. 92336

Section 146.02. Except as otherwise specifically provided in 92337
this act, the repeal by this act of a codified section of law is 92338
subject to the referendum. Therefore, under Ohio Constitution, 92339
Article II, Section 1c and section 1.471 of the Revised Code, the 92340
repeal by this act of a codified section of law takes effect on 92341
the ninety-first day after this act is filed with the Secretary of 92342
State. If, however, a referendum petition is filed against any 92343
such repeal, the repeal, unless rejected at the referendum, takes 92344

effect at the earliest time permitted by law. 92345

Section 146.03. The repeal by this act of sections 122.12, 92346
1553.01, 1553.02, 1553.03, 1553.04, 1553.05, 1553.06, 1553.07, 92347
1553.08, 1553.09, 1553.10, 1553.99, 3318.35, 3701.142, 3701.144, 92348
4141.044, 5115.011, 5115.012, 5115.06, and 5115.061 of the Revised 92349
Code is not subject to the referendum. Therefore, under Ohio 92350
Constitution, Article II, Section 1d and section 1.471 of the 92351
Revised Code, the repeals go into immediate effect when this act 92352
becomes law. 92353

Section 146.05. (A) Sections 117.45, 121.04, 122.658, 124.03, 92354
124.15, 124.152, 124.181, 124.183, 126.11, 127.16, 131.23, 173.08, 92355
173.54, 323.01, 329.03, 329.04, 329.051, 340.021, 340.03, 901.21, 92356
901.63, 901.85, 1501.04, 2101.16, 2151.3529, 2151.3530, 2305.234 92357
(in Section 1), 2329.66, 2715.041, 2715.045, 2716.13, 2921.13, 92358
3111.04, 3119.01, 3123.952, 3311.05, 3311.059, 3313.381, 3313.976, 92359
3313.978, 3313.979, 3314.033, 3314.083, 3316.031, 3316.08, 92360
3317.012, 3317.013, 3317.014, 3317.022, 3317.023, 3317.024, 92361
3317.029, 3317.0217, 3317.03, 3317.032, 3317.05, 3317.064, 92362
3317.07, 3317.10, 3317.16, 3318.37, 3323.16, 3332.04 (in Section 92363
1), 3517.092, 3701.02, 3701.021, 3701.022, 3701.029, 3701.141, 92364
3701.145 (3701.0210), 3702.31, 3702.63, 3702.68, 3702.74, 3705.24, 92365
3709.09, 3711.021, 3721.02, 3721.19, 3721.51, 3721.56, 3721.561, 92366
3733.43, 3733.45, 3734.28, 3734.57, 3745.40, 3748.07, 3748.13, 92367
3769.087, 3773.43, 3781.19, 4104.01, 4104.02, 4104.04, 4104.06, 92368
4104.07, 4104.08, 4104.15, 4104.18, 4104.19, 4104.20, 4105.17, 92369
4112.15, 4117.14, 4123.27, 4141.09, 4501.06, 4723.06, 4723.08, 92370
4723.082, 4723.17, 4729.01, 4729.41, 4731.65, 4731.71, 4736.12, 92371
4747.05, 4747.06, 4747.07, 4747.10, 4755.03, 4755.031, 4771.22, 92372
4903.24, 4905.91, 4919.79, 5101.11, 5101.14, 5101.141, 5101.142, 92373
5101.144, 5101.145, 5101.146, 5101.1410, 5101.16, 5101.18, 92374
5101.181, 5101.36, 5101.58, 5101.59, 5101.75, 5101.80, 5103.155, 92375

5104.04, 5104.30, 5107.02, 5107.30, 5107.40, 5107.60, 5111.0113, 92376
5111.02, 5111.025, 5111.03, 5111.06, 5111.08 (5111.071), new 92377
5111.16, 5111.16 (5111.08), 5111.161, 5111.17, 5111.171, 5111.172, 92378
5111.174, 5111.175, 5111.20, 5111.206, 5111.21, 5111.22, 5111.222, 92379
5111.25, 5111.251, 5111.252 (5123.199), 5111.262, 5111.28, 92380
5111.29, 5111.30, 5111.31, 5111.65, 5111.66, 5111.661, 5111.67, 92381
5111.671, 5111.672, 5111.673, 5111.674, 5111.675, 5111.676, 92382
5111.677, 5111.68, 5111.681, 5111.682, 5111.683, 5111.684, 92383
5111.685, 5111.686, 5111.687, 5111.688, 5111.689, 5111.6810, 92384
5111.85, 5111.87, 5111.871, 5111.872, 5111.873, 5111.911, 92385
5111.912, 5111.913, 5112.03, 5112.08, 5112.17, 5115.01, 5115.02 92386
(5115.04), 5115.03, 5115.04 (5115.02), 5115.05, 5115.07 (5115.06), 92387
5115.10, 5115.11, 5115.12, new 5115.13, 5115.13 (5115.07), 92388
5115.14, 5115.15 (5115.23), 5115.20, 5115.22, 5119.61, 5123.01, 92389
5123.19, 5123.196, 5123.198, 5123.1910, 5123.38, 5126.01, 92390
5126.042, 5126.12, 5153.78, 5502.13, 5709.64, 5735.05, 5735.053, 92391
5735.23, 5735.26, 5735.291, 5735.30, and 6109.21 of the Revised 92392
Code as amended, enacted, or renumbered by this act, and the items 92393
of law of which such sections as amended or enacted by this act 92394
are composed, are not subject to the referendum. Therefore, under 92395
Ohio Constitution, Article II, Section 1d and section 1.471 of the 92396
Revised Code, such sections as amended, enacted, or renumbered by 92397
this act, and the items of law of which such sections as amended 92398
or enacted by this act are composed, go into immediate effect when 92399
this act becomes law. 92400

(B) Sections 3313.481, 3317.11, and 5111.173 of the Revised 92401
Code as repealed and reenacted by this act, and the items of law 92402
of which it is composed, is not subject to the referendum. 92403
Therefore, under Ohio Constitution, Article II, Section 1d and 92404
section 1.471 of the Revised Code, the section as repealed and 92405
reenacted by this act goes into immediate effect when this act 92406
becomes law. 92407

(C) The amendment of sections 2915.01, 2915.02, 2915.08, 2915.09, 2915.091, 2915.092, 2915.093, 2915.10, 2915.101, and 2915.13 of the Revised Code is not subject to the referendum under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code and goes into effect on July 1, 2003.

(D) The amendments of sections 4503.101 and 4503.103 of the Revised Code are not subject to the referendum under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code and go into effect on June 30, 2003.

Section 146.06. (A) The amendment, enactment, or repeal and reenactment by this act of sections 109.71, 122.17, 122.171, 122.71, 321.24, 323.13, 715.013, 718.01, 718.02, 718.021, 718.03, 718.05, 718.051, 718.11, 718.121, 718.14, 718.15, 718.151, 2923.35, 2925.44, 2933.43, 2935.01, 3735.67, 3735.671, 4141.201, 5703.56, 5703.57, 5703.58, 5703.80, 5709.20, 5709.201, 5709.21, 5709.211, 5709.212, 5709.22, 5709.23, 5709.24, 5709.25, 5709.26, 5709.27, 5711.02, 5711.13, 5711.18, 5711.22, 5711.27, 5711.33, 5713.07, 5713.08, 5713.081, 5713.082, 5715.27, 5715.39, 5717.011, 5717.03, 5727.111, 5727.30, 5727.84, 5728.04, 5728.06, 5728.99, 5733.04, 5733.05, 5733.051, 5733.056, 5733.0511, 5733.059, 5733.06, 5733.0611, 5733.09, 5733.45, 5733.55, 5733.56, 5733.57, 5733.98, 5735.14, 5735.15, 5735.19, 5735.99, 5743.45 (in Section 1 of this act), 5745.01, 5745.02, 5745.04, 5747.02, 5747.026, 5747.31, and 6111.06 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments, enactments, or repeals and reenactments and the items of which they are composed, are not subject to the referendum and go into immediate effect when this act becomes law.

(B) The amendment or enactment by this act of sections 165.09, 902.11, 4981.20, 5703.052, 5739.01, 5739.011, 5739.012,

5739.02, 5739.025, 5739.03, 5739.032, 5739.033 (in Section 1 of 92439
this act), 5739.12, 5739.121, 5739.122, 5739.17, 5739.21, 5739.33, 92440
5741.01, 5741.02, 5741.121, and 5741.25 of the Revised Code 92441
provides for or is essential to implementation of a tax levy. 92442
Therefore, under Ohio Constitution, Article II, Section 1d, the 92443
amendments, and the items of which they are composed, are not 92444
subject to the referendum and go into immediate effect when this 92445
act becomes law. 92446

(C) The amendment by this act of sections 5739.021, 5739.022, 92447
5739.023, and 5739.026 of the Revised Code provides for or is 92448
essential to implementation of a tax levy. Therefore, under Ohio 92449
Constitution, Article II, Section 1d, the amendments, and the 92450
items of which they are composed, are not subject to the 92451
referendum and go into effect January 1, 2004. 92452

(D) The amendment by this act of sections 5739.10, 5741.021, 92453
5741.022, and 5741.023 of the Revised Code provides for or is 92454
essential to implementation of a tax levy. Therefore, under Ohio 92455
Constitution, Article II, Section 1d, the amendments, and the 92456
items of which they are composed, are not subject to the 92457
referendum and, except as provided in this section, go into effect 92458
January 1, 2006. 92459

(E) The repeal and re-enactment by this act of section 92460
5739.034 of the Revised Code provides for or is essential to 92461
implementation of a tax levy. Therefore, under Ohio Constitution, 92462
Article II, Section 1d, the repeal and re-enactment, and the items 92463
of which they are composed, are not subject to the referendum and 92464
go into effect July 1, 2003. 92465

(F) The repeal by this act of sections 5735.33, 5739.35, 92466
5741.24, 5743.46, and 5747.60 of the Revised Code provides for or 92467
is essential to implementation of a tax levy. Therefore, under 92468
Ohio Constitution, Article II, Section 1d, the repeals, and the 92469
items of which they are composed, are not subject to the 92470

referendum and go into immediate effect when this act becomes law. 92471

(G) The amendment by this act of section 5735.142 of the 92472
Revised Code provides for or is essential to implementation of a 92473
tax levy. Therefore, under Ohio Constitution, Article II, Section 92474
1d the amendment is not subject to the referendum and goes into 92475
effect on June 30, 2003. 92476

Section 146.06A. The repeal by this act of sections 319.311, 92477
5733.111, 5741.011, and 5747.131 of the Revised Code provides for 92478
or is essential to implementation of a tax levy. Therefore, under 92479
Ohio Constitution, Article II, Section 1d, the repeals, and the 92480
items of which they are composed, are not subject to the 92481
referendum and go into immediate effect when this act becomes law. 92482

Section 146.06B. The repeal by this act of sections 5709.231, 92483
5709.30, 5709.31, 5709.32, 5709.33, 5709.34, 5709.35, 5709.36, 92484
5709.37, 5709.45, 5709.46, 5709.47, 5709.48, 5709.49, 5709.50, 92485
5709.51, 5709.52, 6111.31, 6111.311, 6111.32, 6111.34, 6111.35, 92486
6111.36, 6111.37, 6111.38, and 6111.39 of the Revised Code 92487
provides for or is essential to implementation of a tax levy. 92488
Therefore, under Ohio Constitution, Article II, Section 1d, the 92489
repeals, and the items of which they are composed, are not subject 92490
to the referendum and go into immediate effect when this act 92491
becomes law. 92492

Section 146.07. (A) The amendment by this act of sections 92493
4905.79, 4931.45, 4931.47, 4931.48, 5727.32, and 5727.33 of the 92494
Revised Code provides for or is essential to implementation of a 92495
tax levy. Therefore, under Ohio Constitution, Article II, Section 92496
1d, the amendments, and the items of which they are composed, are 92497
not subject to the referendum and go into effect December 31, 92498
2004. 92499

(B) The repeal by this act of sections 5727.39 and 5727.44 of 92500

the Revised Code provide for or is essential to implementation of 92501
a tax levy. Therefore, under Ohio Constitution, Article II, 92502
Section 1d, the repeals, and the items of which they are composed, 92503
are not subject to the referendum and go into effect December 31, 92504
2004. 92505

Section 146.07A. Section 3301.31 of the Revised Code, as 92506
repealed and reenacted by this act, and the items of law of which 92507
the section as repealed and reenacted by this act is composed, is 92508
not subject to the referendum. Therefore, under Ohio Constitution, 92509
Article II, Section 1d and section 1.471 of the Revised Code, the 92510
section as repealed and reenacted is entitled to go into immediate 92511
effect when this act becomes law. However, that section as 92512
repealed and reenacted by this act, and the items of law of which 92513
that section as repealed and reenacted by this act are composed, 92514
takes effect July 1, 2004, or the day this act becomes law, 92515
whichever is later. 92516

Section 146.07B. New section 3301.33 and sections 3301.34, 92517
3301.35, 3301.36, and 3301.38, as enacted by this act, and section 92518
3301.33 (3301.40) of the Revised Code as renumbered by this act, 92519
and the items of law of which those sections as enacted or 92520
renumbered by this act are composed, are not subject to the 92521
referendum. Therefore, under Ohio Constitution, Article II, 92522
Section 1d and section 1.471 of the Revised Code, the sections as 92523
enacted or renumbered are entitled to go into immediate effect 92524
when this act becomes law. However, those sections as enacted or 92525
renumbered by this act, and the items of law of which those 92526
sections as enacted or renumbered by this act are composed, take 92527
effect July 1, 2004, or the day this act becomes law, whichever is 92528
later. 92529

Section 146.07C. Sections 3301.37, 3301.52, 3301.53, 3301.54, 92530
3301.55, 3307.57, and 3301.58 of the Revised Code, as amended or 92531

enacted by this act, are not subject to the referendum. Therefore, 92532
under Ohio Constitution, Article II, Section 1d and section 1.471 92533
of the Revised Code the sections as amended or enacted by this 92534
act, and the items of law of which the sections as amended or 92535
enacted by this act are composed, are entitled to go into 92536
immediate effect when this act becomes law. However, the sections 92537
as amended or enacted by this act, and the items of law of which 92538
the sections as amended or enacted by this act are composed, take 92539
effect September 1, 2003, or the day this act becomes law, 92540
whichever is later. 92541

Section 146.07D. The repeal by this act of section 3301.581 92542
of the Revised Code is not subject to the referendum under Ohio 92543
Constitution, Article II, Section 1d and section 1.471 of the 92544
Revised Code and goes into effect September 1, 2003, or the day 92545
this act becomes law, whichever is later. 92546

Section 146.12. The version of section 3332.04 of the Revised 92547
Code that is scheduled to take effect July 1, 2003, as amended by 92548
this act, and the items of law of which that section as amended is 92549
composed, are not subject to the referendum. Therefore, under Ohio 92550
Constitution, Article II, Section 1d and section 1.471 of the 92551
Revised Code, the section as amended by this act, and the items of 92552
law of which that section as amended is composed, go into 92553
immediate effect on July 1, 2003. 92554

Section 146.12A. * (A) Except as otherwise provided in 92555
division (B) of this section, sections 121.08, 3701.82, 3737.01, 92556
3737.02, 3737.03, 3737.21, 3737.22, 3737.65, 3737.71, 3737.81, 92557
3737.82, 3737.83, 3737.84, 3737.85, 3737.86, 3737.88, 3737.881, 92558
3737.882, 3737.883, 3737.89, 3737.91, 3737.92, 3737.98, 3741.14, 92559
3743.57, 3743.75, 3746.02, 3781.07, and 3901.86 of the Revised 92560
Code as amended by this act, and sections 3741.15, 3781.071, 92561

3781.072, and 3781.22 of the Revised Code as enacted by this act, 92562
shall take effect October 1, 2003. 92563

(B) The amendment of section 121.08 of the Revised Code 92564
removing a reference to the state fire marshal takes effect at the 92565
earliest time permitted by law. 92566

Section 146.13. (A) Except as otherwise provided in division 92567
(B) of this section, the amendments by this act to section 3745.11 92568
of the Revised Code are not subject to the referendum. Therefore, 92569
under Ohio Constitution, Article II, Section 1d and section 1.471 92570
of the Revised Code, the amendments, and the items of law they 92571
contain, go into immediate effect when this act becomes law. 92572

(B)(1) The amendments by this act of division (P) of section 92573
3745.11 of the Revised Code provides for or is essential to 92574
implementation of a tax levy. Therefore, under Ohio Constitution, 92575
Article II, Section 1d, the amendments, and the items of which 92576
they are composed, are not subject to the referendum and go into 92577
immediate effect when this act becomes law. 92578

(2) The seventh and last paragraph added to division (S)(1) 92579
of section 3745.11 of the Revised Code by this act is subject to 92580
the referendum. Therefore, under Ohio Constitution, Article II, 92581
Section 1c and section 1.471 of the Revised Code, the paragraph 92582
takes effect on the ninety-first day after this act is filed with 92583
the Secretary of State. If, however, a referendum petition is 92584
filed against the paragraph, or against any item of law it 92585
contains, the paragraph or item, unless rejected at the 92586
referendum, takes effect at the earliest time permitted by law. 92587

Section 146.14. The amendment by this act of the version of 92588
section 4511.75 of the Revised Code that is scheduled to take 92589
effect January 1, 2004, and the items of law of which that 92590
amendment is composed, are not subject to the referendum under 92591

Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code and go into effect on July 1, 2004.

Section 146.15. (A) Except as otherwise provided in division (B) of this section, the amendments by this act to section 4743.05 of the Revised Code are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the amendments take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the amendments, or against any item of law they contain, the amendments or item, unless rejected at the referendum, takes effect at the earliest time permitted by law.

(B) The amendment by this act adding a reference to "4771." to section 4743.05 of the Revised Code is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendment goes into immediate effect when this act becomes law.

Section 146.15A. (A) The amendments by this act to section 5104.01 of the Revised Code are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendments, and the items of law they contain, go into immediate effect when this act becomes law, except as provided in division (B) of this section.

(B) The amendments by this act to division (T) of section 5104.01 of the Revised Code shall take effect on July 1, 2004.

Section 146.15B. Section 5104.02 of the Revised Code, as amended by this act, and the items of law of which the section as amended by this act is composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code the section as

amended by this act, and the items of law of which the section as 92622
amended by this act is composed, are entitled to go into immediate 92623
effect when this act becomes law. However, the section as amended 92624
by this act, and the items of law of which the section as amended 92625
by this act are composed, take effect September 1, 2003, or the 92626
day this act becomes law, whichever is later. 92627

Section 146.15C. (A) The amendments by this act to section 92628
5104.32 of the Revised Code are not subject to the referendum. 92629
Therefore, under Ohio Constitution, Article II, Section 1d and 92630
section 1.471 of the Revised Code, the amendments, and the items 92631
of law they contain, go into immediate effect when this act 92632
becomes law, except as provided in division (B) of this section. 92633

(B) The amendments by this act to division (B)(4) of section 92634
5104.32 of the Revised Code shall take effect on September 1, 92635
2003. 92636

Section 146.16. (A) Except as otherwise provided in division 92637
(B) of this section, the amendments by this act to section 92638
5111.022 of the Revised Code are not subject to the referendum. 92639
Therefore, under Ohio Constitution, Article II, Section 1d and 92640
section 1.471 of the Revised Code, the amendments, and the items 92641
of law they contain, go into immediate effect when this act 92642
becomes law. 92643

(B) The amendments by this act adding divisions (B)(4), (E), 92644
and (F) to section 5111.022 of the Revised Code are subject to the 92645
referendum. Therefore, under Ohio Constitution, Article II, 92646
Section 1c and section 1.471 of the Revised Code, the amendments 92647
take effect on the ninety-first day after this act is filed with 92648
the Secretary of State. If, however, a referendum petition is 92649
filed against the amendments, or against any item of law they 92650
contain, the amendments or item, unless rejected at the 92651

referendum, takes effect at the earliest time permitted by law. 92652

Section 146.17. Section 5112.31 of the Revised Code, as 92653
amended by this act, and the items of law of which that section as 92654
amended is composed, are not subject to the referendum. Therefore, 92655
under Ohio Constitution, Article II, Section 1d and section 1.471 92656
of the Revised Code, that section as amended by this act, and the 92657
items of law of which that section as amended is composed, are 92658
entitled to go into immediate effect when this act becomes law. 92659
However, that section as amended by this act, and the items of law 92660
which that section as amended by this act are composed, take 92661
effect on July 1, 2003, or the day this act becomes law, whichever 92662
is later. 92663

Section 146.17A. * Section 9.24 of the Revised Code, as 92664
enacted by this act, shall take effect January 1, 2004. 92665

Section 146.20. * Section 102.02 of the Revised Code, as 92666
amended by this act, shall take effect January 1, 2004. 92667

Section 146.21. * Section 4759.08 of the Revised Code, as 92668
amended by this act, shall take effect July 1, 2004. 92669

Section 146.22. * Sections 5103.031, 5103.033, 5103.034, 92670
5103.036, 5103.037, 5103.038, 5103.0312, 5103.0313, 5103.0314, 92671
5103.0315, 5103.0316, 5153.60, 5153.69, and 5153.72 of the Revised 92672
Code, as amended by this act, shall take effect on January 1, 92673
2004. 92674

Section 146.23. * Sections 5103.154 and 5153.163 of the 92675
Revised Code as amended by this act take effect July 1, 2004. 92676

Section 146.25. Except as otherwise specifically provided in 92677
this act, the uncodified sections of law amended or enacted in 92678

this act, and the items of law of which the uncodified sections of law amended or enacted in this act are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the uncodified sections of law amended or enacted in this act, and the items of law of which the uncodified sections of law amended or enacted in this act are composed, go into immediate effect when this act becomes law.

Section 146.26. Uncodified sections of law amended or enacted in this act, and items of law contained within the uncodified sections of law amended or enacted in this act, that are marked with an asterisk are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the uncodified sections and items of law marked with an asterisk take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against an uncodified section or item of law marked with an asterisk, the uncodified section or item of law marked with an asterisk, unless rejected at the referendum, takes effect at the earliest time permitted by law.

If the amending and existing repeal clauses commanding the amendment of an uncodified section of law are both marked with asterisks, the uncodified section as amended is deemed also to have been marked with an asterisk.

An asterisk marking an uncodified section or item of law has the form *.

This section defines the meaning and form of, but is not itself to be considered marked with, an asterisk.

Section 146.28. The repeal by this act of the following uncodified sections of law is not subject to the referendum and

therefore, under Ohio Constitution, Article II, Section 1d and 92709
section 1.471 of the Revised Code, goes into immediate effect when 92710
this act becomes law: 92711

(A) Section 11 of Am. Sub. S.B. 50 of the 121st General 92712
Assembly; 92713

(B) Section 72 of Am. Sub. H.B. 850 of the 122nd General 92714
Assembly; 92715

(C) Section 129 of Am. Sub. H.B. 283 of the 123rd General 92716
Assembly; 92717

(D) Section 63.37 of Am. Sub. H.B. 94 of the 124th General 92718
Assembly; 92719

(E) Section 16 of Am. Sub. H.B. 87 of the 125th General 92720
Assembly. 92721

Section 146.29. If the amendment or enactment in this act of 92722
a codified or uncodified section of law is subject to the 92723
referendum, the corresponding indications in the amending, 92724
enacting, or existing repeal clauses commanding the amendment or 92725
enactment also are subject to the referendum, along with the 92726
amendment or enactment. If the amendment or enactment by this act 92727
of a codified or uncodified section of law is not subject to the 92728
referendum, the corresponding indications in the amending, 92729
enacting, or existing repeal clauses commanding the amendment or 92730
enactment also are not subject to the referendum, the same as the 92731
amendment or enactment. 92732

Section 147.01. * The amendment of section 122.25 of the 92733
Revised Code by this act is not intended to supersede the earlier 92734
repeal, with delayed effective date, of that section. 92735

Section 147.02. * Section 921.151 was amended and renumbered 92736
as section 921.22 of the Revised Code by Am. Sub. S.B. 217 of the 92737

124th General Assembly, passed November 21, 2002, and effective 92738
July 1, 2004. The amendment of section 921.151 of the Revised Code 92739
in Section 1 of this act does not supersede that earlier amendment 92740
and renumbering. This act therefore amends both sections to ensure 92741
that its amendments continue on and after July 1, 2004. 92742

Section 147.03. The amendment by this act of sections 5112.03 92743
and 5112.08 of the Revised Code is not intended to supersede the 92744
earlier repeal, with delayed effective date, of those sections. 92745
92746

Section 147.04. The amendment by this act of section 5112.99 92747
of the Revised Code is not intended to supersede the earlier 92748
repeal, with delayed effective date, of that section. 92749

Section 148.01. * Section 109.572 of the Revised Code is 92750
presented in this act as a composite of the section as amended by 92751
both Sub. H.B. 448 and Sub. H.B. 538 of the 123rd General 92752
Assembly. The General Assembly, applying the principle stated in 92753
division (B) of section 1.52 of the Revised Code that amendments 92754
are to be harmonized if reasonably capable of simultaneous 92755
operation, finds that the composite is the resulting version of 92756
the section in effect prior to the effective date of the section 92757
as presented in this act. 92758

Section 148.01A. Section 109.71 of the Revised Code is 92759
presented in this act as a composite of the section as amended by 92760
both Sub. H.B. 545 and H.B. 675 of the 124th General Assembly. The 92761
General Assembly, applying the principle stated in division (B) of 92762
section 1.52 of the Revised Code that amendments are to be 92763
harmonized if reasonably capable of simultaneous operation, finds 92764
that the composite is the resulting version of the section in 92765
effect prior to the effective date of the section as presented in 92766

this act. 92767

Section 148.02. Section 121.04 of the Revised Code is 92768
presented in this act as a composite of the section as amended by 92769
both Sub. H.B. 601 and Am. Sub. H.B. 640 of the 123rd General 92770
Assembly. The General Assembly, applying the principle stated in 92771
division (B) of section 1.52 of the Revised Code that amendments 92772
are to be harmonized if reasonably capable of simultaneous 92773
operation, finds that the composite is the resulting version of 92774
the section in effect prior to the effective date of the section 92775
as presented in this act. 92776

Section 148.02A. Section 122.171 of the Revised Code is 92777
presented in this act as a composite of the section as amended by 92778
both H.B. 675 and Am. Sub. S.B. 180 of the 124th General Assembly. 92779
The General Assembly, applying the principle stated in division 92780
(B) of section 1.52 of the Revised Code that amendments are to be 92781
harmonized if reasonably capable of simultaneous operation, finds 92782
that the composite is the resulting version of the section in 92783
effect prior to the effective date of the section as presented in 92784
this act. 92785

Section 148.02B. Section 124.15 of the Revised Code is 92786
presented in this act as a composite of the section as amended by 92787
both Am. Sub. H.B. 640 and Sub. S.B. 245 of the 123rd General 92788
Assembly. The General Assembly, applying the principle stated in 92789
division (B) of section 1.52 of the Revised Code that amendments 92790
are to be harmonized if reasonably capable of simultaneous 92791
operation, finds that the composite is the resulting version of 92792
the section in effect prior to the effective date of the section 92793
as presented in this act. 92794

Section 148.02C. The version of section 2152.19 of the 92795

Revised Code that is scheduled to take effect January 1, 2004, is 92796
presented in this act as a composite of the section as amended by 92797
both Am. Sub. H.B. 400 and Am. Sub. H.B. 490 of the 124th General 92798
Assembly. The General Assembly, applying the principle stated in 92799
division (B) of section 1.52 of the Revised Code that amendments 92800
are to be harmonized if reasonably capable of simultaneous 92801
operation, finds that the composite is the resulting version of 92802
the section in effect prior to the effective date of the section 92803
as presented in this act. 92804

Section 148.03. * The version of section 2305.234 of the 92805
Revised Code that is scheduled to take effect January 1, 2004, is 92806
presented in this act as a composite of the section as amended by 92807
both Am. Sub. H.B. 490 and Am. Sub. S.B. 281 of the 124th General 92808
Assembly. The General Assembly, applying the principle stated in 92809
division (B) of section 1.52 of the Revised Code that amendments 92810
are to be harmonized if reasonably capable of simultaneous 92811
operation, finds that the composite is the resulting version of 92812
the section in effect prior to the effective date of the section 92813
as presented in this act. 92814

Section 148.04. Section 2743.02 of the Revised Code is 92815
presented in this act as a composite of the section as amended by 92816
both Am. Sub. S.B. 115 and Am. Sub. S.B. 281 of the 124th General 92817
Assembly. The General Assembly, applying the principle stated in 92818
division (B) of section 1.52 of the Revised Code that amendments 92819
are to be harmonized if reasonably capable of simultaneous 92820
operation, finds that the composite is the resulting version of 92821
the section in effect prior to the effective date of the section 92822
as presented in this act. 92823

Section 148.04A. Section 2917.41 of the Revised Code is 92824
presented in this act as a composite of the section as amended by 92825

both Am. H.B. 61 and Am. Sub. S.B. 2 of the 121st General 92826
Assembly. The General Assembly, applying the principle stated in 92827
division (B) of section 1.52 of the Revised Code that amendments 92828
are to be harmonized if reasonably capable of simultaneous 92829
operation, finds that the composite is the resulting version of 92830
the section in effect prior to the effective date of the section 92831
as presented in this act. 92832

Section 148.04B. Section 2935.01 of the Revised Code is 92833
presented in this act as a composite of the section as amended by 92834
both Sub. H.B. 545 and H.B. 675 of the 124th General Assembly. The 92835
General Assembly, applying the principle stated in division (B) of 92836
section 1.52 of the Revised Code that amendments are to be 92837
harmonized if reasonably capable of simultaneous operation, finds 92838
that the composite is the resulting version of the section in 92839
effect prior to the effective date of the section as presented in 92840
this act. 92841

Section 148.06. Section 3317.012 of the Revised Code is 92842
presented in this act as a composite of the section as amended by 92843
both Am. Sub. H.B. 94 and Am. Sub. S.B. 1 of the 124th General 92844
Assembly. The General Assembly, applying the principle stated in 92845
division (B) of section 1.52 of the Revised Code that amendments 92846
are to be harmonized if reasonably capable of simultaneous 92847
operation, finds that the composite is the resulting version of 92848
the section in effect prior to the effective date of the section 92849
as presented in this act. 92850

Section 148.07. Section 3319.07 of the Revised Code is 92851
presented in this act as a composite of the section as amended by 92852
both Am. Sub. H.B. 117 and Am. Sub. H.B. 223 of the 121st General 92853
Assembly. The General Assembly, applying the principle stated in 92854
division (B) of section 1.52 of the Revised Code that amendments 92855

are to be harmonized if reasonably capable of simultaneous 92856
operation, finds that the composite is the resulting version of 92857
the section in effect prior to the effective date of the section 92858
as presented in this act. 92859

Section 148.08. Section 3319.36 of the Revised Code is 92860
presented in this act as a composite of the section as amended by 92861
both Sub. H.B. 81 and Am. Sub. S.B. 230 of the 121st General 92862
Assembly. The General Assembly, applying the principle stated in 92863
division (B) of section 1.52 of the Revised Code that amendments 92864
are to be harmonized if reasonably capable of simultaneous 92865
operation, finds that the composite is the resulting version of 92866
the section in effect prior to the effective date of the section 92867
as presented in this act. 92868

Section 148.08A. Section 4303.181 of the Revised Code is 92869
presented in this act as a composite of the section as amended by 92870
both Sub. H.B. 330 and Sub. H.B. 371 of the 124th General 92871
Assembly. The General Assembly, applying the principle stated in 92872
division (B) of section 1.52 of the Revised Code that amendments 92873
are to be harmonized if reasonably capable of simultaneous 92874
operation, finds that the composite is the resulting version of 92875
the section in effect prior to the effective date of the section 92876
as presented in this act. 92877

Section 148.08B. Section 4723.07 of the Revised Code is 92878
presented in this act as a composite of the section as amended by 92879
both Sub. H.B. 511 and Am. Sub. S.B. 180 of the 123rd General 92880
Assembly. The General Assembly, applying the principle stated in 92881
division (B) of section 1.52 of the Revised Code that amendments 92882
are to be harmonized if reasonably capable of simultaneous 92883
operation, finds that the composite is the resulting version of 92884
the section in effect prior to the effective date of the section 92885

as presented in this act. 92886

Section 148.11. * Section 4973.17 of the Revised Code is 92887
presented in this act as a composite of the section as amended by 92888
both Am. Sub. H.B. 566 and Sub. H.B. 670 of the 121st General 92889
Assembly. The General Assembly, applying the principle stated in 92890
division (B) of section 1.52 of the Revised Code that amendments 92891
are to be harmonized if reasonably capable of simultaneous 92892
operation, finds that the composite is the resulting version of 92893
the section in effect prior to the effective date of the section 92894
as presented in this act. 92895

Section 148.12. Section 5111.20 of the Revised Code is 92896
presented in this act as a composite of the section as amended by 92897
both Sub. H.B. 403 and Sub. H.B. 448 of the 123rd General 92898
Assembly. The General Assembly, applying the principle stated in 92899
division (B) of section 1.52 of the Revised Code that amendments 92900
are to be harmonized if reasonably capable of simultaneous 92901
operation, finds that the composite is the resulting version of 92902
the section in effect prior to the effective date of the section 92903
as presented in this act. 92904

Section 148.13. Section 5115.01 of the Revised Code is 92905
presented in this act as a composite of the section as amended by 92906
both Am. Sub. H.B. 283 and H.B. 471 of the 123rd General Assembly. 92907
The General Assembly, applying the principle stated in division 92908
(B) of section 1.52 of the Revised Code that amendments are to be 92909
harmonized if reasonably capable of simultaneous operation, finds 92910
that the composite is the resulting version of the section in 92911
effect prior to the effective date of the section as presented in 92912
this act. 92913

Section 148.14. * Section 5709.62 of the Revised Code is 92914

presented in this act as a composite of the section as amended by 92915
both Am. Sub. H.B. 283 and Sub. H.B. 27 of the 123rd General 92916
Assembly. The General Assembly, applying the principle stated in 92917
division (B) of section 1.52 of the Revised Code that amendments 92918
are to be harmonized if reasonably capable of simultaneous 92919
operation, finds that the composite is the resulting version of 92920
the section in effect prior to the effective date of the section 92921
as presented in this act. 92922

Section 148.15. * Section 5709.63 of the Revised Code is 92923
presented in this act as a composite of the section as amended by 92924
both Am. Sub. H.B. 283 and Sub. H.B. 27 of the 123rd General 92925
Assembly. The General Assembly, applying the principle stated in 92926
division (B) of section 1.52 of the Revised Code that amendments 92927
are to be harmonized if reasonably capable of simultaneous 92928
operation, finds that the composite is the resulting version of 92929
the section in effect prior to the effective date of the section 92930
as presented in this act. 92931

Section 148.16. Section 5733.04 of the Revised Code is 92932
presented in this act as a composite of the section as amended by 92933
both Sub. S.B. 200 and Am. Sub. S.B. 261 of the 124th General 92934
Assembly. The General Assembly, applying the principle stated in 92935
division (B) of section 1.52 of the Revised Code that amendments 92936
are to be harmonized if reasonably capable of simultaneous 92937
operation, finds that the composite is the resulting version of 92938
the section in effect prior to the effective date of the section 92939
as presented in this act. 92940

Section 148.17. Section 5735.05 of the Revised Code is 92941
presented in this act as a composite of the section as amended by 92942
both H.B. 612 and Am. Sub. H.B. 640 of the 123rd General Assembly. 92943
The General Assembly, applying the principle stated in division 92944

(B) of section 1.52 of the Revised Code that amendments are to be 92945
harmonized if reasonably capable of simultaneous operation, finds 92946
that the composite is the resulting version of the section in 92947
effect prior to the effective date of the section as presented in 92948
this act. 92949

Section 148.18. Section 5735.23 of the Revised Code is 92950
presented in this act as a composite of the section as amended by 92951
both H.B. 612 and Am. Sub. H.B. 640 of the 123rd General Assembly. 92952
The General Assembly, applying the principle stated in division 92953
(B) of section 1.52 of the Revised Code that amendments are to be 92954
harmonized if reasonably capable of simultaneous operation, finds 92955
that the composite is the resulting version of the section in 92956
effect prior to the effective date of the section as presented in 92957
this act. 92958

Section 148.19. Section 5739.01 of the Revised Code was 92959
amended by Am. Sub. H.B. 524, Am. Sub. S.B. 143, and Sub. S.B. 92960
200, all of the 124th General Assembly. Comparison of these 92961
amendments in pursuance of section 1.52 of the Revised Code 92962
discloses that while certain of the amendments of these acts are 92963
reconcilable, certain other of the amendments are substantively 92964
irreconcilable. Am. Sub. H.B. 524 was passed on March 21, 2002; 92965
Am. Sub. S.B. 143 was passed on January 30, 2002; Sub. S.B. 200 92966
was passed on March 13, 2002. Section 5739.01 of the Revised Code 92967
is therefore presented in this act as it results from Am. Sub. 92968
H.B. 524 and Sub. S.B. 200 and such of the amendments of Am. Sub. 92969
S.B. 143 as are not in conflict with the amendments of Sub. S.B. 92970
200. The General Assembly, applying the principle stated in 92971
division (B) of section 1.52 of the Revised Code that amendments 92972
are to be harmonized if reasonably capable of simultaneous 92973
operation, finds that the composite is the resulting version of 92974
the section in effect prior to the effective date of the section 92975

as presented in this act. 92976

Section 148.19A. Section 5741.01 of the Revised Code is 92977
presented in this act as a composite of the section as amended by 92978
Am. Sub. H.B. 524, Am. Sub. S.B. 143, and Sub. S.B. 200, all of 92979
the 124th General Assembly. The General Assembly, applying the 92980
principle stated in division (B) of section 1.52 of the Revised 92981
Code that amendments are to be harmonized if reasonably capable of 92982
simultaneous operation, finds that the composite is the resulting 92983
version of the section in effect prior to the effective date of 92984
the section as presented in this act. 92985

Section 148.19B. Section 5743.45 of the Revised Code is 92986
presented Section 1 of in this act as a composite of the section 92987
as amended by both Am. Sub. H.B. 566 and Sub. H.B. 670 of the 92988
121st General Assembly. The General Assembly, applying the 92989
principle stated in division (B) of section 1.52 of the Revised 92990
Code that amendments are to be harmonized if reasonably capable of 92991
simultaneous operation, finds that the composite is the resulting 92992
version of the section in effect prior to the effective date of 92993
the section as presented in this act. 92994

Section 149. If any item of law that constitutes the whole or 92995
part of a codified or uncodified section of law contained in this 92996
act, or if any application of any item of law that constitutes the 92997
whole or part of a codified or uncodified section of law contained 92998
in this act, is held invalid, the invalidity does not affect other 92999
items of law or applications of items of law that can be given 93000
effect without the invalid item of law or application. To this 93001
end, the items of law of which the codified and uncodified 93002
sections contained in this act are composed, and their 93003
applications, are independent and severable. 93004